

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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**SENATE BILL 402
PROPOSED COMMITTEE SUBSTITUTE S402-PCS15273-MDxf-9**

Short Title: Appropriations Act of 2013.

(Public)

Sponsors:

Referred to:

March 26, 2013

A BILL TO BE ENTITLED
AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS
OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER
PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

TITLE

SECTION 1.1. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2013."

INTRODUCTION

SECTION 1.2. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

PART II. CURRENT OPERATIONS AND EXPANSION GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2015, according to the following schedule:

Current Operations – General Fund	2013-2014	2014-2013
EDUCATION		
Community Colleges System Office	\$ 1,026,315,467	\$ 1,014,315,467
Department of Public Instruction	7,849,691,842	8,032,588,328
University of North Carolina – Board of Governors		



General Assembly Of North Carolina**Session 2013**

1	Appalachian State University	127,908,903	127,908,903
2	East Carolina University		
3	Academic Affairs	220,012,450	220,615,626
4	Health Affairs	64,841,247	64,841,247
5	Elizabeth City State University	35,363,212	35,385,057
6	Fayetteville State University	49,336,186	49,336,186
7	NC A&T State University	96,882,428	96,882,428
8	NC Central University	84,084,488	84,084,488
9	NC State University		
10	Academic Affairs	389,976,973	390,045,059
11	Agricultural Extension	39,859,682	39,859,682
12	Agricultural Research	54,911,053	54,911,053
13	UNC – Asheville	37,465,299	37,465,299
14	UNC – Chapel Hill		
15	Academic Affairs	274,632,544	274,515,010
16	Health Affairs	202,260,403	205,741,444
17	Area Health Education Centers	42,418,348	42,418,348
18	UNC – Charlotte	192,697,970	192,683,456
19	UNC – Greensboro	153,838,192	153,783,960
20	UNC – Pembroke	54,175,566	54,175,566
21	UNC School of the Arts	31,547,460	29,146,203
22	UNC – Wilmington	96,484,692	96,484,692
23	Western Carolina University	83,140,199	83,161,081
24	Winston-Salem State University	68,957,656	68,980,084
25	General Administration	34,752,475	34,752,475
26	University Institutional Programs	(12,320,751)	(25,204,458)
27	Related Educational Programs	83,408,458	110,387,576
28	NC School of Science and Mathematics	17,877,872	16,657,107
29	Aid to Private Colleges	88,851,588	88,851,588
30	Total University of North Carolina –		
31	Board of Governors	\$ 2,613,364,593	\$ 2,627,869,160

HEALTH AND HUMAN SERVICES

35	Department of Health and Human Services		
36	Central Management and Support	\$ 65,069,146	\$ 62,655,211
37	Division of Aging & Adult Services	54,142,341	54,342,341
38	Division of Blind Services/Deaf/HH	8,178,618	8,178,618
39	Division of Child Development & Early Education	255,039,269	255,039,269
40	Health Service Regulation	16,461,992	16,461,992
41	Division of Medical Assistance	3,484,745,754	3,655,086,552
42	Division of Mental Health, Developmental		
43	Disabilities, & Substance Abuse Services	675,738,286	678,592,084
44	NC Health Choice	67,177,341	56,281,405
45	Division of Public Health	147,178,997	144,980,498
46	Division of Social Services	172,455,677	172,519,249
47	Division of Vocation Rehabilitation	38,773,169	38,773,169
48	Total Health and Human Services	\$ 4,984,960,590	\$ 5,142,910,388

NATURAL AND ECONOMIC RESOURCES

1	Department of Agriculture and Consumer Services	\$ 114,670,702	\$ 114,769,902
2			
3	Department of Commerce		
4	Commerce	42,661,856	45,692,759
5	Commerce State-Aid	9,505,810	9,255,810
6			
7	Wildlife Resources Commission	9,476,588	9,476,588
8			
9	Department of Environment and Natural Resources	157,890,131	157,385,763
10			
11	Department of Labor	16,696,339	16,696,339
12			
13	JUSTICE AND PUBLIC SAFETY		
14			
15	Department of Public Safety	\$ 1,712,621,317	\$ 1,692,187,988
16			
17	Judicial Department	456,876,742	455,376,742
18			
19	Judicial Department – Indigent Defense	114,357,264	109,357,264
20			
21	Department of Justice	47,476,998	51,365,574
22			
23	GENERAL GOVERNMENT		
24			
25	Department of Administration	\$ 67,117,185	\$ 66,571,237
26			
27	Office of Administrative Hearings	4,727,544	4,652,581
28			
29	Department of State Auditor	11,217,468	11,217,468
30			
31	Office of State Controller	28,160,691	28,160,691
32			
33	Department of Cultural Resources		
34	Cultural Resources	62,934,497	61,426,429
35	Roanoke Island Commission	0	0
36			
37	State Board of Elections	6,699,032	6,021,532
38			
39	General Assembly	51,449,283	51,484,767
40			
41	Office of the Governor	5,120,050	5,122,132
42			
43	Office of State Budget and Management		
44	Office of State Budget and Management	6,837,072	6,919,583
45	OSBM – Reserve for Special Appropriations	1,800,000	1,500,000
46			
47	Housing Finance Agency	8,499,464	8,499,464
48			
49	Department of Insurance		
50	Insurance	37,994,004	38,003,624
51	Insurance – Volunteer Safety Workers' Compensation		

1	Fund	0	0
2			
3	Office of Lieutenant Governor	681,089	675,089
4			
5	Department of Revenue	85,336,745	85,317,085
6			
7	Department of Secretary of State	11,616,001	11,616,001
8			
9	Department of State Treasurer		
10	State Treasurer	8,137,890	7,026,305
11	State Treasurer – Retirement for Fire and Rescue		
12	Squad Workers	23,179,042	23,179,042
13			
14	RESERVES, ADJUSTMENTS AND DEBT SERVICE		
15	Statewide Compensation Study	\$ 1,000,000	\$ 0
16			
17	Severance Expenditure Reserve	37,126,314	0
18			
19	Disability Income Plan of North Carolina	(1,100,000)	(1,100,000)
20			
21	Reserve for Teachers' and State Employees' Retirement		
22	Contribution	36,000,000	36,000,000
23			
24	Reserve for Judicial Retirement System Contribution	1,000,000	1,000,000
25			
26	Reserve for Future Benefit Needs	0	56,400,000
27			
28	Information Technology Fund	6,053,142	6,053,142
29			
30	One North Carolina Fund	9,000,000	9,000,000
31			
32	Reserve for State Health Plan	34,000,000	77,000,000
33			
34	Contingency and Emergency Fund	5,000,000	5,000,000
35			
36	Firemen's and Rescue Squad Workers' Pension Fund	(820,000)	(820,000)
37			
38	NC Government and Efficiency and Reform		
39	Project (NC GEAR)	2,000,000	2,000,000
40			
41	Unemployment Insurance Reserve	23,800,000	13,600,000
42			
43	Reserve for Job Development Investment Grants (JDIG)	51,823,772	63,045,357
44			
45	Information Technology Reserve Fund	31,000,000	36,000,000
46			
47	Reserve for Escheat Fund Global TransPark Debt		
48	Repayment	27,000,000	0
49			
50	Debt Service		
51	General Debt Service	725,057,796	745,471,838

1	Federal Reimbursement	1,616,380	1,616,380
2			
3	TOTAL CURRENT OPERATIONS –		
4	GENERAL FUND	\$ 20,567,630,700	\$ 20,946,907,819

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) The General Fund availability used in developing the 2013-2015 biennial budget is shown below.

	FY 2013-2014	FY 2014-2015
10 Unappropriated Balance Remaining from Previous Year \$	213,432,877	\$ 106,360,611
11 Anticipated Overcollections from FY 2012-13	405,700,000	0
12 Overcollections Due to MSA Disputed Payments	51,510,749	
13 Anticipated Reversions from FY 2012-13	170,000,000	0
14 Net Supplemental Medicaid Appropriations (H.B. 980)	(306,100,000)	
15		
16 Less Earmarkings of Year End Fund Balance		
17 Savings Reserve	(165,075,883)	(74,244,692)
18 Repairs and Renovations	(100,000,000)	(25,502,274)
19		
20 Beginning Unreserved Fund Balance	\$ 269,467,743	\$ 6,613,645
21		
22 Revenues Based on Existing Tax Structure	\$ 19,628,100,000	\$ 20,549,000,000
23		
24 Nontax Revenues		
25 Investment Income	13,700,000	14,100,000
26 Judicial Fees	250,200,000	251,400,000
27 Disproportionate Share	110,000,000	109,000,000
28 Insurance	72,500,000	73,400,000
29 Other Nontax Revenues	173,000,000	175,000,000
30 Highway Trust Fund/Use Tax Reimbursement Transfer	0	0
31 Highway Fund Transfer	218,100,000	215,900,000
32 Subtotal Nontax Revenues	837,500,000	838,800,000
33		
34 Total General Fund Availability	\$ 20,735,067,743	\$ 21,394,413,645
35		
36 Adjustments to Availability: 2013 Session		
37 Finance Package	\$ (217,100,000)	\$ (553,100,000)
38 Tobacco Master Settlement Agreement (MSA)	137,500,000	137,500,000
39 MSA Disputed Payments Erroneously Paid to		
40 Golden LEAF (S.L. 2011-145)	24,639,357	0
41 Repeal North Carolina Public Campaign Fund	3,500,000	0
42 Transfer from NC Flex FICA Fund Balance	2,000,000	0
43 Transfer from E-Commerce Reserve Fund Balance	5,111,585	4,000,000
44 Transfer from Misdemeanant Confinement Fund	1,000,000	1,000,000
45 Repeal Portion of Solid Waste Disposal Tax Earmark	2,300,000	2,300,000
46 Increase Lobbyist Fees	400,000	400,000
47 Adjust Transfer from Insurance Regulatory Fund	(460,589)	(460,589)
48 Adjust Transfer from Treasurer's Office	175,215	175,215
49 Adjust Gross Premiums Tax for Volunteer Safety Workers	(3,000,000)	(3,000,000)
50 Subtotal Adjustments to Availability:		
51 2013 Session	\$ (43,934,432)	\$ (411,185,374)

Revised General Fund Availability	\$ 20,691,133,311	\$ 20,983,228,271
Less: General Fund Appropriations	\$ (20,584,772,700)	\$ (20,955,157,819)
Unappropriated Balance Remaining	\$ 106,360,611	\$ 28,070,452

SECTION 2.2.(b) Notwithstanding the provisions of G.S. 105-187.9(b)(1) and G.S. 105-187.9(b)(2), no funds shall be transferred from the Highway Trust Fund under those subdivisions for the 2013-2014 fiscal year or for the 2014-2015 fiscal year.

SECTION 2.2.(c) In addition to funds transferred pursuant to G.S. 105-164.44D, the sum of one hundred ninety-six million five hundred eighty-two thousand nine hundred eighty-one (\$196,582,981) for the 2013-2014 fiscal year and the sum of one hundred ninety-six million five hundred eighty-two thousand nine hundred eighty-one (\$196,582,981) for the 2014-2015 fiscal year shall be transferred from the Highway Fund to the General Fund.

SECTION 2.2.(d) Notwithstanding any other provision of law to the contrary, effective July 1, 2013, the following amounts shall be transferred to the State Controller to be deposited in the appropriate budget code as determined by the State Controller. These funds shall be used to support the General Fund appropriations as specified in this act for the 2013-2014 fiscal year and the 2014-2015 fiscal year.

Budget Code	Fund Code	Description	FY 2013-2014 Amount	FY 2014-2015 Amount
24100	2514	E-Commerce Fund	\$ 5,111,585	\$ 4,000,000
24500	2225	Misdemeanant Confinement Fund	1,000,000	1,000,000

SECTION 2.2.(e) Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall transfer a total of one hundred million dollars (\$100,000,000) from the unreserved fund balance to the Repairs and Renovations Reserve on June 30, 2013, and shall transfer a total of twenty-five million five hundred two thousand two hundred seventy-four dollars (\$25,502,274) from the unreserved fund balance to the Repairs and Renovations Reserve on June 30, 2014. This subsection becomes effective June 30, 2013. Funds transferred under this section to the Repairs and Renovations Reserve are appropriated for the 2013-2014 fiscal year and for the 2014-2015 fiscal year and shall be used in accordance with G.S. 143C-4-3.

SECTION 2.2.(f) Notwithstanding G.S. 143C-4-2, the State Controller shall transfer a total of one hundred sixty-five million seventy-five thousand eight hundred eighty-three dollars (\$165,075,883) from the unreserved fund balance to the Savings Reserve Account on June 30, 2013, and shall transfer a total of seventy-four million two hundred forty-four thousand six hundred ninety-two dollars (\$74,244,692) from the unreserved fund balance to the Savings Reserve Account on June 30, 2014. Neither of these transfers is an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution. This subsection becomes effective June 30, 2013.

SECTION 2.2.(g) Notwithstanding the provisions of Article 6 of Chapter 143C of the General Statutes or any other law to the contrary, the State Controller shall transfer two million dollars (\$2,000,000) from the NC FICA Account for deposit in the appropriate budget code as determined by the State Controller for the 2013-2014 fiscal year.

SECTION 2.2.(h) Of the unexpended and unencumbered monies credited to the North Carolina Public Campaign Fund, established under repealed G.S. 163-278.63, the sum of three million five hundred thousand dollars (\$3,500,000) for the 2013-2014 fiscal year shall be transferred to the General Fund.

SECTION 2.2.(i) Notwithstanding any other provision of law, the sum of five million one hundred eleven thousand five hundred eighty-five dollars (\$5,111,585) for the

2013-2014 fiscal year and the sum of four million dollars (\$4,000,000) for the 2014-2015 fiscal year shall be transferred from the E-Commerce Reserve, Budget Code 24100, to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for each fiscal year.

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal biennium ending June 30, 2015, according to the following schedule:

Current Operations – Highway Fund	2013-2014	2014-2015
Department of Transportation		
Administration	\$ 94,027,709	\$ 98,994,109
Division of Highways		
Administration	34,218,958	34,218,958
Construction	53,923,707	39,859,878
Maintenance	1,143,487,787	1,033,662,280
Planning and Research	4,055,402	4,055,402
OSHA Program	365,337	365,337
Ferry Operations	40,564,796	39,414,796
State Aid to Municipalities	142,293,840	136,874,010
Intermodal Divisions		
Public Transportation	83,351,374	83,351,374
Aviation	22,244,510	22,244,510
Rail	40,392,294	24,942,294
Bicycle and Pedestrian	751,066	751,066
Governor's Highway Safety	284,932	284,932
Division of Motor Vehicles	116,352,241	116,996,778
Other State Agencies, Reserves, Transfers	259,634,197	261,737,076
Capital Improvements	18,055,500	19,937,700
Total Highway Fund Appropriations	\$2,054,003,650	\$1,917,690,500

HIGHWAY FUND/AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund availability used in developing the 2013-2015 fiscal biennial budget is shown below:

Highway Fund Availability Statement	2013-2014	2014-2015
Unreserved Fund Balance	\$ 74,150,000	\$ 0
Estimated Revenue	1,937,200,000	1,892,400,000
Adjustment to Revenue Availability:		

1	Adjustment to Emission Inspection Fees	23,600,000	21,600,000
2	Adjustment to Technology Improvement Account Fees	634,000	634,000
3	Motor Fuel Tax		
4	(Shallow Draft Navigation Channel Dredging Fund)	(2,280,350)	(2,193,500)
5	Hybrid/Electric Vehicle Registration Fee	1,500,000	1,500,000
6	North Carolina Railroad Company Dividend Payments	19,200,000	3,750,000
7	Total Highway Fund Availability	\$ 2,054,003,650	\$ 1,917,690,500

9	Unappropriated Balance	\$ 0	\$ 0
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PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal biennium ending June 30, 2015, according to the following schedule:

Current Operations – Highway Trust Fund	2013-2014	2014-2015
Program Administration	\$ 45,590,880	\$ 45,590,880
Aid to Municipalities	0	0
Intrastate	0	0
Secondary Roads	0	0
Urban Loops	0	0
Mobility Fund	0	0
Turnpike Authority	49,000,000	49,000,000
Transfer to General Fund	0	0
Transfer to Highway Fund	400,000	400,000
Debt Service	79,170,090	60,307,448
Strategic Prioritization Funding Plan		
for Transportation Investments	931,539,030	950,101,672
Total Highway Trust Fund Appropriations	\$ 1,105,700,000	\$ 1,105,400,000

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

SECTION 4.2. The Highway Trust Fund availability used in developing the 2013-2015 fiscal biennial budget is shown below:

Highway Trust Fund Availability	2013-2014	2014-2015
Unreserved Fund Balance	\$ 0	\$ 0
Estimated Revenue	1,105,700,000	1,105,400,000
Adjustment to Revenue Availability	0	0
Total Highway Trust Fund Availability	\$ 1,105,700,000	\$ 1,105,400,000
Unappropriated Balance	\$ 0	\$ 0

PART V. OTHER APPROPRIATIONS

APPROPRIATION OF OTHER FUNDS

SECTION 5.1.(a) Expenditures of cash balances, federal funds, departmental receipts, grants, and gifts from the various General Fund, Special Revenue Fund, Enterprise

Fund, Internal Service Fund, and Trust and Agency Fund budget codes are appropriated and authorized for the 2013-2015 fiscal biennium as follows:

- (1) For all budget codes listed in "The State of North Carolina Recommended Continuation Budget and Fund Purpose Statements, 2013-2015" and in the Budget Support Document, cash balances and receipts are appropriated up to the amounts specified, as adjusted by the General Assembly, for the 2013-2014 fiscal year and the 2014-2015 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items or as otherwise authorized by the General Assembly. Expansion budget funds listed in those documents are appropriated only as otherwise provided in this act.
- (2) Notwithstanding the provisions of subdivision (1) of this subsection:
 - a. Any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2013-2014 fiscal year and the 2014-2015 fiscal year and shall be used only to pay debt service requirements.
 - b. Other funds, cash balances, and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2013-2014 fiscal year and the 2014-2015 fiscal year.

SECTION 5.1.(b) Receipts collected in a fiscal year in excess of the amounts authorized by this section shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year, unless the expenditure of overrealized receipts in the fiscal year in which the receipts were collected is authorized by the State Budget Act. Overrealized receipts are appropriated up to the amounts necessary to implement this subsection.

SECTION 5.1.(c) Notwithstanding subsections (a) and (b) of this section, there is appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for each fiscal year an amount equal to the amount of the distributions required by law to be made from that reserve for that fiscal year.

SECTION 5.1.(d) The Office of State Budget and Management, the Office of the State Controller, the Department of Revenue, and the Fiscal Research Division shall jointly study the Reserve for Reimbursements to Local Governments and Shared Tax Revenues (Budget Code 24705) within the Department of Revenue and shall determine the best manner in which to budget the funds deposited into and expended from this fund. When conducting this study, the Office of State Budget and Management, the Office of the State Controller, the Department of Revenue, and the Fiscal Research Division shall jointly determine if any statutory or other changes are needed in order to ensure that these funds are properly accounted for and budgeted in a manner consistent with the North Carolina Constitution. No later than May 1, 2014, the Office of State Budget and Management, the Office of the State Controller, the Department of Revenue, and the Fiscal Research Division shall report the results of this study, including their findings, recommendations, and any legislative proposals, to the Chairs of the Senate Appropriations/Base Budget Committee and of the House Appropriations Committee.

SECTION 5.1.(e) Subdivisions (2) through (4) of subsection (d) of Section 5.1 of S.L. 2011-145, as enacted by Section 5.1 of S.L. 2012-142, are repealed. This subsection becomes effective on June 30, 2013.

OTHER RECEIPTS FROM PENDING GRANT AWARDS

SECTION 5.2.(a) Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget, spend funds received from grants awarded subsequent to the enactment of this act for grant awards that are for less than two million five hundred thousand dollars (\$2,500,000), do not require State matching funds, and will not be used for a capital project. State agencies shall report to the Joint Legislative Commission on Governmental Operations within 30 days of receipt of such funds.

State agencies may spend all other funds from grants awarded after the enactment of this act only with approval of the Director of the Budget and after consultation with the Joint Legislative Commission on Governmental Operations.

SECTION 5.2.(b) The Office of State Budget and Management shall work with the recipient State agencies to budget grant awards according to the annual program needs and within the parameters of the respective granting entities. Depending on the nature of the award, additional State personnel may be employed on a time-limited basis. Funds received from such grants are hereby appropriated and shall be incorporated into the authorized budget of the recipient State agency.

SECTION 5.2.(c) Notwithstanding the provisions of this section, no State agency may accept a grant not anticipated in this act if acceptance of the grant would obligate the State to make future expenditures relating to the program receiving the grant or would otherwise result in a financial obligation as a consequence of accepting the grant funds.

SECTION 5.2.(d) Notwithstanding G.S. 143C-6-4 and subsection (b) of this section, State agencies may spend funds received from the following grants for the 2013-2014 fiscal year and 2014-2015 fiscal year awarded subsequent to the enactment of this act for up to the specified amounts:

	2013-2014	2014-2015
Department of Agriculture and Consumer Services		
Soil and Water Conservation GIS Project	\$30,000	\$0
Department of Public Instruction		
The New Venture Fund	\$75,000	\$0
Promoting Adolescent Health through		
School-Based HIV/STD Prevention	\$290,000	\$400,000

Neither the approval of the Director of the Budget nor consultation with the Joint Legislative Commission on Governmental Operations is required prior to the expenditure of these funds.

CIVIL PENALTY AND FORFEITURE FUND

SECTION 5.3.(a) Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2015, as follows:

	FY 2013-2014	FY 2014-2015
School Technology Fund	\$ 18,000,000	\$ 18,000,000
State Public School Fund	\$146,313,464	\$120,362,790
Total Appropriation	\$164,313,464	\$138,362,790

SECTION 5.3.(b) Excess receipts realized in the Civil Penalty and Forfeiture Fund in the 2012-2013 fiscal year are hereby appropriated to the State Public School Fund for the 2013-2014 fiscal year.

INDIAN GAMING EDUCATION REVENUE FUND

SECTION 5.4.(a) There is appropriated from the Indian Gaming Education Revenue Fund to the Department of Public Instruction, School Technology Fund, the sum of

three million dollars (\$3,000,000) for the 2013-2014 fiscal year and the sum of three million five hundred thousand dollars (\$3,500,000) for the 2014-2015 fiscal year.

SECTION 5.4.(b) G.S. 143C-9-7 does not apply to the use of these funds for the 2013-2015 fiscal biennium.

PART VI. GENERAL PROVISIONS

CONTINGENCY AND EMERGENCY FUND LIMITATION

SECTION 6.1. For the 2013-2015 fiscal biennium and notwithstanding the provisions of G.S. 143C-4-4(b), funds appropriated to the Contingency and Emergency Fund may be used only for expenditures required (i) by a court or Industrial Commission order or (ii) to respond to events as authorized under G.S. 166A-19.40(a) of the North Carolina Emergency Management Act. These funds shall not be used for other statutorily authorized purposes or for any other contingencies and emergencies.

ESTABLISHING OR INCREASING FEES UNDER THIS ACT

SECTION 6.2.(a) Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee to the level authorized or anticipated in this act.

SECTION 6.2.(b) Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

GLOBAL TRANSPARK LOAN REPAYMENT

SECTION 6.3.(a) The Office of State Budget and Management shall transfer funds from the Reserve for Global TransPark Loan Repayment to the Escheat Fund as payment-in-full for the outstanding loan from the Escheat Fund to the Global TransPark Authority originally authorized under G.S. 63A-4(a)(22) and G.S. 147-69.2(b)(11).

SECTION 6.3.(b) G.S. 63A-4(a)(22) is repealed.

SECTION 6.3.(c) G.S. 147-69.2(b)(11) is repealed.

MSA PAYMENTS

SECTION 6.4.(a) Sections 2(a) and 2(b) of S.L. 1999-2 are repealed.

SECTION 6.4.(b) Section 6 of S.L. 1999-2, as amended by Section 6.11(d) of Session Law 2011-145 and Section 7(b) of Session Law 2011-391, reads as rewritten:

"SECTION 6.(a) ~~Except as provided in subsection (b) of this section, it is the intent of the General Assembly that the~~ The funds under the Master Settlement Agreement, which is incorporated into the Consent Decree, be allocated as follows: Decree, shall be credited to the Settlement Reserve Fund.

(1) ~~Fifty percent (50%) to the nonprofit corporation as provided by the Consent Decree.~~

(2) ~~Fifty percent (50%) shall be allocated as follows:~~

a. ~~Debt service as authorized by the State Capital Facilities Act of 2004, Part 1 of S.L. 2004-179 and S.L. 2004-124. As soon as practicable after the beginning of each fiscal year, the State Treasurer shall estimate and transfer to Budget Code 69430 the amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by the State Capital Facilities Act of 2004.~~

- b. ~~The sum of eight million dollars (\$8,000,000) is credited to Budget Code 69430 and shall be transferred to the University Cancer Research Fund in accordance with G.S. 116-29.1.~~
- e. ~~The balance remaining to be credited to the State General Fund to be used for the following purposes:~~
1. ~~The benefit of tobacco producers, tobacco allotment holders, and persons engaged in tobacco-related businesses. To carry out this purpose, funds may provide direct and indirect financial assistance, to the extent allowed by law, to (i) indemnify tobacco producers, allotment holders, and persons engaged in tobacco-related businesses from the adverse economic effects of the Master Settlement Agreement, (ii) compensate tobacco producers and allotment holders for the economic loss resulting from lost quota, and (iii) revitalize tobacco dependent communities.~~
 2. ~~The benefit of health to fund programs and initiatives that include research, education, prevention, and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs through programs such as Health Choice and the State's Medicaid program.~~

(b) Any monies paid into the North Carolina State Specific Account from the Disputed Payments Account on account of the Non-Participating Manufacturers that would have been transferred to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), ~~Inc., or to the trust funds established in accordance with subdivision (a)(2) of this section Inc.,~~ shall be deposited in the Settlement Reserve Fund and transferred to ~~nontax Budget Code 19878~~the State General Fund."

SECTION 6.4.(c) The Attorney General shall take all necessary actions to notify the court in the action entitled State of North Carolina v. Philip Morris Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina, and the administrators of the State Specific Account established under the Master Settlement Agreement of this action by the General Assembly regarding redirection of payments set forth in subsections (a) and (b) of this section.

SECTION 6.4.(d) G.S. 116-29.1(b) reads as rewritten:

"(b) ~~The General Assembly finds that it is imperative that the State provide a minimum of fifty million dollars (\$50,000,000) each calendar year to the University Cancer Research Fund; therefore, effective~~Effective July 1 of each calendar year:

- (1) ~~Of the funds credited to Budget Code 69430 in the Department of State Treasurer, the sum of eight million dollars (\$8,000,000) is transferred from Budget Code 69430 to the University Cancer Research Fund and appropriated for this purpose.~~
- (2) ~~The~~the funds remitted to the University Cancer Research Fund by the Secretary of Revenue from the tax on tobacco products other than cigarettes pursuant to G.S. 105-113.40A ~~is~~are appropriated for this purpose.
- (3) ~~An amount equal to the difference between (i) fifty million dollars (\$50,000,000) and (ii) the amounts appropriated pursuant to subdivisions (1) and (2) of this subsection is appropriated from the General Fund for this purpose."~~

SECTION 6.4.(e) G.S. 143C-9-3 reads as rewritten:

"§ 143C-9-3. Settlement Reserve Fund.

(a) ~~The "Settlement Reserve Fund" is established as a restricted reserve in the General Fund. Except as otherwise provided in this section, funds shall be expended from the Settlement Reserve Fund only by specific appropriation by the General Assembly. Fund to receive proceeds from tobacco litigation settlement agreements or final orders or judgments of a court in litigation between tobacco companies and the states. Funds credited to the Settlement Reserve Fund each fiscal year shall be included in General Fund availability as nontax revenue for the next fiscal year.~~

(b), (c) Repealed by Session Laws 2011-145, s. 6.11(i), effective July 1, 2011.

(d) Unless prohibited by federal law, federal funds provided to the State by block grant or otherwise as part of federal legislation implementing a settlement between United States tobacco companies and the states shall be credited to the Settlement Reserve Fund. Unless otherwise encumbered or distributed under a settlement agreement or final order or judgment of the court, funds paid to the State or a State agency pursuant to a tobacco litigation settlement agreement, or a final order or judgment of a court in litigation between tobacco companies and the states, shall be credited to the Settlement Reserve Fund."

GOVERNMENT EFFICIENCY AND REFORM

SECTION 6.5.(a) The Office of State Budget and Management shall contract for a Government Efficiency and Reform review and analysis of the executive branch of State government, which shall be known as NC GEAR. The purpose of the review and analysis is to evaluate the efficiency and effectiveness of State government and to identify specific strategies for making State government more efficient and effective. The review and analysis may examine entire departments, agencies, or institutions, or similar programs in different departments. The review and analysis shall include an examination of the efficiency and effectiveness of major management policies, practices, and functions pertaining to the following areas:

- (1) The statutory authority, funding sources, and functions of each department, agency, institution, or program.
- (2) The organizational structure and staffing patterns in place to perform these functions and whether they are appropriate based on comparative data and other reasonable staffing criteria.
- (3) The measurement of each reviewed program's outcomes, overall performance, and success in accomplishing its mandated or stated mission and subsequent goals, considering the resources provided to the program.
- (4) State and local responsibilities for providing government services and funding for those services, and whether these responsibilities should be reallocated.
- (5) Personnel systems operations and management.
- (6) State purchasing operations and management.
- (7) Information technology and telecommunications systems policy, organization, and management.
- (8) The identification of opportunities to reduce fragmentation, duplication, and related or overlapping services or activities through restructuring of departmental organizations and streamlining programs.

SECTION 6.5.(b) All executive branch departments, agencies, boards, commissions, authorities, and institutions in the executive branch of State government, including receipt supported agencies, and all nonstate entities receiving State funds shall be subject to review and analysis. The chief administrative officer of each entity shall ensure full cooperation with the Office of State Budget and Management and provide timely responses to the Office of State Budget and Management's request for information under the provisions of G.S. 143C-2-1(b).

1 **SECTION 6.5.(c)** The Office of State Budget and Management will work
2 collaboratively with the Office of State Auditor to develop the review, analysis, and findings
3 needed to produce a final report and recommendations to the Governor and General Assembly.

4 **SECTION 6.5.(d)** At the request of the Office of State Budget and Management,
5 the Legislative Services Officer of the General Assembly may authorize selected central
6 legislative staff to be consulted by the Office of State Budget and Management staff about
7 developing the review, analysis, and findings needed to produce a final report and
8 recommendations to the Governor and General Assembly.

9 **SECTION 6.5.(e)** The contracting provisions of Chapter 143 of the General
10 Statutes and related State purchasing and budget regulations do not apply to NC GEAR;
11 however, the Office of State Budget and Management shall report all external contracts for
12 consultants or professional services within 30 days of their execution to the Joint Legislative
13 Commission on Governmental Operations, the Fiscal Research Division, the President Pro
14 Tempore of the Senate, and the Speaker of the House of Representatives.

15 **SECTION 6.5.(f)** The Office of State Budget and Management shall submit an
16 interim report of the NC GEAR's analysis, findings, and recommendations to the Governor, the
17 President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Fiscal
18 Research Division, and the Program Evaluation Division by February 15, 2014, and a final
19 report by February 15, 2015.

20 **SECTION 6.5.(g)** Funds appropriated for NC GEAR shall be used to contract with
21 consultants and other experts and to pay for travel, postage, printing, planning, and other
22 related costs as needed to accomplish the objectives specified for the project. Funds
23 appropriated for the 2013-2015 fiscal biennium for NC GEAR shall not revert at the end of
24 each fiscal year but shall remain available for expenditure for the project.

25 26 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

27 **SECTION 6.6.** All funds appropriated by this act into reserves may be expended
28 only for the purposes for which the reserves were established.
29

30 **BUDGET CODE CONSOLIDATIONS**

31 **SECTION 6.7.** Notwithstanding G.S. 143C-6-4, the Office of State Budget and
32 Management may, after reporting to the Fiscal Research Division, adjust the authorized budget
33 by making transfers among purposes or programs for the purpose of consolidating budget and
34 fund codes or eliminating inactive budget and fund codes. The Office of State Budget and
35 Management shall change the authorized budget to reflect these adjustments.
36

37 **NORTH CAROLINA EDUCATION LOTTERY**

38 **SECTION 6.8.** G.S. 18C-151(a) reads as rewritten:

39 "(a) Except as otherwise specifically provided in this subsection for contracts for the
40 purchase of services, apparatus, supplies, materials, or equipment, Article 8 of Chapter 143 of
41 the General Statutes, including the provisions relating to minority participation goals, shall
42 apply to contracts entered into by the Commission. If this subsection and Article 8 of Chapter
43 143 are in conflict, the provisions of this subsection shall control. In recognition of the
44 particularly sensitive nature of the Lottery and the competence, quality of product, experience,
45 and timeliness, fairness, and integrity in the operation and administration of the Lottery and
46 maximization of the objective of raising revenues, a contract for the purchase of services,
47 apparatus, supplies, materials, or equipment requiring an estimated aggregate expenditure of
48 ~~ninety thousand dollars (\$90,000)~~ three hundred thousand dollars (\$300,000) or more may be
49 awarded by the Commission only after the following have occurred:

50 "
51

PROVISION OF ANONYMOUS TAX RETURN DATA TO REVENUE ESTIMATORS

SECTION 6.9. G.S. 105-259(b)(13) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...
(13) To furnish the following to the Fiscal Research Division of the ~~General Assembly~~, Legislative Services Commission, and the Office of State Budget and Management, upon request:

- a. A sample, suitable in character, composition, and size for statistical analyses, of tax returns or other tax information from which taxpayers' names and identification numbers have been removed.
- b. An analysis of the fiscal impact of proposed legislation.

...."

EXEMPTIONS FROM MANAGEMENT FLEXIBILITY REDUCTIONS

SECTION 6.10. Notwithstanding G.S. 143C-6-4, expansion funds appropriated for the 2013-2015 fiscal biennium to State agencies as defined by G.S. 143C-1-1(d)(24) shall not be used to offset management flexibility adjustments in this act.

CLOSE OUT PUBLIC SCHOOL BUILDING CAPITAL FUND/ APPROPRIATE EDUCATION LOTTERY FUNDS

SECTION 6.11.(a) G.S. 115C-546.1 reads as rewritten:

"§ 115C-546.1. Creation of Fund; administration.

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital ~~needs and their equipment needs under their local school technology plans needs.~~

(b) ~~Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

Period	Fraction
10/1/97 to 9/30/98	One-fifteenth (1/15)
10/1/98 to 9/30/99	Two-twenty-ninths (2/29)
10/1/99 to 9/30/00	One-fourteenth (1/14)
After 9/30/00	Five-sixty-ninths (5/69)

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 6.11.(b) G.S. 115C-546.2 reads as rewritten:

"§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General Fund; matching requirements.

(a) ~~Of the monies credited to the Fund by the Secretary of Revenue pursuant to G.S. 115C-546.1(b), the State Board of Education may allocate up to one million dollars (\$1,000,000) each year to the Department of Public Instruction. These funds shall be used by the Plant Operation Section of the School Support Division to assist each local school administrative unit with effective energy and environmental management, effective water management, hazardous material management, clean air quality, and engineering support for safe, effective environmental practices. The remainder of the monies in the Fund shall be~~

1 allocated to the counties on a per average daily membership basis according to the average
2 daily membership for the budget year as determined and certified by the State Board of
3 Education. Interest earned on funds allocated to each county shall be allocated to that county.

4 The Department of Public Instruction shall report to the Joint Legislative Education
5 Oversight Committee by April 15 of each year on the effectiveness of the program in
6 accomplishing its purpose and on any other information requested by the Committee.

7 (b) Counties shall use monies in the Fund previously credited to the Fund by the
8 Secretary of Revenue pursuant to G.S. 115C-546.1(b) for capital outlay projects including the
9 planning, construction, reconstruction, enlargement, improvement, repair, or renovation of
10 public school buildings and for the purchase of land for public school buildings; for equipment
11 to implement a local school technology plan that is approved pursuant to G.S. 115C-102.6C;
12 plan; or for both. Monies used to implement a local school technology plan shall be transferred
13 to the State School Technology Fund and allocated by that Fund to the local school
14 administrative unit for equipment.

15 As used in this section, "public school buildings" only includes facilities for individual
16 schools that are used for instructional and related purposes and does not include centralized
17 administration, maintenance, or other facilities.

18 In the event a county finds that it does not need all or part of the funds allocated to it for
19 capital outlay projects including the planning, construction, reconstruction, enlargement,
20 improvement, repair, or renovation of public school buildings, for the purchase of land for
21 public school buildings, or for equipment to implement a local school technology plan, the
22 unneeded funds allocated to that county may be used to retire any indebtedness incurred by the
23 county for public school facilities.

24 In the event a county finds that its public school building needs and its school technology
25 needs can be met in a more timely fashion through the allocation of financial resources
26 previously allocated for purposes other than school building needs or school technology needs
27 and not restricted for use in meeting public school building needs or school technology needs,
28 the county commissioners may, with the concurrence of the affected local Board of Education,
29 use those financial resources to meet school building needs and school technology needs and
30 may allocate the funds it receives under this Article for purposes other than school building
31 needs or school technology needs to the extent that financial resources were redirected from
32 such purposes. The concurrence described herein shall be secured in advance of the allocation
33 of the previously unrestricted financial resources and shall be on a form prescribed by the Local
34 Government Commission.

35 (c) Monies previously credited to the Fund by the Secretary of Revenue pursuant to
36 G.S. 115C-546.1(b) for capital projects shall be matched on the basis of one dollar of local
37 funds for every three dollars of State funds. Monies Such monies in the Fund transferred to the
38 State Technology Fund do not require a local match.

39 Revenue received from local sales and use taxes that is restricted for public school capital
40 outlay purposes pursuant to G.S. 105-502 or G.S. 105-487 may be used to meet the local
41 matching requirement. Funds expended by a county after July 1, 1986, for land acquisition,
42 engineering fees, architectural fees, or other directly related costs for a public school building
43 capital project that was not completed prior to July 1, 1987, may be used to meet the local
44 match requirement.

45 (d) If funds are appropriated from the Education Lottery Fund to the Public School
46 Building Capital Fund, such funds shall be allocated for school capital construction projects on
47 a per average daily membership basis according to the average daily membership for the budget
48 year as determined and certified by the State Board of Education. Monies transferred into the
49 Fund in accordance with Chapter 18C of the General Statutes shall be allocated for capital
50 projects for school construction projects as follows:

(1) ~~A sum equal to sixty five percent (65%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.~~

(2) ~~A sum equal to thirty five percent (35%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the State average effective tax rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:~~

a. ~~"Effective county tax rate" means the actual county rate for the previous fiscal year, including any countywide supplemental taxes levied for the benefit of public schools, multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies.~~

b. ~~"State average effective tax rate" means the average effective county tax rates for all counties.~~

e. ~~"Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).~~

(3) ~~No county shall have to provide matching funds required under subsection (c) of this section.~~

(4) ~~A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects.~~

(5) ~~A county may not use monies in this Fund to pay for school technology needs.~~

(e) The State Board of Education may use up to one million five hundred thousand dollars (\$1,500,000) each year of monies in the Fund to support positions in the Department of Public Instruction's Support Services Division."

SECTION 6.11.(c) G.S. 18C-164 reads as rewritten:

"§ 18C-164. Transfer of net revenues.

(a) The funds remaining in the North Carolina State Lottery Fund after receipt of all revenues to the Lottery Fund and after accrual of all obligations of the Commission for prizes and expenses shall be considered to be the net revenues of the North Carolina State Lottery Fund. The net revenues of the North Carolina State Lottery Fund shall be transferred four times a year to the Education Lottery Fund, which shall be created in the State treasury.

(b) From the Education Lottery Fund, the ~~Commission~~ Office of State Budget and Management shall transfer a sum equal to five percent (5%) of the net revenue of the prior year to the Education Lottery Reserve Fund. A special revenue fund for this purpose shall be established in the State treasury to be known as the Education Lottery Reserve Fund, and that fund shall be capped at fifty million dollars (\$50,000,000). Monies in the Education Lottery Reserve Fund may be appropriated only as provided in subsection (e) of this section.

(c) ~~The Commission shall distribute~~ The General Assembly shall appropriate the remaining net revenue of the Education Lottery Fund, as follows, in the following manner: Fund annually in the Current Operations Appropriations Act, based upon estimates of lottery net revenue to the Education Lottery Fund provided by the Office of State Budget and Management and the Fiscal Research Division of the Legislative Services Commission.

(1) ~~A sum equal to fifty percent (50%) to support reduction of class size in early grades to class size allotments not exceeding 1:18 in order to eliminate achievement gaps and to support academic prekindergarten programs for at risk four year olds who would otherwise not be served in a high quality~~

education program in order to help those four-year-olds be prepared developmentally to succeed in school.

(2) ~~A sum equal to forty percent (40%) to the Public School Building Capital Fund in accordance with G.S. 115C-546.2.~~

(3) ~~A sum equal to ten percent (10%) to the State Educational Assistance Authority to fund college and university scholarships in accordance with Article 35A of Chapter 115C of the General Statutes.~~

(d) ~~Of the sums transferred under subsection (c) of this section, the General Assembly shall appropriate the funds annually based upon estimates of lottery net revenue to the Education Lottery Fund provided by the Office of State Budget and Management and the Fiscal Research Division of the North Carolina General Assembly.~~

(e) If the actual net revenues are less than the appropriation for that given year, then the Governor may transfer from the Education Lottery Reserve Fund an amount sufficient to equal the appropriation by the General Assembly. ~~If the monies available in the Education Lottery Reserve Fund are insufficient to reach a full appropriation, the Governor shall transfer monies in order of priority, to the following:~~

(1) ~~To support academic prekindergarten programs for at-risk four-year-olds who would otherwise not be served in a high-quality education program in order to help those four-year-olds be prepared developmentally to succeed in school.~~

(2) ~~To reduce class size.~~

(3) ~~To provide financial aid for needy students to attend college.~~

(4) ~~To the Public School Building Capital Fund to be spent in accordance with this section.~~

(f) ~~If the actual Actual net revenues exceed in excess of the amounts appropriated in that fiscal year, the excess net revenues a fiscal year shall remain in the Education Lottery Fund, and then be transferred as follows: Fund.~~

(1) ~~Fifty percent (50%) to the Public School Building Capital Fund to be spent in accordance with this section.~~

(2) ~~Fifty percent (50%) to the State Educational Assistance Authority to be spent in accordance with this section."~~

SECTION 6.11.(d) G.S. 115C-499.3(b) reads as rewritten:

"(b) Subject to the maximum amounts provided in this section, the Authority shall have the power to determine the actual scholarship amounts disbursed to students in any given year based on the amount of net income available under Chapter 18C of the General Statutes. funds appropriated from the Education Lottery Fund. If the net income available is not sufficient to fully fund the scholarships to the maximum amount, all scholarships shall be reduced equally, to the extent practicable, so that every eligible applicant shall receive a proportionate scholarship amount."

SECTION 6.11.(e) The appropriations made from the Education Lottery Fund for the 2013-2015 fiscal biennium are as follows:

	FY 2013-2014	FY 2014-2015
Classroom Teachers	\$ 220,643,188	\$ 220,643,188
Prekindergarten Program	\$ 63,135,709	\$ 63,135,709
Public School Building Capital Fund	\$ 100,000,000	\$ 100,000,000
Scholarships for Needy Students	\$ 30,450,000	\$ 30,450,000
UNC Need-Based Financial Aid	\$ 10,744,733	\$ 10,744,733
UNC Need-Based Financial Aid Forward Funding Reserve	\$ 55,128,620	-
Lottery Reserve Fund	-	\$ 43,459,463

1 **TOTAL APPROPRIATION** **\$ 480,102,250** **\$ 468,433,093**

2 **SECTION 6.11.(f)** Notwithstanding G.S. 18C-164, the Office of State Budget and
3 Management shall not transfer funds to the Education Lottery Reserve Fund for the 2013-2014
4 fiscal year.

5 **SECTION 6.11.(g)** Notwithstanding G.S. 18C-164(c), Article 35A of Chapter
6 115C of the General Statutes, or any other provision of law, the funds appropriated in this
7 section for UNC Need-Based Financial Aid shall be administered in accordance with the policy
8 adopted by the Board of Governors of The University of North Carolina.

9 **SECTION 6.11.(h)** Subsection (c) of this section becomes effective June 30, 2013.

10
11 **AMEND STATE BUDGET ACT**

12
13 **TECHNICAL CORRECTIONS AND CLARIFYING CHANGES**

14 **SECTION 6.12.(a)** G.S. 143C-1-1(d)(19) reads as rewritten:

15 "(19) Nontax revenue. – Revenue that is not a tax proceed or a departmental
16 receipt and that is required by statute to be credited to ~~the General Fund~~ a
17 fund."

18 **SECTION 6.12.(b)** G.S. 143C-1-1(d)(30) reads as rewritten:

19 "(30) Unreserved fund balance. – The available ~~General Fund~~ cash balance
20 effective June 30 after excluding documented encumbrances, unearned
21 revenue, ~~federal grants~~, statutory requirements, and other legal obligations to
22 ~~General Fund~~ a fund's cash balance as determined by the State Controller.
23 Beginning unreserved fund balance equals ending unreserved fund balance
24 from the prior fiscal year."

25 **SECTION 6.12.(c)** G.S. 143C-1-3(c) reads as rewritten:

26 "(c) Notwithstanding subsections (a) and (b) of this section, funds established for The
27 University of North Carolina and its constituent institutions pursuant to the following statutes
28 are exempt from Chapter 143C of the General Statutes and shall be accounted for as provided
29 by those statutes, except that the provisions of Article 8 of Chapter 143C of the General
30 Statutes shall apply to the funds: G.S. 116-35, 116-36, 116-36.1, 116-36.2, 116-36.4, 116-36.5,
31 116-36.6, 116-44.4, 116-68, 116-220, ~~116-235, 116-238, 116-235.~~"

32 **SECTION 6.12.(d)** Article 1 of Chapter 143C of the General Statutes is amended
33 by adding a new section to read:

34 **"§ 143C-1-5. Chapter is applicable to The University of North Carolina.**

35 Except as expressly provided in G.S. 143C-1-3(c) or otherwise expressly provided by law,
36 The University of North Carolina shall be subject to the provisions of this Chapter in the same
37 manner and to the same degree as other State agencies."

38 **SECTION 6.12.(e)** G.S. 143C-3-5(e) reads as rewritten:

39 "(e) ~~Revenue~~ Availability Estimates. – The recommended Current Operations
40 Appropriations Act shall contain a statement showing the estimates of General Fund
41 availability, Highway Fund availability, and Highway Trust Fund availability upon which the
42 Recommended State Budget is based."

43 **SECTION 6.12.(f)** G.S. 143C-9-6 reads as rewritten:

44 **"§ 143C-9-6. JDIG Reserve Fund Reserve.**

45 (a) The State Controller shall establish a reserve in the General Fund to be known as the
46 JDIG Reserve. Funds from the JDIG Reserve shall not be ~~expended or~~ transferred except in
47 accordance with G.S. 143B-437.63.

48 (b) It is the intent of the General Assembly to appropriate funds annually to the JDIG
49 Reserve established in this section in amounts sufficient to meet the anticipated cash
50 requirements for each fiscal year of the Job Development Investment Grant Program
51 established pursuant to G.S. 143B-437.52."

1 **SECTION 6.12.(g)** G.S. 143C-9-8(a) reads as rewritten:
2 "(a) The State Controller shall establish a reserve in the General Fund to be known as the
3 One North Carolina Fund Reserve. Funds from the One North Carolina Fund Reserve shall not
4 be ~~expended or~~ transferred except in accordance with G.S. 143B-437.75."

5
6 **SUBSTANTIVE CHANGES**

7 **SECTION 6.12.(h)** G.S. 143C-1-1(d) is amended by adding the following new
8 subdivisions to read:

9 "(1a) Authorized budget. – The certified budget with changes authorized by the
10 Director of the Budget through authority granted in G.S. 143C-6-4 or other
11 statutes.

12 (1b) Availability. – The total anticipated cash available within a fund for
13 appropriation purposes, including unreserved fund balance and all revenue
14 and receipts anticipated in a fiscal year.

15 ...
16 (7a) Continuation budget. – That part of the Recommended State Budget
17 necessary to continue the same level of services in the next biennium as is
18 provided in the current fiscal year, including (i) mandated Social Security
19 rate adjustments; (ii) annualization of programs and positions; (iii)
20 enrollment adjustments for public schools and Medicaid; (iv) reductions to
21 adjust for items funded with nonrecurring funds during the prior fiscal
22 biennium; (v) increases to adjust for nonrecurring reductions during the prior
23 fiscal biennium; and (vi) if deemed necessary by the Director, other
24 adjustments such as inflation, building reserves, and equipment
25 replacement."

26 **SECTION 6.12.(i)** G.S. 143C-1-1(d)(7) reads as rewritten:

27 "(7) Certified budget. – The budget as enacted by the General Assembly
28 including adjustments made for (i) distributions to State agencies from
29 statewide reserves appropriated by the General Assembly, (ii) distributions
30 of reserves appropriated to a specific agency by the General Assembly, and
31 (iii) organizational or budget changes ~~directed~~ mandated by the General
32 Assembly ~~but left to the Director to carry out.~~ Assembly."

33 **SECTION 6.12.(j)** G.S. 143C-3-3 reads as rewritten:

34 **"§ 143C-3-3. Budget requests from State agencies in the executive branch.**

35 ...
36 (b) University of North Carolina System Request. – Notwithstanding ~~subsections (c),~~
37 ~~(d), and (e) of this section, pursuant to the requirement in G.S. 116-11 that the Board of~~
38 ~~Governors shall prepare a unified budget request for all of the constituent institutions of The~~
39 ~~University of North Carolina, including repairs and renovations, capital fund requests, and~~
40 ~~information technology requests shall comply with subsections (c), (d), and (e) of~~
41 ~~this section.~~

42 ...
43 (e) Information Technology Request. – In addition to any other information requested
44 by the Director, any State agency requesting significant State resources, as defined by the
45 Director, for the purpose of acquiring or maintaining information technology shall accompany
46 that request with all of the following:

47 (1) A statement of its needs for information technology and related resources,
48 including expected improvements to programmatic or business operations,
49 together with a review and evaluation of that statement prepared by the State
50 Chief Information Officer.

- 1 (2) A statement setting forth the requirements for State resources, together with
2 an evaluation of those requirements by the State Chief Information Officer
3 that takes into consideration the State's current technology, the opportunities
4 for technology sharing, the requirements of Article 3D of Chapter 147 of the
5 General Statutes, and any other factors relevant to the analysis.
- 6 (3) A statement by the State Chief Information Officer that sets forth viable
7 alternatives, if any, for meeting the agency needs in an economical and
8 efficient manner.
- 9 (4) In the case of an acquisition, an explanation of the method by which the
10 acquisition is to be financed.

11 This subsection shall not apply to requests submitted by the General ~~Assembly,~~ Assembly or
12 the Administrative Office of the Courts, or The University of North Carolina Courts."

13 **SECTION 6.12.(k)** G.S. 143C-3-5 reads as rewritten:

14 **"§ 143C-3-5. Budget recommendations and budget message.**

15 ...
16 (b) ~~Odd-Numbered Fiscal Years.~~ – In odd-numbered years the budget recommendations
17 shall include the following components:

- 18 (1) A Recommended State Budget setting forth goals for improving the State
19 with recommended expenditure requirements, funding sources, and
20 performance information for each State government program and for each
21 proposed capital improvement. The Recommended State Budget may be
22 presented in a format chosen by the Director, except that the Recommended
23 State Budget shall clearly distinguish program continuation requirements,
24 program reductions, program eliminations, program expansions, and new
25 programs, and shall explain all proposed capital improvements in the context
26 of the Six-Year Capital Improvements Plan and as required by
27 G.S. 143C-8-6. ~~The Director shall include as continuation requirements the~~
28 ~~amounts the Director proposes to fund for the enrollment increases in public~~
29 ~~schools, community colleges, and the university system.~~

- 30 (1a) The Governor's Recommended State Budget shall include a continuation
31 budget, which shall be presented in the budget support document pursuant to
32 subdivision (2) of this subsection.

- 33 ...
34 (5) A list of budget adjustments made during the prior fiscal year pursuant to
35 G.S. 143C-6-4 that are included in the proposed continuation budget for the
36 upcoming fiscal year.

37 (c) ~~Even-Numbered Fiscal Years.~~ – In even-numbered years, the Governor may
38 recommend changes in the enacted budget for the second year of the biennium. These
39 recommendations shall be presented as amendments to the enacted budget and shall be
40 incorporated in a recommended Current Operations Appropriation Act and a recommended
41 Capital Improvements Appropriations Act as necessary. Any recommended changes shall
42 clearly distinguish program reductions, program eliminations, program expansions, and new
43 programs, and shall explain all proposed capital improvements in the context of the Six-Year
44 Capital Improvements Plan and as required by G.S. 143C-8-6. The Governor shall provide
45 sufficient supporting documentation and accounting detail, consistent with that required by
46 G.S. 143C-3-5(b), corresponding to the recommended amendments to the enacted budget.

47 (d) Funds Included in Budget. – Consistent with requirements of the North Carolina
48 Constitution, Article 5, Section 7(1), the Governor's Recommended State Budget, together with
49 the Budget Support Document, shall include recommended expenditures of State funds from all
50 Governmental and Proprietary Funds, as those funds are described in ~~G.S. 143C-1-3.~~
51 G.S. 143C-1-3, and all funds established for The University of North Carolina and its

constituent institutions that are subject to this Chapter. Except where provided otherwise by federal law, funds received from the federal government become State funds when deposited in the State treasury and shall be classified and accounted for in the Governor's budget recommendations no differently than funds from other sources.

...."

SECTION 6.12.(I) G.S. 143C-4-3 reads as rewritten:

"§ 143C-4-3. Repairs and Renovations Reserve Account. Reserve.

(a) Creation and Source of Funds. – The Repairs and Renovations Reserve ~~Account~~ is established as a reserve in the General Fund. The State Controller shall reserve to the Repairs and Renovations Reserve ~~Account~~ one-fourth of any unreserved fund balance, as determined on a cash basis, remaining in the General Fund at the end of each fiscal year.

(b) Use of Funds. – The funds in the Repairs and Renovations Reserve ~~Account~~ shall be used only for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund. Funds from the Repairs and Renovations Reserve ~~Account~~ shall be used only for the following types of projects:

- (1) Roof repairs and replacements;
- (2) Structural repairs;
- (3) Repairs and renovations to meet federal and State standards;
- (4) Repairs to electrical, plumbing, and heating, ventilating, and air-conditioning systems;
- (5) Improvements to meet the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., as amended;
- (6) Improvements to meet fire safety needs;
- (7) Improvements to existing facilities for energy efficiency;
- (8) Improvements to remove asbestos, lead paint, and other contaminants, including the removal and replacement of underground storage tanks;
- (9) Improvements and renovations to improve use of existing space;
- (10) Historical restoration;
- (11) Improvements to roads, walks, drives, utilities infrastructure; and
- (12) Drainage and landscape improvements.

Funds from the Repairs and Renovations Reserve ~~Account~~ shall not be used for new construction or the expansion of the building area (sq. ft.) of an existing facility unless required in order to comply with federal or State codes or standards.

(c) Use of Funds. – Funds Available Only Upon Appropriation. – Funds reserved to the Repairs and Renovations Reserve ~~Account~~ shall be available for expenditure only upon an act of appropriation by the General Assembly.

(d) ~~Board of Governors May Allocate Allocation and Reallocation of Funds to for~~ Particular Projects. – Any funds in the ~~Reserve for Repairs and Renovations Reserve~~ that are allocated to the Board of Governors of The University of North Carolina or to the Office of State Budget and Management may be allocated or reallocated by ~~the Board~~ those agencies for repairs and renovations projects so long as (i) ~~any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section unless the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance and (ii) the allocation or reallocation is in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina. The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations on the allocation or reallocation of funds pursuant to this section within 60 days of any allocation or reallocation under this subsection.~~ all of the following conditions are satisfied:

- (1) Any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section.
- (2) If the allocation or reallocation of funds from one project to another under this section is two million five hundred thousand dollars (\$2,500,000) or more for a particular project, the Office of State Budget and Management or the Board of Governors, as appropriate, consults with the Joint Legislative Commission on Governmental Operations prior to the expenditure or reallocation.
- (3) If the allocation or reallocation of funds from one project to another under this section is less than two million five hundred thousand dollars (\$2,500,000) for a particular project, the allocation or reallocation of funds is reported to the Joint Legislative Commission on Governmental Operations within 60 days of the expenditure or reallocation.

~~(e) Office of State Budget and Management May Allocate Funds to Particular Projects. —Any funds in the Reserve for Repairs and Renovations that are allocated to the Office of State Budget and Management may be allocated or reallocated by the State Budget Office for repairs and renovations projects so long as any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation of these funds. The State Budget Office shall report to the Joint Legislative Commission on Governmental Operations on the reallocation of funds pursuant to this section within 60 days of any reallocation under this subsection."~~

SECTION 6.12.(m) G.S. 143C-5-2 reads as rewritten:

"§ 143C-5-2. Order of appropriations bills.

(a) Each house of the General Assembly shall first pass its version of the Current Operations Appropriations Act on third reading and order it sent to the other chamber before placing any other appropriations bill on the calendar for second reading. This section does not apply to the following bills:

- (1) An appropriations bill to respond to an emergency as defined by G.S. 166A-19.3.
- (2) An appropriations bill making adjustments to the current year budget.
- (3) An appropriations bill authorizing continued operations at current funding levels.
- (4) In even-numbered years, an appropriations bill that contains a statement that the General Assembly does not intend to enact a Current Operations Appropriations Act that year.

(b) The provisions of subsection (a) of this section shall apply to each fiscal year of the biennium."

SECTION 6.12.(n) G.S. 143C-6-1 reads as rewritten:

"§ 143C-6-1. Budget enacted by the General Assembly; certified budgets of State agencies.

...

(b) Departmental Receipts. – Departmental receipts collected to support a program or purpose shall be credited to the fund from which appropriations have been made to support that program or purpose. A State agency shall expend departmental receipts first, including receipts in excess of the amount of receipts budgeted in the certified budget for the program or purpose, and shall expend other funds appropriated for the purpose or program only to the extent that receipts are insufficient to meet the costs anticipated in the certified budget.

Except as authorized in G.S. 143C-6-4, excess departmental receipts shall not be used to increase expenditures for a purpose or program."

(c) Certification of the Budget. – The Director of the Budget shall certify to each State agency the amount appropriated to it for each program and each object from all ~~governmental and proprietary funds.~~ funds included in the budget as defined in G.S. 143C-3-5(d). The certified budget for each State agency shall reflect the total of all appropriations enacted for each State agency by the General Assembly in the Current Operations Appropriations Act, the Capital Improvements Appropriations Act, and any other act affecting the State budget. The certified budget for each State agency shall follow the format of the Budget Support Document as modified to reflect changes enacted by the General Assembly."

SECTION 6.12.(o) G.S. 143C-6-4 reads as rewritten:

"§ 143C-6-4. Budget Adjustments Authorized.

(a) Findings. – The General Assembly recognizes that even the most thorough budget deliberations may be affected by unforeseeable ~~events.~~ Under events; therefore, under the limited circumstances set forth in this section, the Director ~~may is~~ is authorized to adjust the enacted budget by making transfers among lines of expenditure, purposes, or programs or by increasing expenditures funded by departmental receipts. ~~Under no circumstances, however, shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.~~

(b) ~~Adjustments to the Certified Budget.~~ Budget Adjustments. – Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was ~~authorized~~ appropriated in the certified budget by adjusting the authorized budget for all of the following:

(1) Line items within programs. – An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was authorized in the certified budget for the purpose or program.

(2) Responses to extraordinary events. – A purpose or program if the overexpenditure of the purpose or program is:

- a. Required by a court or Industrial Commission order;
- b. Authorized under G.S. 166A-19.40(a) of the North Carolina Emergency Management Act; or
- c. Required to call out the North Carolina National Guard.

(3) Responses to unforeseen circumstances. – A purpose or program not subject to the provisions of subdivision (b)(2) of this ~~subsection, but only in accord with the following restrictions:~~ (i) the subsection, if each of the following conditions is satisfied:

- a. The overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted, ~~(ii) the enacted.~~
- b. The scope of the purpose or program is not increased, ~~(iii) the increased.~~
- c. The overexpenditure is authorized on a nonrecurring basis, and ~~(iv) under no circumstances shall the total requirements for a State department exceed the department's certified budget for the fiscal year by more than three percent (3%) without prior consultation with the Joint Legislative Commission on Governmental Operations one-time nonrecurring basis for one year only.~~

(b1) If the overexpenditure would cause a department's total requirements for a fund to exceed the department's certified budget for a fiscal year for that fund by more than three percent (3%), the Director shall consult with the Joint Legislative Commission on Governmental Operations prior to authorizing the overexpenditure.

(b2) Subsection (b) of this section shall not be construed to authorize budget adjustments that cause General Fund expenditures, excluding expenditures from General Fund receipts, to exceed General Fund appropriations for a department.

...."

SECTION 6.12.(p) G.S. 143C-6-21 reads as rewritten:

"§ 143C-6-21. Payments to nonprofits.

Except as otherwise provided by law, an annual appropriation of one hundred thousand dollars (\$100,000) or less to or for the use of a nonprofit corporation ~~shall~~ may be made in a single annual ~~payment.~~ payment, in the discretion of the Director of the Budget. An annual appropriation of more than one hundred thousand dollars (\$100,000) to or for the use of a nonprofit corporation shall be made in quarterly or monthly payments, in the discretion of the Director of the Budget."

SECTION 6.12.(q) G.S. 143C-7-2(a) reads as rewritten:

"(a) Plans Submitted and Reviewed. – The Secretary of each State agency that receives and administers federal Block Grant funds shall prepare and submit the agency's Block Grant plans to the Director of the Budget. The Director of the Budget shall submit the Block Grant plans to ~~the Fiscal Research Division of the General Assembly not later than February 28 of each odd-numbered calendar year and not later than April 30 of each even-numbered calendar year.~~ the General Assembly as part of the Recommended State Budget submitted pursuant to G.S. 143C-3-5."

SECTION 6.12.(r) G.S. 143C-8-2 reads as rewritten:

"§ 143C-8-2. Capital facilities inventory.

(a) The Department of Administration shall develop and maintain an automated inventory of all facilities owned by State agencies pursuant to G.S. 143-341(4). The inventory shall include the location, occupying agency, ownership, size, description, condition assessment, maintenance record, parking and employee facilities, and other information to determine maintenance needs and prepare life-cycle cost evaluations of each facility listed in the inventory. The Department of Administration shall update and publish the inventory at least once every three years. The Department shall also record in the inventory acquisitions of new facilities and significant changes in existing facilities as they occur.

(b) No later than October 1 of each even-numbered year, the Department of Administration shall provide a summary of the information maintained in the inventory described in subsection (a) of this section to the Fiscal Research Division of the Legislative Services Commission. This summary shall include all of the following:

(1) A summary of the number, type, square footage or acreage, and condition of facilities allocated to or owned by each State agency.

(2) A summary of the geographical distribution of State facilities.

(3) An estimate of the percentage increase or decrease of square footage or acreage allocated to or owned by each State agency since the last report was submitted pursuant to this subsection.

(4) Any other information requested by the Fiscal Research Division."

SECTION 6.12.(s) G.S. 143C-9-7(b) reads as rewritten:

"(b) ~~Funds~~ Upon appropriation by the General Assembly, funds received in the Indian Gaming Education Revenue Fund ~~are hereby appropriated as received to the State Public School Fund for quarterly allotments.~~ shall be allocated quarterly by the State Board of Education to local school administrative units, charter schools, and regional schools on the basis of allotted average daily membership. The funds allotted by the State Board of Education pursuant to this section shall be nonreverting. Funds received pursuant to this section by local school administrative units shall be expended for classroom teachers, teacher assistants, classroom materials or supplies, or textbooks."

PART VII. INFORMATION TECHNOLOGY**INFORMATION TECHNOLOGY FUND**

SECTION 7.1. The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2013-2014	FY 2014-2015
General Fund Appropriation for IT Fund	\$6,053,142	\$6,055,342
General Fund Appropriation for		
Government Data Analytics Center	3,000,000	4,417,515
Interest	\$2,200	\$2,200
IT Fund Balance, June 30	\$0	\$0
Total Funds Available	\$9,055,342	\$10,475,057
Appropriations are made from the Information Technology Fund for the 2013-2015 fiscal biennium as follows:		
Information Technology Operations		
Criminal Justice Information Network	\$189,563	\$189,563
Center for Geographic Information and Analysis	\$495,338	\$495,338
Enterprise Security Risk Management	\$864,148	\$864,148
Enterprise Project Management Office	\$1,473,285	\$1,473,285
Architecture and Engineering	\$851,986	\$851,986
State Web Site	\$224,741	\$224,741
Enterprise Licenses	\$33,000	\$33,000
Subtotal Information Technology Operations	\$4,132,061	\$4,132,061
Information Technology Projects		
Government Data Analytics Center	\$3,000,000	\$4,417,515
IT Consolidation	\$1,021,081	\$1,021,081
Electronic Forms/Digital Signatures	\$900,000	\$900,000
Subtotal Information Technology Projects	\$4,921,081	\$6,338,596
Total	\$9,053,142	\$10,470,657

Unless a change is approved by the State Chief Information Officer after consultation with the Office of State Budget and Management, funds appropriated to the Information Technology Fund shall be spent only as specified in this section. Changes shall not result in any degradation to the information technology operations or projects listed in this section for which the funds were originally appropriated.

Any changes to the specified uses shall be reported in writing to the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Chair and Cochair of the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division.

INFORMATION TECHNOLOGY INTERNAL SERVICE FUND

SECTION 7.2.(a) G.S. 147-33.88 reads as rewritten:

"§ 147-33.88. Information technology budget development and reports.

(a) ~~The Office shall develop an annual budget for review and approval by the Office of State Budget and Management prior to April 1 of each year.~~ The Office of Information Technology Services (ITS) shall develop an annual budget for review and approval by the Office of State Budget and Management (OSBM) in accordance with a schedule prescribed by the Director of the Office of State Budget and Management. The approved Information

Technology Internal Service Fund budget shall be included in the Governor's budget recommendations to the General Assembly.

The Office of State Budget and Management shall ensure that State agencies have an opportunity to adjust their budgets based on any rate changes proposed by the Office of Information Technology Services and approved by the Office of State Budget and Management.

(b) The Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the Office's Internal Service Fund on a quarterly basis, no later than the first day of the second month following the end of the quarter. The report shall include current cash balances, line-item detail on expenditures from the previous quarter, and anticipated expenditures and revenues. The Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on expenditures for the upcoming quarter, projected year-end balance, and the status report on personnel position changes including new positions created and existing positions eliminated. The Office spending reports shall comply with the State Accounting System object codes."

SECTION 7.2.(b) IT Internal Service Fund. – For each year of the 2013-2015 fiscal biennium, receipts for the IT Internal Service Fund shall not exceed one hundred ninety million dollars (\$190,000,000), excluding a 60-day balance for contingencies. Rates approved by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund shall be based on this fund limit. In the event the Fund exceeds the required limit, rates shall be adjusted within 30 days. In the event that an increase in receipts for the IT Internal Service Fund is required, the Office of Information Technology services may only implement the increase after consultation with the Joint Legislative Commission on Governmental Operations.

SECTION 7.2.(c) Rate Setting. – By October 31, 2013, the State Chief Information Officer shall establish consistent, fully transparent, easily understandable rates that reflect industry standards for each service for which any agency is charged. A report explaining the rate structure shall be submitted to the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division. An interim report shall be submitted by July 30, 2013. Overhead charges to agencies shall be consistently applied and shall reflect industry standards for the particular service. Rate increases shall require the approval of OSBM and consultation with the Joint Legislative Commission on Governmental Operations. Rate reductions may be implemented following notification of OSBM.

SECTION 7.2.(d) Agency Billing and Payments. – The State Chief Information Officer shall ensure that bills from the Office of Information Technology Services are easily understandable and fully transparent. If a State agency fails to pay its IT Internal Service Fund bill within 30 days of receipt, the Office of State Budget and Management may transfer funds from the agency to fully or partially cover the cost of the bill from that agency to the IT Internal Service Fund, following notification of the affected agency.

SECTION 7.2.(e) Unspecified Uses. – Any uses of the IT Internal Service Fund not specifically related to the operation of the Office of Information Technology Services, to include any transfers to other State agencies, shall immediately be reported to the Office of State Budget and Management and the Fiscal Research Division with a detailed explanation as to why it was necessary to use the Fund. The State Chief Information Officer may use the IT Internal Service Fund, and any other available resources, to accelerate desktop remediation and associated software upgrades, if it is in the State's best interest.

INFORMATION TECHNOLOGY RESERVE FUND

SECTION 7.3.(a) Funds in the Reserve for Information Technology for the 2013-2014 fiscal year consist of the sum of thirty-one million dollars (\$31,000,000) appropriated from the General Fund. Funds in the Reserve for Information Technology for the 2014-2015 fiscal year consist of the sum of thirty-six million dollars (\$36,000,000) appropriated from the General Fund.

SECTION 7.3.(b) The Information Technology Reserve Fund shall be established in the Office of the State Chief Information Officer (CIO). It shall be interest-bearing and nonreverting. The State CIO shall follow established procedures for project approval. Appropriations are made from the Information Technology Reserve Fund for the 2013-2015 fiscal biennium as follows:

	FY 2013-2014	FY 2014-2015
Prepare/Focus	\$250,000	\$0
Plan	\$1,752,806	\$2,232,321
Build	\$1,057,353	\$2,754,163
Remediation	\$1,100,000	\$600,000
Security	\$1,571,394	\$392,788
Network Simplification	\$0	\$5,250,000
Desktop Remediation	\$16,000,000	\$14,300,000
Desktop Software Licenses	\$7,615,000	\$2,300,000
Operate	\$985,446	\$685,446
Customer Data	\$400,000	\$1,000,000
Secure Sign-On	\$0	\$6,350,000
Innovation Center	\$0	\$0

SECTION 7.3.(c) By August 1, 2013, the State Chief Information Officer shall provide a time line for completing initiatives included in the IT Reserve Fund to the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division. The time line shall include the dates for completion of a strategic plan, an enterprise architecture, a new business case methodology, and implementation of a new project management process. Not later than the dates specified in the time line, each of these documents shall be submitted to the Joint Legislative Oversight Committee on Information Technology, the House Appropriations Subcommittee on Information Technology, and the Fiscal Research Division.

INFORMATION TECHNOLOGY OPERATIONS

SECTION 7.4.(a) The Office of the State Chief Information Officer (CIO) shall develop an inventory of servers and server locations in State agencies. Based on this inventory, the State CIO shall develop a plan to consolidate agency servers in State-owned data centers. By November 1, 2013, the State CIO shall provide a written plan for accomplishing this to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.4.(b) The Office of the State CIO shall identify information technology applications that are hosted by vendors that are not backed up on State-owned infrastructure. The State CIO shall work with impacted State agencies to develop a plan to ensure that any State agency application hosted by a vendor is backed up on State-owned infrastructure. By January 1, 2014, the State CIO shall provide a plan for accomplishing this to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.4.(c) G.S. 147-33.80 reads as rewritten:

"§ 147-33.80. Exempt agencies.

Except as otherwise specifically provided by law, this Article shall not apply to the General Assembly, the Judicial Department, or The University of North Carolina and its constituent

~~institutions.~~ Assembly or to the Judicial Department. These agencies may elect to participate in the information technology programs, services, or contracts offered by the Office, including information technology procurement, in accordance with the statutes, policies, and rules of the Office."

STATEWIDE INFORMATION TECHNOLOGY PROCUREMENT

SECTION 7.5. Statewide information technology procurement shall be funded through fees charged to agencies using the services of the Statewide Information Technology Procurement Office. The Office of the State Chief Information Officer (CIO) shall provide to the Office of State Budget and Management (OSBM) a fee schedule to allow cost recovery. If an agency fails to pay for services within 30 days of billing, OSBM shall transfer the unpaid amount to the State Information Technology Procurement Office, following notification of the affected agency.

PUBLIC SCHOOL PROCUREMENT OF INFORMATION TECHNOLOGY

SECTION 7.6.(a) The State Chief Information Officer (CIO) shall work with the North Carolina Department of Public Instruction (DPI) and the Governor's Education Council to implement public school cooperative purchasing agreements for the procurement of information technology (IT) goods and services to support public schools. For purposes of this section, the phrase "public school cooperative purchasing agreement" means an agreement implemented pursuant to this section and available for local school administrative units, regional schools, charter schools, or some combination thereof, providing for collaborative or collective purchases of information technology goods and services in order to leverage economies of scale and to reduce costs.

SECTION 7.6.(b) Each public school cooperative purchasing agreement shall be based on a defined statewide information technology need to support education in the public schools. Each public school cooperative purchasing agreement shall allow for equal access to technology tools and services and shall provide a standard competitive cost throughout North Carolina for each tool or service. Public school cooperative purchasing agreements shall follow State information technology procurement laws, rules, and procedures.

SECTION 7.6.(c) By October 1, 2013, and quarterly thereafter, the Office of the State CIO and DPI shall report on the establishment of public school cooperative purchasing agreements, savings resulting from the establishment of the agreements, and any issues impacting the establishment of the agreements. The reports shall be made to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division.

INFORMATION TECHNOLOGY CONTRACTS

SECTION 7.7.(a) SCIO Review. – The State Chief Information Officer (CIO) shall review all State information technology (IT) contracts and shall develop a plan to consolidate duplicate IT contracts and multiple IT contracts with the same vendor.

SECTION 7.7.(b) Sole Sourcing Limited. – State IT contracts, including extensions of the period of performance or expansion of the scope of existing contracts, shall not be sole sourced, unless the State CIO grants a specific exception to allow sole sourcing. The State CIO shall immediately report any exceptions granted to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division. The report shall explain the reasons why any sole sourcing was deemed to be appropriate.

SECTION 7.7.(c) Contract Payments. – State payments under information technology contracts must be in return for value received or benefits conferred to the State in accordance with timely vendor performance of the contract. Therefore, all payments made by the State under information technology contracts shall be linked to vendor completion of

specified performance standards and measures, the delivery of deliverables required under the contract, or both. State information technology contracts shall include terms requiring that vendors meet specific benchmarks within specified time periods. If vendors fail to meet benchmarks within the specified time period, the State CIO shall suspend or terminate the contract. If an agency develops a detailed risk versus reward analysis in advance that (i) is reviewed and approved by the Office of the State CIO and the Office of State Budget and Management and (ii) reflects industry practices, then contract payments provisions may consider the level of risk that a vendor assumes under the contract.

SECTION 7.7.(d) State Intellectual Property. – In any IT contract in which the State funds any portion of the development of intellectual property, the State shall own and shall have a financial interest in the IT-related intellectual property developed with State funds. The State's financial interest shall be specified in all contracts written in association with the development of the intellectual property. The Office of the State CIO shall review and approve any contract provisions related to the State's interest in intellectual property. This subsection shall not apply to the development of intellectual property by (i) The University of North Carolina, (ii) any other college or university in North Carolina, or (iii) any nonprofit with regard to State-funded biotechnology research done by that nonprofit.

SECTION 7.7.(e) Guaranteed Savings. – If a selected vendor presents a proposal quantifying savings to the State over a specific time period, the savings shall be considered guaranteed. To ensure that the State receives the guaranteed savings, the vendor shall provide security to the State in the form acceptable to the Office of the State Treasurer and in an amount equal to one hundred percent (100%) of the total cost of the guaranteed savings contract to ensure the vendor's faithful performance. Any bonds required under this section shall be subject to the provisions of Article 3 of Chapter 44A of the General Statutes. If the savings resulting from a guaranteed contract are not as great as projected under the contract and all required shortfall payments to the State have not been made, the State Chief Information Officer may terminate the contract without incurring any additional obligation to the vendor.

SECTION 7.7.(f) Enterprise Contracts. – The State Chief Information Officer shall consult participating agency chief information officers and obtain approval from the Office of State Budget and Management prior to the initiation of any enterprise project or contract and shall ensure that enterprise project and contract costs are allocated to participating agencies in an equitable manner. Enterprise agreements shall not exceed the participating State agencies' ability to financially support the contracts.

The State CIO shall not enter into any enterprise information technology contracts without obtaining written agreements from participating State agencies regarding the apportionment of the contract cost. State agencies agreeing to participate in a contract shall:

- (1) Ensure that sufficient funds are budgeted to support their agreed shares of enterprise contracts throughout the life of the contract.
- (2) Transfer the required funding to the Information Technology Internal Service Fund in sufficient time for the Office of Information Technology Services to meet vendor contract requirements.

SECTION 7.7.(g) Three-Year Contracts. – Notwithstanding the cash management provisions of G.S. 147-86.11, the Office of Information Technology Services may procure information technology goods and services for periods up to a total of three years where the terms of the procurement contracts require payment of all, or a portion, of the contract price at the beginning of the contract agreement. All of the following conditions shall be met before payment for these agreements may be disbursed:

- (1) Any advance payment can be accomplished within the IT Internal Service Fund budget.

- (2) The State Controller receives conclusive evidence that the proposed agreement would be more cost-effective than a multiyear agreement that complies with G.S. 147-86.11.
- (3) The procurement complies in all other aspects with applicable statutes and rules.
- (4) The proposed agreement contains contract terms that protect the financial interest of the State against contractor nonperformance or insolvency through the creation of escrow accounts for funds, source codes, or both, or by any other reasonable means that have legally binding effect.

The Office of State Budget and Management shall ensure the savings from any authorized agreement shall be included in the IT Internal Service Fund rate calculations before approving annual proposed rates. Any savings resulting from the agreements shall be returned to agencies included in the contract in the form of reduced rates. Beginning October 1, 2013, ITS shall submit a quarterly written report of any authorizations granted under this section to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.7.(h) Develop State IT Contract Expertise. – The State CIO, the Office of State Personnel Management, and the University of North Carolina School of Government shall work jointly to create a career path for information technology contracting professionals that includes defined qualifications, career progression, training opportunities, and appropriate compensation. By March 1, 2014, the UNC School of Government shall submit a report on efforts to create the career path for government information technology contracting professionals to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

INFORMATION TECHNOLOGY PERSONAL SERVICES CONTRACT REQUIREMENTS

SECTION 7.8. Notwithstanding any provision of law to the contrary, no contract for information technology personal services, or that provides personnel to perform information technology functions, may be established or renewed without written approval from the Statewide Information Technology Procurement Office and the Office of State Budget and Management. To facilitate compliance with this requirement, the Statewide Information Technology Procurement Office shall develop and document the following:

- (1) Standards for determining whether it is more appropriate for an agency to hire an employee or use the services of a vendor.
- (2) A process to monitor all State agency personal services contracts, as well as any other State contracts providing personnel to perform information technology functions.
- (3) A process for obtaining approval of contractor positions.

The Statewide Information Technology Procurement Office shall review current personal services contracts and determine if each contractor is performing a function that could more appropriately be performed by a State employee. Where the determination is made that a State employee should be performing the function, the Statewide Information Technology Procurement Office shall work with the impacted agency and the Office of State Personnel to identify or create the position.

Beginning October 1, 2013, the Statewide Information Technology Procurement Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on its progress toward standardizing information technology personal services contracts. In addition, the report shall include detailed information on the number of personal service contractors in each State agency, the cost for each, and the comparable cost (including benefits) of a State employee serving in that capacity rather than a contractor.

PREVENT DUPLICATION OF INFORMATION TECHNOLOGY CAPABILITIES

SECTION 7.9.(a) The Office of the State Chief Information Officer (CIO) shall develop a plan and adopt measures to prevent the duplication of information technology capabilities and resources across State agencies. When multiple agencies require the same, or substantially similar, information technology capabilities, the State CIO shall designate one State agency as the lead to coordinate and manage the capability for all State agencies, with the State CIO maintaining oversight of the effort. By October 1, 2013, the State CIO shall provide this plan to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.9.(b) The Office of the State Chief Information Officer shall do all of the following to carry out the purposes of this section:

- (1) Review all current and future information technology projects to determine whether the capabilities required for each project already exist in a planned, ongoing, or completed information technology project developed by another State agency. For projects where the capability already exists, the Office of the State CIO shall assist the agency with implementing the existing capability.
- (2) Identify existing projects that can best support a specific information technology capability for multiple agencies and work to transition all agencies requiring the specific capability to the identified projects.
- (3) When State agencies request approval for new projects, determine if the information technology project can be implemented using an existing application, or if the new project has the potential to support multiple agencies' requirements.
- (4) Provide quarterly reports on progress toward eliminating duplication to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.
- (5) Ensure that contracts for information technology allow the addition of other agencies' requirements within the terms of the existing contracts.

SECTION 7.9.(c) All State agencies shall coordinate any Geographic Information System (GIS) initiatives through the Center for Geographic Information and Analysis (CGIA) in the Office of Information Technology Services, as well as the Office of the State CIO, to ensure that existing capabilities are not being duplicated. The CGIA shall monitor and approve all new GIS-related information technology projects and expansion budget requests. By January 1 of each year, the CGIA shall submit a written report on GIS duplication to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

The CGIA shall conduct a review of all GIS applications in State agencies, identify instances of duplication for existing applications, and develop a plan for consolidating duplicative projects. By November 1, 2013, the CGIA shall provide a report on the review to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

GOVERNMENT DATA ANALYTICS/DATA SHARING

SECTION 7.10.(a) G.S. 20-7(b2) reads as rewritten:

"(b2) Disclosure of Social Security Number. – The social security number of an applicant is not a public record. The Division may not disclose an applicant's social security number except as allowed under federal law. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. § 408, as amended.

In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, as amended, the Division may disclose a social security number obtained under subsection (b1) of this section only as follows:

- (1) For the purpose of administering the driver's license laws.
- (2) To the Department of Health and Human Services, Child Support Enforcement Program for the purpose of establishing paternity or child support or enforcing a child support order.
- (3) To the Department of Revenue for the purpose of verifying taxpayer identity.
- (4) To the Office of Indigent Defense Services of the Judicial Department for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered.
- (5) To each county jury commission for the purpose of verifying the identity of deceased persons whose names should be removed from jury lists.
- (6) To the Office of the State Controller for the purposes of G.S. 143B-426.38A."

SECTION 7.10.(b) G.S. 20-43(a) reads as rewritten:

"(a) All records of the Division, other than those declared by law to be confidential for the use of the Division, shall be open to public inspection during office hours in accordance with G.S. 20-43.1. ~~A photographic image or signature recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes.~~ A photographic image recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes or to the Office of the State Controller for the purposes of G.S. 143B-426.38A."

SECTION 7.10.(c) G.S. 105-259(b) is amended by adding a new subdivision to read:

"(44) To furnish tax information to the Office of the State Controller under G.S. 143B-426.38A. The use and reporting of individual data may be restricted to only those activities specifically allowed by law when potential fraud or other illegal activity is indicated."

SECTION 7.10.(d) Part 28 of Article 9 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-426.38A. Government Data Analytics Center; State data-sharing requirements.

(a) State Government Data Analytics. – The State shall initiate across State agencies, departments, and institutions a data integration and data-sharing initiative that is not intended to replace transactional systems but is instead intended to leverage the data from those systems for enterprise-level State business intelligence.

- (1) Creation of initiative. – In carrying out the purposes of this section, the Office of the State Controller shall conduct an ongoing, comprehensive evaluation of State data analytics projects and plans in order to identify data integration and business intelligence opportunities that will generate greater efficiencies in, and improved service delivery by, State agencies, departments, and institutions. The State Controller and State CIO shall continue to utilize public-private partnerships and existing data integration and analytics contracts and licenses as appropriate to continue the implementation of the initiative.**
- (2) Application to State government. – The initiative shall include all State agencies, departments, and institutions, including The University of North Carolina.**
- (3) Governance. – The State Controller shall lead the initiative established pursuant to this section. The Chief Justice of the North Carolina Supreme Court and the Legislative Services Commission each shall designate an officer or agency to advise and assist the State Controller with respect to**

1 implementation of the initiative in their respective branches of government.
2 The judicial and legislative branches shall fully cooperate in the initiative
3 mandated by this section in the same manner as is required of State agencies.

4 (b) Government Data Analytics Center. –

5 (1) GDAC established. – There is established in the Office of the State
6 Controller the Government Data Analytics Center (GDAC). GDAC shall
7 assume the work, purpose, and resources of the current data integration
8 effort in the Office of the State Controller and shall otherwise advise and
9 assist the State Controller in the management of the initiative. The State
10 Controller shall make any organizational changes necessary to maximize the
11 effectiveness and efficiency of GDAC.

12 (2) Powers and duties of the GDAC. – The State Controller shall, through the
13 GDAC, do all of the following:

14 a. Continue and coordinate ongoing enterprise data integration efforts,
15 including:

16 1. The deployment, support, technology improvements, and
17 expansion for the Criminal Justice Law Enforcement
18 Automated Data System (CJLEADS).

19 2. The pilot and subsequent phase initiative for the North
20 Carolina Financial Accountability and Compliance
21 Technology System (NCFACS).

22 3. Individual-level student data and workforce data from all
23 levels of education and the State workforce.

24 4. Other capabilities developed as part of the initiative.

25 b. Identify technologies currently used in North Carolina that have the
26 capability to support the initiative.

27 c. Identify other technologies, especially those with unique capabilities,
28 that could support the State's business intelligence effort.

29 d. Compare capabilities and costs across State agencies.

30 e. Ensure implementation is properly supported across State agencies.

31 f. Ensure that data integration and sharing is performed in a manner
32 that preserves data privacy and security in transferring, storing, and
33 accessing data, as appropriate.

34 g. Immediately seek any waivers and enter into any written agreements
35 that may be required by State or federal law to effectuate data sharing
36 and to carry out the purposes of this section.

37 h. Coordinate data requirements and usage for State business
38 intelligence applications in a manner that (i) limits impacts on
39 participating State agencies as those agencies provide data and
40 business knowledge expertise and (ii) assists in defining business
41 rules so the data can be properly used.

42 i. Recommend the most cost-effective and reliable long-term hosting
43 solution for enterprise-level State business intelligence as well as
44 data integration, notwithstanding Section 6A.2(f) of S.L. 2011-145.

45 (c) Implementation of the Enterprise-Level Business Intelligence Initiative. –

46 (1) Phases of the initiative. – The initiative shall cycle through these phases on
47 an ongoing basis:

48 a. Phase I requirements. – In the first phase, the State Controller
49 through GDAC shall:

50 1. Inventory existing State agency business intelligence projects,
51 both completed and under development.

2. Develop a plan of action that does all of the following:
 - I. Defines the program requirements, objectives, and end state of the initiative.
 - II. Prioritizes projects and stages of implementation in a detailed plan and benchmarked time line.
 - III. Includes the effective coordination of all of the State's current data integration initiatives.
 - IV. Utilizes a common approach that establishes standards for business intelligence initiatives for all State agencies and prevents the development of projects that do not meet the established standards.
 - V. Determines costs associated with the development efforts and identifies potential sources of funding.
 - VI. Includes a privacy framework for business intelligence consisting of adequate access controls and end user security requirements.
 - VII. Estimates expected savings.
3. Inventory existing external data sources that are purchased by State agencies to determine whether consolidation of licenses is appropriate for the enterprise.
4. Determine whether current, ongoing projects support the enterprise-level objectives.
5. Determine whether current applications are scalable or are applicable for multiple State agencies or both.
- b. Phase II requirements. – In the second phase, the State Controller through the GDAC shall:
 1. Identify redundancies and recommend to the State CIO any projects that should be discontinued.
 2. Determine where gaps exist in current or potential capabilities.
- c. Phase III requirements. – In the third phase:
 1. The State Controller through GDAC shall incorporate or consolidate existing projects, as appropriate.
 2. The State Controller shall, notwithstanding G.S. 147-33.76 or any rules adopted pursuant thereto, eliminate redundant business intelligence projects, applications, software, and licensing.
 3. The State Controller through GDAC shall complete all necessary steps to ensure data integration in a manner that adequately protects privacy.
- (2) Project Management. – The State CIO shall ensure that all current and new business intelligence/data analytics projects are in compliance with all State laws, policies, and rules pertaining to information technology procurement, project management, and project funding and that they include quantifiable and verifiable savings to the State. The State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on projects that are not achieving projected savings. The report shall include a proposed corrective action plan for the project.

The Office of the State CIO, with the assistance of the Office of State Budget and Management, shall identify potential funding sources for

expansion of existing projects or development of new projects. No GDAC project shall be initiated, extended, or expanded:

- a. Without the specific approval of the General Assembly unless the project can be implemented within funds appropriated for GDAC projects.
- b. Without prior consultation to the Joint Legislative Commission on Governmental Operations and a report to the Joint Legislative Oversight Committee on Information Technology, if the project can be implemented within funds appropriated for GDAC projects.

(d) Funding. – The Office of the State Controller, with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any matching funds or other resources to assist in funding this initiative. Savings resulting from the cancellation of projects, software, and licensing, as well as any other savings from the initiative, shall be returned to the General Fund and shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year. It is the intent of the General Assembly that expansion of the initiative in subsequent fiscal years be funded with these savings and that the General Assembly appropriate funds for projects in accordance with the priorities identified by the Office of the State Controller in Phase I of the initiative.

(d1) Appropriations. – Of the funds appropriated to the Information Technology Fund, the sum of three million dollars (\$3,000,000) for the 2013-2014 fiscal year and the sum of four million four hundred seventeen thousand five hundred fifteen dollars (\$4,417,515) for the 2014-2015 fiscal year shall be used to support the GDAC and NCFATS. Of these funds, the sum of one million four hundred seventeen thousand five hundred fifteen dollars (\$1,417,515) shall be used in each fiscal year of the 2013-2015 biennium for OSC internal costs. For fiscal year 2014-2015, of the funds generated by GDAC and NCFATS projects and returned to the General Fund, the sum of up to five million dollars (\$5,000,000) is appropriated to fund GDAC and NCFATS, to include vendor payments. Prioritization for the expenditure of these funds shall be for State costs associated with GDAC first, then vendor costs second. Funds in the 2013-2015 fiscal year budgets for GDAC and NCFATS shall be used solely to support the continuation for these priority project areas.

(e) Reporting. – The Office of the State Controller shall:

- (1) Submit and present quarterly reports on the implementation of Phase I of the initiative and the plan developed as part of that phase to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The State Controller shall submit a report prior to implementing any improvements, expending funding for expansion of existing business intelligence efforts, or establishing other projects as a result of its evaluations, and quarterly thereafter, a written report detailing progress on, and identifying any issues associated with, State business intelligence efforts.

(2) Report the following information as needed:

- a. Any failure of a State agency to provide information requested pursuant to this section. The failure shall be reported to the Joint Legislative Oversight Committee on Information Technology and to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees.
- b. Any additional information to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight

Committee on Information Technology that is requested by those entities.

(f) Data Sharing. –

(1) General duties of all State agencies. – The head of each State agency, department, and institution shall do all of the following:

- a. Grant the Office of the State Controller access to all information required to develop and support State business intelligence applications pursuant to this section. The State Controller and the GDAC shall take all necessary actions and precautions, including training, certifications, background checks, and governance policy and procedure, to ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.
- b. Provide complete information on the State agency's information technology, operational, and security requirements.
- c. Provide information on all of the State agency's information technology activities relevant to the State business intelligence effort.
- d. Forecast the State agency's projected future business intelligence information technology needs and capabilities.
- e. Ensure that the State agency's future information technology initiatives coordinate efforts with the GDAC to include planning and development of data interfaces to incorporate data into the initiative and to ensure the ability to leverage analytics capabilities.
- f. Provide technical and business resources to participate in the initiative by providing, upon request and in a timely and responsive manner, complete and accurate data, business rules and policies, and support.
- g. Identify potential resources for deploying business intelligence in their respective State agencies and as part of the enterprise-level effort.
- h. Immediately seek any waivers and enter into any written agreements that may be required by State or federal law to effectuate data sharing and to carry out the purposes of this section, as appropriate.

(2) Specific requirements. – The State Controller and the GDAC shall enhance the State's business intelligence through the collection and analysis of data relating to workers' compensation claims for the purpose of preventing and detecting fraud, as follows:

- a. The North Carolina Industrial Commission shall release to GDAC, or otherwise provide electronic access to, all data requested by GDAC relating to workers' compensation insurance coverage, claims, appeals, compliance, and enforcement under Chapter 97 of the General Statutes.
- b. The North Carolina Rate Bureau (Bureau) shall release to GDAC, or otherwise provide electronic access to, all data requested by GDAC relating to workers' compensation insurance coverage, claims, business ratings, and premiums under Chapter 58 of the General Statutes. The Bureau shall be immune from civil liability for releasing information pursuant to this subsection, even if the information is erroneous, provided the Bureau acted in good faith and without malicious or willful intent to harm in releasing the information.

- 1 c. The Department of Commerce, Division of Employment Security
2 (DES), shall release to GDAC, or otherwise provide access to, all
3 data requested by GDAC relating to unemployment insurance
4 coverage, claims, and business reporting under Chapter 96 of the
5 General Statutes.
- 6 d. The Department of Labor shall release to GDAC, or otherwise
7 provide access to, all data requested by GDAC relating to safety
8 inspections, wage and hour complaints, and enforcement activities
9 under Chapter 95 of the General Statutes.
- 10 e. The Department of Revenue shall release to GDAC, or otherwise
11 provide access to, all data requested by GDAC relating to the
12 registration and address information of active businesses, business
13 tax reporting, and aggregate federal tax Form 1099 data for
14 comparison with information from DES, the Rate Bureau, and the
15 Department of the Secretary of State for the evaluation of business
16 reporting. Additionally, the Department of Revenue shall furnish to
17 the GDAC, upon request, other tax information, provided that the
18 information furnished does not impair or violate any
19 information-sharing agreements between the Department and the
20 United States Internal Revenue Service. Notwithstanding any other
21 provision of law, a determination of whether furnishing the
22 information requested by GDAC would impair or violate any
23 information-sharing agreements between the Department of Revenue
24 and the United States Internal Revenue Service shall be within the
25 sole discretion of the State Chief Information Officer. The
26 Department of Revenue and the Office of the State Controller shall
27 work jointly to assure that the evaluation of tax information pursuant
28 to this subdivision is performed in accordance with applicable federal
29 law.
- 30 (3) All information shared with GDAC and the State Controller under this
31 subdivision is protected from release and disclosure in the same manner as
32 any other information is protected under this section.
- 33 (g) Provisions on Privacy and Confidentiality of Information. –
- 34 (1) Status with respect to certain information. – The State Controller and the
35 GDAC shall be deemed to be all of the following for the purposes of this
36 section:
- 37 a. With respect to criminal information, and to the extent allowed by
38 federal law, a criminal justice agency (CJA), as defined under
39 Criminal Justice Information Services (CJIS) Security Policy. The
40 State CJIS Systems Agency (CSA) shall ensure that CJLEADS
41 receives access to federal criminal information deemed to be
42 essential in managing CJLEADS to support criminal justice
43 professionals.
- 44 b. With respect to health information covered under the Health
45 Insurance Portability and Accountability Act of 1996 (HIPAA), as
46 amended, and to the extent allowed by federal law:
- 47 1. A business associate with access to protected health
48 information acting on behalf of the State's covered entities in
49 support of data integration, analysis, and business
50 intelligence.

- 1 2. Authorized to access and view individually identifiable health
2 information, provided that the access is essential to the
3 enterprise fraud, waste, and improper payment detection
4 program or required for future initiatives having specific
5 definable need for the data.
- 6 c. Authorized to access all State and federal data, including revenue and
7 labor information, deemed to be essential to the enterprise fraud,
8 waste, and improper payment detection program or future initiatives
9 having specific definable need for the data.
- 10 d. Authorized to develop agreements with the federal government to
11 access data deemed to be essential to the enterprise fraud, waste, and
12 improper payment detection program or future initiatives having
13 specific definable need for such data.
- 14 (2) Release of information. – The following limitations apply to (i) the release
15 of information compiled as part of the initiative (ii) data from State agencies
16 that is incorporated into the initiative and (iii) data released as part of the
17 implementation of the initiative:
- 18 a. Information compiled as part of the initiative. – Notwithstanding the
19 provisions of Chapter 132 of the General Statutes, information
20 compiled by the State Controller and the GDAC related to the
21 initiative may be released as a public record only if the State
22 Controller, in that officer's sole discretion, finds that the release of
23 information is in the best interest of the general public and is not in
24 violation of law or contract.
- 25 b. Data from State agencies. – Any data that is not classified as a public
26 record under G.S. 132-1 shall not be deemed a public record when
27 incorporated into the data resources comprising the initiative. To
28 maintain confidentiality requirements attached to the information
29 provided to the State Controller and GDAC, each source agency
30 providing data shall be the sole custodian of the data for the purpose
31 of any request for inspection or copies of the data under Chapter 132
32 of the General Statutes.
- 33 c. Data released as part of implementation. – Information released to
34 persons engaged in implementing the State's business intelligence
35 strategy under this section that is used for purposes other than official
36 State business is not a public record pursuant to Chapter 132 of the
37 General Statutes."

38 **SECTION 7.10.(e)** G.S. 143B-426.39 is amended by adding a new subdivision to

39 read:

40 "(17) Coordinate data integration and data sharing pursuant to G.S. 143B-426.38A
41 across State agencies, departments, and institutions to support the State's
42 enterprise-level business intelligence initiative."

43 **SECTION 7.10.(f)** The Office of State Controller, in consultation with the State
44 CIO, shall continue the management and implementation of the GDAC, and shall continue to
45 manage the ongoing enterprise data integration efforts under the GDAC including CJLEADS
46 and NC FACTS. The Office of the State CIO, in consultation with OSC, shall develop a plan
47 for a cooperative transition of the GDAC and all of its programs to the Office of the SCIO,
48 effective July 1, 2014. The plan shall include provisions for a governance structure for GDAC
49 that includes participation by the State Controller. The plan shall also include milestones for the
50 transition. The State CIO shall report the plan details and any associated costs to the Joint
51 Legislative Oversight Committee on Information Technology and the Fiscal Research Division

by no later than October 1, 2013. The State CIO shall also report on a quarterly basis to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on progress toward achieving milestones set out in the plan.

SECTION 7.10.(g) Effective July 1, 2014, the GDAC and all of its programs are hereby transferred to the Office of the SCIO. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6. The Office of State Budget and Management shall determine the personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, to be included in the transfer.

SECTION 7.10.(h) The purpose of this section is to codify provisions of Section 6A.7A of S.L. 2012-142, and to the extent that any provision of that section conflicts with G.S. 143B-426.38A, as enacted by this act, the provisions of the statute shall be construed to prevail over any conflicting uncodified provisions.

SECTION 7.10.(i) This section is effective when it becomes law.

STATE INFORMATION TECHNOLOGY DATA ARCHIVING

SECTION 7.11.(a) The State Chief Information Officer (CIO) shall investigate the feasibility of creating an enterprise data archiving system for State agencies that will (i) allow for the effective management of data from multiple sources; (ii) provide for efficient, timely responses to discovery requests and investigations; and (iii) ensure real time State agency access to and use of archived files. The system shall be financed only by savings accrued as a result of the project.

SECTION 7.11.(b) By December 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the results of the feasibility assessment.

SECTION 7.11.(c) Subsequent to making the report required by this section, and only if the State CIO has developed a business case that is validated by the Office of State Budget and Management, then the State CIO may initiate the development of an enterprise data archiving system.

INFORMATION TECHNOLOGY/PRIVACY PROTECTION OF CITIZEN DATA

SECTION 7.12. The Joint Legislative Oversight Committee on Information Technology shall study and develop legislative proposals to establish State requirements to safeguard the personal data of individuals collected and managed by the various State agencies. This review shall be conducted in collaboration with the State Chief Information Officer (CIO), and with the participation and assistance of agency CIOs selected jointly by the Committee and State CIO.

STATE INFORMATION TECHNOLOGY INNOVATION CENTER

SECTION 7.13. The State Chief Information Officer (CIO) may operate a State Information Technology Innovation Center (Center) to develop and demonstrate technology solutions with potential benefit to the State and its citizens. The Center may facilitate the piloting of potential solutions to State technology requirements. In operating the Center, the State CIO shall ensure that all State laws, rules, and policies are followed. Vendor participation in the Center shall not be construed to (i) create any type of preferred status for vendors or (ii) abrogate the requirement that the State CIO ensure that agency and statewide requirements for information technology support (including those for the Office of the State CIO and the Office of Information Technology Services) are awarded based on a competitive process that follows information technology procurement guidelines. Beginning July 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on a quarterly basis on initiatives being developed and implemented within the Center, as well as on the sources and amounts of resources used to support the Center.

Any contracts awarded as a result of State collaboration with private vendors in the Innovation Center shall include a provision that allows the State to own and have a financial interest in any intellectual property that is developed.

Any contracts awarded as a result of State collaboration with private vendors in the Innovation Center shall include a provision that allows the State to own and have a financial interest in any intellectual property that is developed.

ENTERPRISE GRANTS MANAGEMENT

SECTION 7.14.(a) Effective August 1, 2013, the State Chief Information Officer (CIO) shall oversee the development and implementation of the enterprise grants management system. The State CIO shall review progress on the implementation of the enterprise grants management system and update the plan for its development and implementation. This plan shall include an updated inventory of current agency grants management systems and a detailed process for consolidating grants management within the State, to include a timeline for implementation. By October 1, 2013, the State CIO shall provide the updated plan to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.14.(b) There is established a Grants Management Oversight Committee to coordinate the development of an enterprise grants management system. The Committee shall be chaired by the State Chief Information Officer. Committee membership shall include the Director of the Office of State Budget and Management, the State Auditor, the Department of Transportation Chief Information Officer, and the State Controller. The Committee shall:

- (1) Establish priorities for moving agencies to the enterprise system.
- (2) Establish priorities for development and implementation of system capabilities.
- (3) Define system requirements.
- (4) Approve plans associated with system development and implementation.
- (5) Review costs and approve funding sources for system development and implementation.
- (6) Ensure any system benefits are realistic and realized.

SECTION 7.14.(c) Beginning September 1, 2013, the Office of the State CIO shall report quarterly to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the status of the system, including the following information:

- (1) Agencies currently participating in the system.
- (2) Specific requirements for each agency project included in the system development.
- (3) Cost and funding sources for each agency participating in the system.
- (4) Status of each agency project included in the system.
- (5) Comparison of the status of each project to the project's time line, with an explanation of any differences.
- (6) Detailed descriptions of milestones completed that quarter and to be completed the next quarter.
- (7) Any changes in project cost for any participating agency, the reason for the change, and the source of funding, if there is a cost increase.
- (8) Actual project expenditures by agency, to date, and during that quarter.
- (9) Any potential funding shortfalls, and their impact.
- (10) Any issues identified during the quarter, with a corrective action plan and a time line for resolving each issue.
- (11) Impact of any issues on schedule or cost.
- (12) Any changes to agency projects, or the system as a whole.
- (13) Any change requests and their costs.

ENTERPRISE ELECTRONIC FORMS AND DIGITAL SIGNATURES

SECTION 7.15.(a) The State's enterprise electronic forms and digital signatures project shall be transferred from the Office of the State Controller to the Office of the State Chief Information Officer (CIO) as a Type I transfer, as defined in G.S. 143A-6. The State CIO shall continue the planning, development, and implementation of a coordinated enterprise electronic forms and digital signatures capability, as well as the use of digital certificates. As part of the process, the Office of the State CIO shall include the capability to allow one-time data entry for multiple applications.

SECTION 7.15.(b) The State CIO shall continue to integrate executive branch agencies developing, or identifying the need to develop, electronic forms or digital signatures projects, or both. The State CIO shall also review existing electronic forms and digital signatures capabilities and develop a plan to consolidate them. The State CIO may consolidate current agency electronic forms and digital signature capabilities, and cancel ongoing projects, and may redirect the resources associated with the capabilities and projects to the enterprise electronic forms and digital signatures project. Beginning November 1, 2013, the State CIO shall submit quarterly reports on the status of the project to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

VEHICLE MANAGEMENT

SECTION 7.16.(a) The Office of the State Chief Information Officer (CIO) shall develop an implementation plan for establishing a statewide motor fleet management system. The plan shall consider consolidating individual agency and institution motor fleet management systems and include an implementation time line, a cost estimate, and a continuing funding strategy to create and operate a statewide fleet management information system to which all State agencies and institutions would be required to provide vehicle identification, utilization, and direct cost data. In formulating an implementation plan, the Office of the State Chief Information Officer shall do the following:

- (1) Consult with State agencies that own vehicles.
- (2) Review the existing fleet management information systems used by State agencies.
- (3) Examine fleet management information systems used by other state governments.
- (4) Determine whether the State should (i) expand a fleet management information system currently used by a State agency for statewide use, (ii) develop a new in-house system, or (iii) purchase a new system from an outside vendor.
- (5) Determine fees or other methods to pay the initial and ongoing costs for the system.

SECTION 7.16.(b) The Office of State Budget and Management shall assist and advise the Office of the State Chief Information Officer in developing the implementation plan and work with State agencies and institutions to identify funding from current and proposed projects and applications that could be used to support the development and implementation of the statewide motor fleet management system. The Office of State Controller shall assist and advise the Office of the State Chief Information Officer in developing the implementation plan for the statewide motor fleet management information system, including how the system interfaces with the statewide accounting system.

SECTION 7.16.(c) Beginning October 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the implementation plan for the statewide motor fleet management information

1 system including progress toward the development of the enterprise system, the associated
2 costs, identified sources of funding, and any issues associated with the project.

3 **SECTION 7.16.(d)** The State CIO shall also study the feasibility of implementing
4 a tracking system for State vehicles, based on recommendations from the Program Evaluation
5 Division, and report the results of the study to the Joint Legislative Oversight Committee on
6 Information Technology, the Joint Legislative Program Evaluation Oversight Committee, and
7 the Fiscal Research Division by November 15, 2013.

8 **SECTION 7.16.(e)** Until July 1, 2015, no State or local governmental entity or
9 officer may procure or operate an unmanned aircraft system or disclose personal information
10 about any person acquired through the operation of an unmanned aircraft system unless the
11 State CIO approves an exception specifically granting disclosure, use, or purchase. Any
12 exceptions to the prohibition in this subsection shall be reported immediately to the Joint
13 Legislative Oversight Committee on Information Technology and the Fiscal Research Division.
14 The following definitions apply in this section:

15 (1) "Unmanned aircraft" means an aircraft that is operated without the
16 possibility of human intervention from within or on the aircraft.

17 (2) "Unmanned aircraft system" means an unmanned aircraft and associated
18 elements, including communication links and components that control the
19 unmanned aircraft that are required for the pilot in command to operate
20 safely and efficiently in the national airspace system.

21 **SECTION 7.16.(f)** If the State Chief Information Officer determines that there is a
22 requirement for unmanned aircraft systems for use by State or local agencies, planning may
23 begin for the possible development, implementation, and operation of an unmanned aircraft
24 system program within the State of North Carolina. This planning effort shall be accomplished
25 in coordination with the Chief Information Officer for the Department of Transportation and
26 the DOT Aviation Division Director. If the State CIO decides to plan for an unmanned aircraft
27 system program, a proposal for the implementation of the program shall be provided by March
28 1, 2014, to the Joint Legislative Oversight Committee on Information Technology, the Joint
29 Transportation Legislative Oversight Committee, and the Fiscal Research Division. At a
30 minimum, the proposal shall include the following:

31 (1) Governance structure to include the appropriate use at each level of
32 government.

33 (2) Guidelines for program implementation to include limitations on unmanned
34 aircraft system use.

35 (3) Potential participants.

36 (4) Costs associated with establishing a program.

37 (5) Potential sources of funding.

38 (6) Issues associated with establishing a program to include limitations on
39 entities that may already have purchased unmanned aircraft systems.

40 (7) Recommendations for legislative proposals.

41 42 **TAX INFORMATION MANAGEMENT SYSTEM/ADDITIONAL PUBLIC-PRIVATE** 43 **PARTNERSHIP AUTHORIZED**

44 **SECTION 7.17.(a)** Additional Public-Private Partnership. – The Secretary of
45 Revenue may enter into an additional public-private arrangement in order to expand the
46 implementation of the Tax Information Management System (TIMS). All such arrangements
47 will terminate June 30, 2018. The public-private arrangement may include terms necessary to
48 implement additional revenue-increasing or cost-savings components if all of the following
49 conditions are met:

50 (1) The funding of the project under the arrangement comes from revenue
51 generated by or cost savings resulting from the project.

(2) The funding of the project is dependent on increased-revenue or cost-savings streams that are different from the existing benefits stream for the implementation of TIMS.

(3) The project involves additional identified initiatives that will be integrated into the TIMS solution.

SECTION 7.17.(b) Contracts. – Work under an additional public-private arrangement that is authorized by this section may be contracted by requests for proposals, modifications to the existing contracts, purchases using existing contracts, or other related contract vehicles.

SECTION 7.17.(c) Management/Performance Measurement. – The Secretary of Revenue shall follow the existing model for public-private arrangement oversight and shall establish a measurement process to determine the increased revenue or cost savings attributed to the additional public-private arrangement authorized by this section. To accomplish this, the Secretary shall consult subject matter experts in the Department of Revenue, in other governmental units, and in the private sector, as necessary. At a minimum, the measurement process shall include all of the following:

(1) Calculation of a revenue baseline against which the increased revenue attributable to the project is measured and a cost-basis baseline against which the cost savings resulting from the project are measured.

(2) Periodic evaluation to determine whether the baselines need to be modified based on significant measurable changes in the economic environment.

(3) Monthly calculation of increased revenue and cost savings attributable to contracts executed under this section.

SECTION 7.17.(d) Funding. – Of funds generated from increased revenues or cost savings, as compared to the baselines established by subdivision (1) of subsection (c) of this section, in the General Fund, the Highway Fund, and that State portion of the Unauthorized Substance Tax collections of the Special Revenue Fund, the sum of up to a total of sixteen million dollars (\$16,000,000) may be authorized by the Office of State Budget and Management to make purchases related to the implementation of the additional public-private arrangement authorized by this section, including payments for services from non-State entities.

SECTION 7.17.(e) Internal Costs. – For the 2013-2015 fiscal biennium the Department of Revenue may retain an additional sum of eight million eight hundred seventy-four thousand three hundred nineteen dollars (\$8,874,319) from benefits generated for the General Fund since the beginning of the public-private partnership described under Section 6A.5(a) of S.L. 2011-145. These funds shall be used as payment of internal costs for the fiscal biennium, and such funds are hereby appropriated for this purpose.

SECTION 7.17.(f) Expert Counsel Required. – Notwithstanding G.S. 114-2.3, the Department of Revenue shall engage the services of private counsel with the pertinent information technology and computer law expertise to negotiate and review contracts associated with an additional public-private arrangement authorized under this section.

SECTION 7.17.(g) Oversight Committee. – The Oversight Committee established under Section 6A.5(c) of S.L. 2011-145 shall have the same responsibilities and duties with respect to an additional public-private arrangement authorized by this section as it does with respect to public-private arrangements to implement TIMS and the additional Planning and Design Project (PDP) components.

SECTION 7.17.(h) Reporting. – Beginning August 1, 2013, and quarterly thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information

Technology, and to the Fiscal Research Division of the General Assembly. The report shall include an explanation of all of the following:

- (1) Details of each public-private contract.
- (2) The benefits from each contract.
- (3) A comprehensive forecast of the benefits of using public-private agreements to implement TIMS, the additional PDP components, and additional components authorized by this section, including cost savings and the acceleration of the project time line.
- (4) Any issues associated with the operation of the public-private partnership.

SECTION 7.17.(i) Information Technology Project Oversight. – In addition to the oversight provided by the Oversight Committee established in Section 6A.5(c) of S.L. 2011-145, the additional public-private arrangement authorized by this section shall be subject to existing State information technology project oversight laws and statutes, and the project management shall comply with all statutory requirements and other criteria established by the State Chief Information Officer and the Office of State Budget and Management for information technology projects. The State Chief Information Officer and the Office of State Budget and Management shall immediately report any failure to do so to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

SECTION 7.17.(j) Section 6A.5(c) of S.L. 2011-145, as amended by Section 6A.3(j) of S.L. 2012-142 reads as rewritten:

"SECTION 6A.5.(c) There is established within the Department of Revenue the Oversight Committee for reviewing and approving the benefits measurement methodology and calculation process. The Oversight Committee shall review and approve in writing all contracts, including change orders, amendments to contracts, and addendums to contracts, before they are executed under this section. This shall include (i) details of each public-private contract, (ii) the benefits from each contract, and (iii) a comprehensive forecast of the benefits of using public-private agreements to implement TIMS and the additional PDP components, including the measurement process established for the Secretary of Revenue. The Oversight Committee shall approve all of the fund transfers for this project. Within five days of entering into a contract, the Department shall provide copies of each contract and all associated information to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

The members of the Committee shall include the following:

- (1) ~~The State Budget Director;~~Director of the Office of State Budget and Management;
- (2) The Secretary of the Department of Revenue;
- (3) The State Chief Information Officer;
- (4) Two persons appointed by the Governor;
- (5) One member of the general public having expertise in information technology appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives; and
- (6) One member of the general public having expertise in economic and revenue forecasting appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate.

The State Budget Director shall serve as chair of the Committee. The Committee shall set its meeting schedule and adopt its rules of operation by majority vote. A majority of the members constitutes a quorum. Vacancies shall be filled by the appointing authority. Administrative support staff shall be provided by the Department of Revenue. Members of the

Committee shall receive reimbursements for subsistence and travel expenses as provided by Chapter 138 of the General Statutes. The Committee shall terminate on June 30, 2018.

The Department shall provide copies of the minutes of each meeting and all associated information to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives Appropriations Committee, the Chairs of the Senate Committee on Appropriations/Base Budget, and the Fiscal Research Division."

USE OF MOBILE COMMUNICATIONS DEVICES

SECTION 7.18.(a) By October 1, 2013, every State agency shall submit to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division a copy of the agency policy on the use of mobile communications devices. This reporting requirement is continuous such that any time a change is made to an existing policy, the agency shall submit an update immediately.

SECTION 7.18.(b) Beginning October 1, 2013, each State agency shall submit a quarterly report to the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of the State Chief Information Officer (CIO) on the use of mobile electronic communications devices within the agency. The report shall include the following information:

- (1) The total number of devices issued by the agency.
- (2) The total cost of mobile devices issued by the agency.
- (3) The number and cost of new devices issued since the last report.
- (4) The contracts used to obtain the devices.

SECTION 7.18.(c) The Office of the State Chief Information Officer shall review current enterprise, and any individual agency mobile electronic communications contracts, to develop a plan to consolidate the contracts. By October 1, 2013, the Office of the State CIO shall submit a report on progress toward consolidating State agency mobile communications device contracts to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

SECTION 7.18.(d) The Office of the State CIO shall develop a policy for implementing a "bring your own device" plan for State employees. By September 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on how the plan is to be implemented, as well as on potential issues and costs. Following consultation with the Joint Legislative Oversight Committee on Information Technology, the State CIO may implement the "bring you own device" plan.

NEXT GENERATION SECURE DRIVER LICENSE SYSTEM

SECTION 7.19.(a) By August 1, 2013, the Chief Information Officer of the Department of Transportation shall provide a detailed report on the status of the Next Generation Secure Driver License System (NGSDLS) to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division. At a minimum, the report on the NGSDLS shall include the following information:

- (1) Original project scope, deliverables, and milestones, including descriptions of any subsequent modifications and basis for each.
- (2) Contractual status and amendments.
- (3) Initial and current estimated costs for system development, implementation, and maintenance.
- (4) Remaining deliverables and cost to complete by phase.
- (5) Any issues, including vendor performance, identified during project development and implementation and planned corrective actions for each issue.

- (6) Programmatic impacts for Division of Motor Vehicles driver license services.
- (7) Requirements and costs to implement a process to allow persons who are homebound to apply for or renew a special photo identification card, with a color photo, and similar in size, shape, design, and background to a drivers license, by means other than personal appearance.

SECTION 7.19.(b) In the event of any changes in the NGSDLS project status occurring after submission of the report required by subsection (a) of this section, the Chief Information Officer of the Department of Transportation shall ensure that the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division are notified immediately of the changes.

STATE TITLING AND REGISTRATION SYSTEM/STATE AUTOMATED DRIVER LICENSE SYSTEM/LIABILITY INSURANCE TRACKING AND ENFORCEMENT SYSTEM

SECTION 7.20.(a) The Chief Information Officer of the Department of Transportation shall continue the replacement of the State Titling and Registration System (STARS), the State Automated Driver License System (SADLS), and the Liability Insurance Tracking and Enforcement System (LITES).

SECTION 7.20.(b) By August 1, 2013, and quarterly thereafter, the Chief Information Officer of the Department of Transportation shall report to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division on the status of each of the projects listed in subsection (a) of this section. At a minimum, the report shall include the following information for each project:

- (1) Project scope, milestones, and anticipated business process improvements.
- (2) Estimated development, implementation, and maintenance costs.
- (3) Project status, including any modifications to the project scope or revisions to baseline cost estimates.
- (4) Project accomplishments and changes in status for the previous quarter.
- (5) Actual costs incurred, by purpose and funding source, for the previous quarter.
- (6) Remaining cost to complete by project phase for the next two fiscal years.
- (7) Any issues, including vendor performance, identified during project development and implementation and planned corrective actions.

GDAC/LOCAL GOVERNMENTS/COLLECTION AGREEMENTS

SECTION 7.21.(a) Cities and counties may enter into an agreement with the North Carolina Department of Revenue and the North Carolina Office of the State Controller, Government Data Analytics Center (GDAC), to manage the collection of outstanding unpaid parking fines and penalties. Any such agreements shall:

- (1) Comply with State or federal law regarding data sharing, as appropriate.
- (2) Provide the GDAC with access to all required information necessary to develop and support analytics allowing the identification of the owners of vehicles with associated unpaid parking fines and penalties.
- (3) Provide for technical and business resources to support the analytics development.
- (4) Provide for timely and responsive access to complete and accurate data, business rules, policies and technical support.

SECTION 7.21.(b) In carrying out the purposes of this section and the agreements made under its provisions, the State Controller and the GDAC shall:

- (1) Ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.
- (2) Leverage enterprise data sources, as allowed by State and federal law, and GDAC governance agreements, to provide analytics to integrate and match data to identify owner information associated with vehicles with unpaid parking fines and penalties.
- (3) Provide access to analytics reporting and information to the participating city or municipality and the Department of Revenue.
- (4) Provide data to the Department of Revenue for use in the withholding of tax refunds of persons that have unpaid parking fines and penalties.

SECTION 7.21.(c) The Department of Transportation, Division of Motor Vehicles shall provide the GDAC with access to historical and current information required to identify owners associated with vehicles with unpaid parking fines and penalties.

SECTION 7.21.(d) The Department of Revenue shall (i) receive data from the GDAC associated with persons that have unpaid parking fines and penalties (ii) withhold tax refunds for the purpose of the collection of those fines and penalties as allowed by law and (iii) from the withholdings, pay to the appropriate city or county the amounts due.

SECTION 7.21.(e) Any fee imposed by the North Carolina Department of Revenue or the GDAC to cover the administrative costs of withholding for the collection of unpaid parking fines and penalties shall be borne by the city or county and shall be negotiated as part of the agreements authorized by this section.

PART VIII. PUBLIC SCHOOLS

FUNDS FOR CHILDREN WITH DISABILITIES

SECTION 8.1. The State Board of Education shall allocate additional funds for children with disabilities on the basis of three thousand seven hundred forty-three dollars and forty-eight cents (\$3,743.48) per child. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and one-half percent (12.5%) of its 2013-2014 allocated average daily membership in the local school administrative unit. The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 8.2. The State Board of Education shall allocate additional funds for academically or intellectually gifted children on the basis of one thousand two hundred thirty-three dollars and one cent (\$1,233.01) per child for fiscal year 2013-2014 and 2014-2015. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2013-2014 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

SECTION 8.3.(a) Use of Funds for Supplemental Funding. – All funds received pursuant to this section shall be used only (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians,

instructional supplies and equipment, staff development, and textbooks and (ii) for salary supplements for instructional personnel and instructional support personnel. Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades three through eight.

SECTION 8.3.(b) Definitions. – As used in this section, the following definitions apply:

- (1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.
- (2) "Anticipated total county revenue availability" means the sum of the following:
 - a. Anticipated county property tax revenue availability.
 - b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes.
 - c. Sales tax hold harmless reimbursement received by the county under G.S. 105-521.
 - d. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.
- (3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.
- (4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.
- (5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.
- (6) "County-adjusted property tax base" shall be computed as follows:
 - a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county.
 - b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies.
 - c. Add to the resulting amount the following:
 1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2.
 2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes.
 3. Personal property value for the county.
- (7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.
- (8) "County wealth as a percentage of State average wealth" shall be computed as follows:

- a. For counties containing a base of the Armed Forces of the United States that have an average daily membership of more than 23,000 students:
 1. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of four-tenths.
 2. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of five-tenths.
 3. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth.
 4. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.
 - b. For all other counties in the State:
 1. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths.
 2. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths.
 3. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth.
 4. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.
- (9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.
- (10) "Effective State average tax rate" means the average of effective county tax rates for all counties.
- (11) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- (12) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.
- (13) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).
- (14) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(15) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.

(16) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(17) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 8.3.(c) Eligibility for Funds. – Except as provided in subsection (g) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

SECTION 8.3.(d) Allocation of Funds. – Except as provided in subsection (f) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county's wealth as a percentage of State average wealth by the State average current expense appropriations per student.) The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit located in whole or in part in the county based on the average daily membership of the county's students in the school units. If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

SECTION 8.3.(e) Formula for Distribution of Supplemental Funding Pursuant to This Section Only. – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

SECTION 8.3.(f) Minimum Effort Required. – Counties that had effective tax rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only. This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995 Session Laws. If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of

Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

SECTION 8.3.(g) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2013-2015 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if all of the following criteria apply:

- (1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years.
- (2) The county cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement the requirements of this subsection.

SECTION 8.3.(h) Funds for EVAAS Data. – Notwithstanding the requirements of subsection (a) of this section, local school administrative units may utilize funds allocated under this section to purchase services that allow for extraction of data from the Education Value Added Assessment System (EVAAS).

SECTION 8.3.(i) Reports. – For the 2013-2015 fiscal biennium, the State Board of Education shall report to the Fiscal Research Division prior to May 1 of each year if it determines that counties have supplanted funds.

SECTION 8.3.(j) Department of Revenue Reports. – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 8.4.(a) Funds for Small School Systems. – Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,239 to 4,080 students. The allocation formula shall do all of the following:

- (1) Round all fractions of positions to the next whole position.
- (2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four and provide seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.

- (3) Provide additional program enhancement teachers adequate to offer the standard course of study.
- (4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.
- (5) Provide a base for the consolidated funds allotment of at least seven hundred seventeen thousand three hundred sixty dollars (\$717,360), excluding textbooks, for the 2013-2014 fiscal year and a base of seven hundred seventeen thousand three hundred sixty dollars (\$717,360) for the 2014-2015 fiscal year.
- (6) Allot vocational education funds for grade six as well as for grades seven through 12. If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fully fund the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula also is not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

SECTION 8.4.(b) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2013-2015 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if all of the following criteria apply:

- (1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years.
- (2) The county cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement the requirements of this subsection.

SECTION 8.4.(c) Phase-Out Provisions. – If a local school administrative unit becomes ineligible for funding under this formula because of (i) an increase in the population of the county in which the local school administrative unit is located or (ii) an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be continued for three years after the unit becomes ineligible.

SECTION 8.4.(d) Definitions. – As used in this section, the following definitions apply:

- (1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual adopted by the State Board of Education.
- (2) "County-adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total

number of students in average daily membership who reside within the county.

(3) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(4) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(5) "State-adjusted property tax base per student" means the sum of all county-adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

(6) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(7) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued during the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 8.4.(e) Reports. – For the 2013-2015 fiscal biennium, the State Board of Education shall report to the Fiscal Research Division prior to May 1 of each year if it determines that counties have supplanted funds.

SECTION 8.4.(f) Use of Funds. – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades three through six.

Local school administrative units may also utilize funds allocated under this section to purchase services that allow for extraction of data from the Education Value-Added Assessment System (EVAAS).

DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING (DSSF)

SECTION 8.5.(a) Funds appropriated for disadvantaged student supplemental funding shall be used, consistent with the policies and procedures adopted by the State Board of Education, only to:

- (1) Provide instructional positions or instructional support positions and/or professional development;
- (2) Provide intensive in-school and/or after-school remediation;
- (3) Purchase diagnostic software and progress-monitoring tools; and
- (4) Provide funds for teacher bonuses and supplements. The State Board of Education shall set a maximum percentage of the funds that may be used for this purpose.

The State Board of Education may require local school administrative units receiving funding under the Disadvantaged Student Supplemental Fund to purchase the Education Value-Added Assessment System (EVAAS) in order to provide in-depth analysis of student performance and help identify strategies for improving student achievement. This data shall be used exclusively for instructional and curriculum decisions made in the best interest of children and for professional development for their teachers and administrators.

SECTION 8.5.(b) Funds appropriated to a local school administrative unit for disadvantaged student supplemental funding (DSSF) shall be allotted based on (i) the unit's eligible DSSF population and (ii) the difference between a teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

- (1) For counties with wealth greater than ninety percent (90%) of the statewide average, a ratio of 1:19.9.
- (2) For counties with wealth not less than eighty percent (80%) and not greater than ninety percent (90%) of the statewide average, a ratio of 1:19.4.
- (3) For counties with wealth less than eighty percent (80%) of the statewide average, a ratio of 1:19.1.
- (4) For local school administrative units receiving DSSF funds in fiscal year 2005-2006, a ratio of 1:16. These local school administrative units shall receive no less than the DSSF amount allotted in fiscal year 2006-2007.

For the purpose of this subsection, wealth shall be calculated under the low-wealth supplemental formula as provided for in this act.

SECTION 8.5.(c) If a local school administrative unit's wealth increases to a level that adversely affects the unit's disadvantaged student supplemental funding (DSSF) allotment ratio, the DSSF allotment for that unit shall be maintained at the prior year level for one additional fiscal year.

BUDGET REDUCTIONS/DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 8.6. Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may, after consultation with the Office of State Budget and Management and the Fiscal Research Division, reorganize, if necessary, to implement the budget reductions set out in this act. Consultation shall occur prior to requesting budgetary and personnel changes through the budget revision process. The Department shall provide a current organization chart in the consultation process and shall report to the Joint Legislative Commission on Governmental Operations on any reorganization.

LITIGATION RESERVE FUNDS

SECTION 8.7. The State Board of Education may expend up to five hundred thousand dollars (\$500,000) each year for the 2013-2014 and 2014-2015 fiscal years from unexpended funds for licensed employees' salaries to pay expenses related to litigation.

UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS

SECTION 8.8.(a) Funds appropriated for the Uniform Education Reporting System (UERS) shall not revert at the end of the 2012-2013 fiscal year. Funds appropriated for UERS for the 2013-2015 fiscal biennium shall not revert at the end of each fiscal year but shall remain available until expended.

SECTION 8.8.(b) This section becomes effective June 30, 2013.

REVISE NC VIRTUAL PUBLIC SCHOOLS (NCVPS) COST CALCULATION DATE

SECTION 8.9.(a) Section 7.22(d)(6) of S.L. 2011-145 is repealed.

SECTION 8.9.(b) In implementing the allotment formula for the North Carolina Virtual Public Schools (NCVPS) program, the State Board of Education shall calculate, no later than February 28 of each year, the actual instructional cost for each local school administrative unit and charter school based upon actual NCVPS enrollment as of that date.

CLOSE NC CENTER FOR THE ADVANCEMENT OF TEACHING

SECTION 8.10.(a) G.S. 115C-296.5 is repealed.

SECTION 8.10.(b) G.S. 115C-296.6 is repealed.

1 **SECTION 8.10.(c)** G.S. 126-5(c1)(29) is repealed.

2 **SECTION 8.10.(d)** The ownership, possession, and control of all property of The
3 North Carolina Center for the Advancement of Teaching located at Cullowhee, including
4 buildings, grounds, personal property, vehicles, and equipment, shall be transferred to Western
5 Carolina University. Notwithstanding Chapters 143 and 146 of the General Statutes, these
6 transfers may be made without gubernatorial or Council of State approval and without
7 consultation with the Joint Legislative Commission on Governmental Operations.

8 **SECTION 8.10.(e)** The Department of Administration shall determine the best use
9 for all property of The North Carolina Center for the Advancement of Teaching located at
10 Ocracoke, consistent with the terms of the conveyance of that property to the State. Any
11 transfer or reallocation of that property shall be in accordance with applicable law.

12 **SECTION 8.10.(f)** This section becomes effective June 30, 2013.
13

14 **SCHOOL BUS REPLACEMENT**

15 **SECTION 8.11.** The State Board of Education shall adopt guidelines that provide
16 for the replacement of school buses at 250,000 miles or, regardless of vehicle mileage, upon 20
17 years of service.
18

19 **EDUCATION SERVICES FOR CHILDREN AT CERTAIN JUVENILE FACILITIES**

20 **SECTION 8.12.** Funds appropriated for education services for children at certain
21 juvenile facilities under this act shall be distributed to Alexander County, Cabarrus County,
22 Chatham County, Cumberland County, Gaston County, Granville County, Lenoir County, New
23 Hanover County, Pitt County, and Wake County on the basis of facility bed capacity at the
24 State's detention centers and youth development centers located within those counties. These
25 funds shall only be used to provide educational services for children who are residents of the
26 facilities.
27

28 **EVAAS SCHOOL PERFORMANCE GRADES**

29 **SECTION 8.13.** The State Board of Education shall not be subject to the
30 requirements of Section 7.7(b) of this act for the development of school performance scores
31 and grades in accordance with G.S. 115C-12(9)c1.
32

33 **LEA BUDGETARY FLEXIBILITY**

34 **SECTION 8.14.(a)** G.S. 115C-105.25 reads as rewritten:

35 **"§ 115C-105.25. Budget flexibility.**

36 (a) Consistent with improving student performance, a local board shall provide
37 maximum flexibility to schools in the use of funds to enable the schools to accomplish their
38 goals.

39 (b) Subject to the following limitations, local boards of education may transfer and may
40 approve transfers of funds between funding allotment categories:

41 (1) ~~In accordance with a school improvement plan accepted under~~
42 ~~G.S. 115C-105.27, State funds allocated for teacher assistants may be~~
43 ~~transferred only for personnel (i) to serve students only in kindergarten~~
44 ~~through third grade, or (ii) to serve students primarily in kindergarten~~
45 ~~through third grade when the personnel are assigned to an elementary school~~
46 ~~to serve the whole school. Funds allocated for teacher assistants may be~~
47 ~~transferred to reduce class size or to reduce the student teacher ratio in~~
48 ~~kindergarten through third grade so long as the affected teacher assistant~~
49 ~~positions are not filled when the plan is amended or approved by the~~
50 ~~building level staff entitled to vote on the plan or the affected teacher~~
51 ~~assistant positions are not expected to be filled on the date the plan is to be~~

implemented. Any State funds appropriated for teacher assistants that were converted to certificated teachers before July 1, 1995, in accordance with Section 1 of Chapter 986 of the 1991 Session Laws, as rewritten by Chapter 103 of the 1993 Session Laws, may continue to be used for certificated teachers.

(1a) Funds for children with disabilities, career and technical education, and other purposes may be transferred only as permitted by federal law and the conditions of federal grants or as provided through any rules that the State Board of Education adopts to ensure compliance with federal regulations.

(2) ~~In accordance with a school improvement plan accepted under G.S. 115C-105.27, (i) State funds allocated for classroom materials/instructional supplies/equipment may be transferred only for the purchase of textbooks; (ii) State funds allocated for textbooks may be transferred only for the purchase of instructional supplies, instructional equipment, or other classroom materials; and (iii) State funds allocated for noninstructional support personnel may be transferred only for teacher positions.~~

(2a) ~~Up to three percent (3%) of State funds allocated for noninstructional support personnel may be transferred for staff development.~~

(3) ~~No funds shall be transferred into the central office administration allotment category.~~

(4) ~~Funds allocated for children with disabilities, for students with limited English proficiency, and for driver's education shall not be transferred.~~

(5) ~~Funds allocated for classroom teachers may be transferred only for teachers of exceptional children, for teachers of at risk students, and for authorized purposes under the textbooks allotment category and the classroom materials/instructional supplies/equipment allotment category.~~

(5a) Positions allocated for classroom teachers may be converted to dollar equivalents to contract for visiting international exchange teachers. These positions shall be converted at the statewide average salary for classroom teachers, including benefits. The converted funds shall be used only to cover the costs associated with bringing visiting international exchange teachers to the local school administrative unit through a State-approved visiting international exchange teacher program and supporting the visiting exchange teachers.

(5b) Except as provided in subdivision (5a) of this subsection, positions allocated for classroom teachers and instructional support personnel may be converted to dollar equivalents for any purpose authorized by the policies of the State Board of Education. These positions shall be converted at the salary on the first step of the "A" Teachers Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

(5c) Funds allocated for school building administration may be converted for any purpose authorized by the policies of the State Board of Education. For funds related to principal positions, the salary transferred shall be based on the first step of the Principal III Salary Schedule. For funds related to assistant principal months of employment, the salary transferred shall be based on the first step of the Assistant Principal Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

- ~~(6) Funds allocated for vocational education may be transferred only in accordance with any rules that the State Board of Education considers appropriate to ensure compliance with federal regulations.~~
- ~~(7) Funds allocated for career development shall be used in accordance with Section 17.3 of Chapter 324 of the 1995 Session Laws.~~
- ~~(8) Funds allocated for academically or intellectually gifted students may be used only (i) for academically or intellectually gifted students; (ii) to implement the plan developed under G.S. 115C-150.7; or (iii) in accordance with an accepted school improvement plan, for any purpose so long as that school demonstrates it is providing appropriate services to academically or intellectually gifted students assigned to that school in accordance with the local plan developed under G.S. 115C-150.7.~~
- ~~(9) Funds allocated in the Alternative Schools/At-Risk Student allotment shall be spent only for alternative learning programs, at risk students, and school safety programs.~~
- (10) Funds to carry out the elements of the Excellent Public Schools Act, which are contained in Section 7A.1 of S.L. 2012-142, shall not be transferred.
- (c) To ensure that parents, educators, and the general public are informed on how State funds have been used to address local educational priorities, each local school administrative unit shall publish the following information on its Web site by October 15 of each year:
- (1) A description of each program report code, written in plain English, and a summary of the prior fiscal year's expenditure of State funds within each program report code.
- (2) A description of each object code within a program report code, written in plain English, and a summary of the prior fiscal year's expenditure of State funds for each object code.
- (3) A description of each allotment transfer that increased or decreased the initial allotment amount by more than five percent (5%) and the educational priorities that necessitated the transfer."

SECTION 8.14.(b) G.S. 115C-301 reads as rewritten:

"§ 115C-301. Allocation of teachers; class size.

(a) Request for Funds. – The State Board of Education, based upon the reports of local boards of education and such other information as the State Board may require from local boards, shall determine for each local school administrative unit the number of teachers and other instructional personnel to be included in the State budget request.

(b) Allocation of Positions. – The State Board of Education is authorized to adopt rules to allot instructional personnel and teachers, within funds appropriated.

~~(c) **Maximum-Class Size.** – Local school administrative units shall have the maximum flexibility to use allotted teacher positions to maximize student achievement. The average class size for each grade span in a local school administrative unit shall at no time exceed the funded allotment ratio of teachers to students. At the end of the second school month and for the remainder of the school year, the size of an individual class shall not exceed the allotment ratio by more than three students. At no time may the General Assembly appropriate funds for higher unit wide class averages than those for which State funds were provided during the 1984-85 school year.~~

~~(d) **Maximum Teaching Load.**— Students shall be assigned to classes so that from the 15th day of the school year through the end of the school year the number of students for whom teachers in grades 7 through 12 are assigned teaching responsibilities during the course of the day is no more than 150 students, except as provided in subsection (g) of this section.~~

~~(e) **Alternative Maximum Class Sizes.**— The State Board of Education, in its discretion, may set higher maximum class sizes and daily teaching loads for classes in music, physical~~

education, and other similar subjects, so long as the effectiveness of the instructional programs in those areas is not thereby impaired.

(f) Second Month Reports. – At the end of the second month of each school year, each local board of education, through the superintendent, shall file a report for each school within the school unit with the State Board of Education. The report shall be filed in a format prescribed by the State Board of Education and shall include the organization for each school, the duties of each teacher, the size of each class, the teaching load of each teacher, and such other information as the State Board may require. ~~As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size and daily teaching load maximums that occur at that time.~~

(g) ~~Waivers and Allotment Adjustments. – Local boards of education shall report exceptions to the State Board of Education as provided in G.S. 115C-47(10), and shall request may request allotment adjustments adjustments, and or waivers from the standards set out above. Within 45 days of receipt of reports, the State Board of Education, within funds available, may allot additional positions positions or grant waivers for the excess class size or daily load.~~

(1) ~~If the exception resulted from (i) exceptional circumstances, emergencies, or acts of God, (ii) large changes in student population, (iii) organizational problems caused by remote geographic location, or (iv) classes organized for a solitary curricular area, and~~

(2) ~~If the local board cannot organizationally correct the exception.~~

(h) State Board Rules. – The State Board of Education shall adopt rules necessary for the implementation of ~~class size and teaching load provisions~~ this section.

(i) ~~Penalty for Noncompliance. – If the State Board of Education determines that a local superintendent has willfully failed to comply with the requirements of this section, no State funds shall be allocated to pay the superintendent's salary for the period of time the superintendent is in noncompliance."~~

SECTION 8.14.(c) G.S. 115C-47(10) reads as rewritten:

"§ 115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

...

(10) To Assure Appropriate Class Size. – It shall be the responsibility of local boards of education to assure that the teacher positions allotted by the State are used to maximize student achievement ~~class size and teaching load requirements set forth in G.S. 115C-301 are met. Any teacher who believes that the requirements of G.S. 115C-301 have not been met shall make a report to the principal and superintendent, and the superintendent shall immediately determine whether the requirements have in fact not been met. If the superintendent determines the requirements have not been met, he shall make a report to the next local board of education meeting. The local board of education shall take action to meet the requirements of the statute. If the local board cannot organizationally correct the exception and if any of the conditions set out in G.S. 115C-301(g)(1) exist, it shall immediately apply to the State Board of Education for additional personnel or a waiver of the class size requirements, as provided in G.S. 115C-301(g).~~

Upon notification from the State Board of Education that the reported exception does not qualify for an allotment adjustment or a waiver under provisions of G.S. 115C-301, the local board, within 30 days, shall take action necessary to correct the exception.

~~At the end of the second month of each school year, the local board of education, through the superintendent, shall file a report with the State Board of Education, in a format prescribed by the State Board of Education, describing the organization of each school, the duties of each teacher, the size of each class, and the teaching load of each teacher. As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size and daily teaching load maximums that exist at that time.~~

~~In addition to assuring that the requirements of G.S. 115C-301 are met, addition, each local board of education shall also have the duty to provide an adequate number of classrooms to meet the requirements of that statute classrooms."~~

SECTION 8.14.(d) G.S. 115C-276(k) reads as rewritten:

"(k) To Submit Organization Reports and Other Information to the State Board. – Each year the superintendent of each local school administrative unit shall submit to the State Board of Education statistical reports, certified by the chairman of the board of education, showing the organization of the schools in his or her unit and any additional information the State Board may require. At the end of the second month of school each year, local boards of education, through the superintendent, shall report school organization, employees' duties, class sizes, and teaching loads to the State Board of Education as provided in G.S. 115C-47(10). ~~Education. As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size and daily teaching load maximums that occur at that time."~~

RESIDENTIAL SCHOOLS

SECTION 8.15.(a) The Department of Public Instruction shall not transfer any school-based personnel from the State's residential schools to central office administrative positions.

SECTION 8.15.(b) Notwithstanding G.S. 146-30 or any other provision of law, the Department of Public Instruction shall retain all proceeds generated from the rental of building space on the residential school campuses. The Department of Public Instruction shall use all receipts generated from these leases to staff and operate the North Carolina School for the Deaf, the Eastern North Carolina School for the Deaf, and the Governor Morehead School. These receipts shall not be used to support administrative functions within the Department.

EXCELLENT PUBLIC SCHOOLS ACT/SUMMER READING CAMPS

SECTION 8.16. Funds appropriated for the 2013-2015 fiscal biennium for summer reading camps as defined in G.S. 115C-83.3(9) shall not revert at the end of each fiscal year but shall remain available until expended.

PARTICIPATION IN COMMUNITIES IN SCHOOLS LEARNING INITIATIVE

SECTION 8.17.(a) The purpose of the Harvard University Reads for Summer Learning Initiative, which is conducted in concert with Communities In Schools of North Carolina, Inc. (CISNC), is to help at-risk children in grades two through five read at grade level by the fourth grade and to maintain their reading competency. Students who are enrolled in this initiative shall be exempt from mandatory retention requirements set out in G.S. 115C-83.7 and G.S. 115C-238.29F. Any student participating in this initiative and in need of more intensive intervention shall, however, be placed in a summer reading program as determined by the local school administrative unit and as approved by the child's parent or guardian.

SECTION 8.17.(b) CISNC shall report to the Joint Legislative Education Oversight Committee on the initiative by November 1, 2015. This report shall include reading competency outcome data for all participating students.

1 **SECTION 8.17.(c)** Subsection (a) of this section expires at the end of the
2 2014-2015 school year.

3 4 **INSTRUCTIONAL IMPROVEMENT SYSTEM**

5 **SECTION 8.18.(a)** It is the intent of the General Assembly that the optional
6 portions of the Home Base Instructional Improvement System (System) shall be receipt-
7 supported. The State Board of Education shall establish a cost not to exceed four dollars
8 (\$4.00) per average daily membership for local school administrative units and charter schools
9 that elect to participate in the optional portions of the System. A local school administrative
10 unit or charter school may identify budget reductions to State Public School Fund allotments to
11 cover the required payment.

12 **SECTION 8.18.(b)** If funds collected pursuant to subsection (a) of this section are
13 not sufficient to cover the cost of the optional portions of the System, the State Board of
14 Education may use funds appropriated to the Department of Public Instruction or State Aid for
15 Public Schools for this purpose.

16 **SECTION 8.18.(c)** If funds collected pursuant to subsection (a) of this section
17 exceed the cost of the optional portions of the System, such funds shall not revert and shall be
18 used to reduce the per-student cost in the subsequent fiscal years.

19 **SECTION 8.18.(d)** This section becomes effective July 1, 2014.
20

21 **STUDY OF GPA CALCULATIONS**

22 **SECTION 8.19.** The Joint Legislative Education Oversight Committee shall study
23 the State Board of Education's policy on calculating the weighted grade point average and class
24 rank on high school transcripts, especially the proper weights for courses taken through
25 community colleges, independent colleges, and universities. The Committee shall report the
26 results of its study to the General Assembly prior to the convening of the 2013 Regular Session
27 of the General Assembly in 2014.
28

29 **REGIONAL SCHOOL BOARDS**

30 **SECTION 8.20.** G.S. 115C-238.63(a) reads as rewritten:

31 "(a) Appointment. – A board of directors for a regional school shall consist of the
32 following members. Appointed members of the board of directors shall be selected for their
33 interest in and commitment to the importance of public education to regional economic
34 development and to the purposes of the regional school.

35 (1) Local boards of education. – Each participating unit shall appoint one
36 member to the board of directors from among the membership of the local
37 board of education. Members appointed by local boards of education shall
38 serve terms of four years.

39 (2) Local superintendents. – The local superintendent of the local school
40 administrative unit identified as the finance agent for the regional school
41 shall serve as an ex officio member of the board of directors. One additional
42 superintendent shall be selected from among the superintendents of the
43 participating units by those superintendents. The additional superintendent
44 shall serve an initial term of two years. Subsequent appointees shall serve a
45 term of four years.

46 (3) ~~Economic development region. Business community. – The Economic~~
47 ~~Development Regional Partnership for the economic development region~~
48 ~~board of directors for the chamber of commerce of the county in which the~~
49 ~~regional school is located located, in consultation with the North Carolina~~
50 ~~Economic Developers Association, shall appoint at least three members as~~
51 ~~representatives of the business community. At least fifty percent (50%) of~~

the members of the board of directors for the regional school shall be representatives of the business community appointed in accordance with this subdivision. At least one of the appointees shall be a resident of the county in which the regional school is located. The appointees shall serve an initial term of two years. Subsequent appointees shall serve a term of four years.

(4) Parent Advisory Council. – The Parent Advisory Council established by G.S. 115C-238.69 shall appoint a member to the board of directors from among the Council membership. The member appointed by the Council shall serve a term of four years or until the child of the parent no longer attends the regional school.

(5) Higher education partners. – Any institution of higher education partner may appoint a representative of the institution of higher education to serve as an ex officio member of the board of directors."

TEACH FOR AMERICA EXPANSION AND NC TEACHER CORPS

SECTION 8.21.(a) Teach for America, Inc. (TFA), shall use a portion of the funds available to it for the 2013-2015 fiscal biennium to recruit, train, support, and retain teachers to work in the North Carolina public schools. TFA shall leverage State funds to raise additional funding to achieve the purposes set out in this section and shall expand its current programs and initiate new programs as follows:

(1) TFA shall establish a program in the Piedmont Triad region (the area within and surrounding the three major cities of Greensboro, Winston-Salem, and High Point) and expand its current program in the southeast region of the State. TFA shall establish the following goals for the number of teacher candidates accepted to these programs:

a. In the Piedmont Triad region, at least 30 candidates for the 2013-2014 school year and at least 50 candidates for the 2014-2015 school year.

b. In the southeast region of the State, a total of at least 125 to 150 candidates beginning with the 2013-2014 school year.

c. Combined for the southeast and northeast regions of the State, a total of at least 175 candidates beginning with the 2013-2014 school year.

(2) TFA shall develop and establish a new program, Teach Back Home, to increase the recruitment of candidates who are residents of North Carolina.

(3) TFA shall develop and establish two new programs, Teach Beyond Two and Make it Home, to increase the number of candidates who remain working in North Carolina public schools beyond their initial two-year TFA commitment by developing innovative strategies to work with both TFA participants and local school administrators and board of education members to extend the service commitment of TFA participants.

(4) TFA shall increase targeted recruitment efforts of candidates who are (i) working in areas related to STEM education, (ii) mid-career level and lateral entry industry professionals, and (iii) veterans of the United States Armed Forces.

SECTION 8.21.(b) By March 1, 2014, and by January 1, 2015, and annually thereafter, TFA shall report to the Joint Legislative Education Oversight Committee on the operation of its programs under subsection (a) of this section, including at least all of the following information:

(1) The total number of applications received nationally from candidates seeking participation in the program.

- (2) The total number of applications received from candidates who are residents of North Carolina and information on the source of these candidates, including the number of (i) recent college graduates and the higher institution the candidates attended, (ii) mid-career level and lateral entry industry professionals, and (iii) veterans of the United States Armed Forces.
- (3) The total number of North Carolina candidates accepted by TFA.
- (4) The total number of accepted candidates placed in North Carolina, including the number of accepted candidates who are residents of North Carolina.
- (5) The regions in which accepted candidates have been placed, the number of candidates in each region, and the number of students impacted by placement in those regions.
- (6) Success of recruitment efforts, including the Teach Back Home program and targeting of candidates who are (i) working in areas related to STEM education, (ii) mid-career level and lateral entry industry professionals, and (iii) veterans of the United States Armed Forces.
- (7) Success of retention efforts, including the Teach Beyond Two and Make it Home programs, and the percentage of accepted candidates working in their placement communities beyond the initial TFA two-year commitment period and the number of years those candidates teach beyond the initial commitment.
- (8) A financial accounting of how the State funds appropriated to TFA were expended in the previous year, including at least the following information:
- a. Funds expended by region of the State.
 - b. Details on program costs, including at least the following:
 1. Recruitment, candidate selection, and placement.
 2. Preservice training and preparation costs.
 3. Operational and administrative costs, including development and fundraising, alumni support, management costs, and marketing and outreach.
 - c. Funds received through private fundraising, specifically by sources in each region of the State.

SECTION 8.21.(c) Effective July 1, 2014, G.S. 115C-296.7 reads as rewritten:

"§ 115C-296.7. North Carolina Teacher Corps.

(a) There is established the North Carolina Teacher Corps (NC Teacher Corps) to recruit and place recent graduates of colleges and universities and mid-career professionals as teachers in high needs public schools.

(b) ~~The State Board of Education, Teach for America, Inc., in consultation with the Board of Governors of The University of North Carolina and the North Carolina Independent Colleges and Universities, shall develop and administer the NC Teacher Corps. In the development of the NC Teacher Corps, the State Board of Education shall consider examples of other successful teacher recruitment models used nationally and in other states.~~

(c) Applications shall be received annually for admission to the NC Teacher Corps. ~~The State Board of Education, Teach for America, Inc., shall establish application criteria, including, at a minimum, an award of a bachelor's degree from an accredited college or university. The State Board of Education may establish a committee to annually evaluate and select candidates for admission to the NC Teacher Corps.~~

(d) ~~The State Board of Education, Teach for America, Inc., shall identify local school administrative units with unmet recruitment needs, especially for career and technical education teachers, and high needs schools and shall coordinate placement of NC Teacher Corps members in those schools.~~

(e) ~~The State Board of Education, Teach for America, Inc.,~~ in coordination with the Board of Governors, shall develop an intensive summer training institute for NC Teacher Corps members to provide coursework and training on essential teaching frameworks, curricula, and lesson-planning skills, as well as identification and education of students with disabilities, positive management of student behavior, effective communication for defusing and deescalating disruptive and dangerous behavior, and safe and appropriate use of seclusion and restraint. The intensive summer training institute also shall address identification of difficulty with reading development and of reading deficiencies and the provision of reading instruction, intervention, and remediation strategies.

(f) ~~The State Board of Education, Teach for America, Inc.,~~ in coordination with the Board of Governors, shall provide ongoing support to NC Teaching Corps members through coaching, mentoring, and continued professional development.

(g) NC Teaching Corps members shall be granted lateral entry teaching licenses pursuant to G.S. 115C-296(c).

(h) Teach for America, Inc., a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, shall comply with the requirements of this section. Teach for America, Inc., shall adopt procedures for its operation of the NC Teacher Corps that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law."

SECTION 8.21.(d) Beginning with the 2014-2015 fiscal year, TFA shall use a portion of the funds available to it to administer the NC Teacher Corps program in accordance with G.S. 115C-296.7, as amended by subsection (c) of this section. TFA may also use a portion of the funds available to it for the 2013-2014 fiscal year to recruit a cohort of NC Teacher Corps members for the 2014-2015 school year. TFA shall include information regarding the operation of the NC Teacher Corps in its annual report to the Joint Legislative Education Oversight Committee by January 1, 2015, and annually thereafter, as required under subsection (b) of this section.

SECTION 8.21.(e) TFA shall submit quarterly updates on the information contained in the annual report required by this section to the offices of the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the Chairs of the Senate Appropriations/Base Budget Committee, the House Appropriations Committee, the Senate Appropriations Committee on Education/Higher Education, the House Appropriations Subcommittee on Education, and the Fiscal Research Division.

SECTION 8.21.(f) The State Board of Education shall provide ongoing support through coaching, mentoring, and continued professional development to NC Teacher Corps members who were placed in North Carolina public schools in accordance with G.S. 115C-296.7 for the 2012-2013 and 2013-2014 school years.

PHASE OUT CERTAIN TEACHER SALARY SUPPLEMENTS

SECTION 8.22. Notwithstanding Section 35.11 of this act, no teachers or instructional support personnel, except for school nurses, shall be paid on the "M" salary schedule or receive a salary supplement for academic preparation at the six-year degree level or at the doctoral degree level for the 2014-2015 school year, unless they were paid on that salary schedule or received that salary supplement prior to the 2014-2015 school year.

PUBLIC-PRIVATE PARTNERSHIPS FOR THE READ TO ACHIEVE PROGRAM

SECTION 8.23. Local school administrative units shall consider the utilization of public-private partnerships in implementing the requirements of the North Carolina Read to Achieve Program. The Department of Public Instruction may recommend nonprofit organizations with expertise in literacy training in low-performing schools and the ability to

leverage private resources to partner with the local school administrative units in implementing the program.

PART IX. THE EXCELLENT PUBLIC SCHOOLS ACT OF 2013

STATE EMPLOYEE LITERACY VOLUNTEER LEAVE TIME

SECTION 9.1. G.S. 126-4 reads as rewritten:

"§ 126-4. Powers and duties of State Personnel Commission.

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

...

(5b) A leave program that allows employees to volunteer in a literacy program in a public school for up to five hours each month.

...."

MAXIMIZE INSTRUCTIONAL TIME

SECTION 9.2.(a) G.S. 115C-174.12(a) reads as rewritten:

"(a) The State Board of Education shall establish policies and guidelines necessary for minimizing the time students spend taking tests administered through State and local testing programs, for minimizing the frequency of field testing at any one school, and for otherwise carrying out the provisions of this Article. These policies and guidelines shall include the following:

- (1) Schools shall devote no more than two days of instructional time per year to the taking of practice tests that do not have the primary purpose of assessing current student learning;
- (2) Students in a school shall not be subject to field tests or national tests during the two-week period preceding the administration of end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams; and
- (3) No school shall participate in more than two field tests at any one grade level during a school year ~~unless that school volunteers, through a vote of its school improvement team, to participate in an expanded number of field tests year~~.
- (4) All annual assessments of student achievement adopted by the State Board of Education pursuant to G.S. 115C-174.11(c)(1) and (3) and all final exams for courses shall be administered within the final 10 instructional days of the school year for year-long courses and within the final five instructional days of the semester for semester courses. Exceptions shall be permitted to accommodate a student's individualized education program and section 504 (29 U.S.C. § 794) plans and for the administration of final exams for courses with national or international curricula required to be held at designated times.

These policies shall reflect standard testing practices to insure reliability and validity of the sample testing. The results of the field tests shall be used in the final design of each test. The State Board of Education's policies regarding the testing of children with disabilities shall (i) provide broad accommodations and alternate methods of assessment that are consistent with a ~~child's~~ student's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of decisions about a ~~child's~~ student's graduation or promotion, and (iii) provide parents with information about the Statewide Testing Program and options for ~~students~~ children with disabilities. The State Board shall report its proposed policies and proposed changes in policies to the Joint Legislative Education Oversight Committee prior to adoption.

The State Board of Education may appoint an Advisory Council on Testing to assist in carrying out its responsibilities under this Article."

SECTION 9.2.(b) Notwithstanding the provisions of G.S. 115C-174.11(c), the State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to the purchase and implementation of a new assessment instrument to assess student achievement on the Common Core State Standards, including the Common Core Smarter Balance Consortium Assessments. The State Board shall not purchase such an assessment instrument without the enactment of legislation by the General Assembly authorizing the purchase.

SECTION 9.2.(c) This section applies beginning with the 2013-2014 school year.

STRENGTHEN TEACHER LICENSURE AND MODIFY LICENSURE FEES

SECTION 9.3.(a) G.S. 115C-296 reads as rewritten:

"§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.

...

(a2) The State Board of Education shall ~~impose the following~~ establish a schedule of fees for teacher licensure and administrative changes. ~~changes.~~ The schedule may include fees for any of the following services:

- (1) Application for demographic or administrative changes to a ~~license,~~ \$30.00.license.
- (2) Application for a duplicate license or for copies of documents in the licensure ~~files,~~ \$30.00.files.
- (3) Application for a renewal, extension, addition, upgrade, reinstatement, and variation to a ~~license,~~ \$55.00.license.
- (4) Initial application for a New, In-State Approved Program Graduate, ~~\$55.00.Graduate.~~
- (5) Initial application for an Out-of-State license, ~~\$85.00.license.~~
- (6) All other ~~applications,~~ \$85.00.applications.

~~The~~An applicant must pay ~~the fee~~ any nonrefundable service fees at the time ~~the~~an application is submitted.

(a3) For the purposes of subsection (a2) of this section, the State Board of Education shall not be subject to Article 2A of Chapter 150B of the General Statutes.

(a4) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15 in any year that the amount of fees in the fee schedule established under subsection (a2) of this section has been modified during the previous 12 months. The report shall include the number of personnel paid from licensure receipts, any change in personnel paid from receipts, other related costs covered by the receipts, and the estimated unexpended receipts as of June 30 of the year reported.

...."

SECTION 9.3.(b) G.S. 115C-296 reads as rewritten:

"§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.

...

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel licensed in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several licensure requirements, standards for approval of institutions of

teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs.

(1) Licensure Standards. –

- a. The licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.
- b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and shall be aligned with high quality professional development programs that reflect State priorities for improving student achievement. Standards for continuing licensure shall include at least eight continuing education credits with at least three credits required in a teacher's academic subject area.
- c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher licenses. The State Board shall consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills.

(2) Teacher education programs. –

- a. The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina, the North Carolina Independent Colleges and Universities, and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.
- b. To further ensure that teacher preparation programs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall do all of the following to ensure that students preparing are prepared to teach in elementary schools:
 1. ~~(i) have~~ Provide students with adequate coursework in the teaching of reading and ~~mathematics; mathematics.~~
 2. ~~(ii) are assessed~~ Assess students prior to ~~certification~~ licensure to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's ~~expectations; expectations.~~
 3. ~~(iii) continue to receive~~ Continue to provide students with preparation in applying formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North

Carolina schools that measure and predict expected student improvement; and improvement.

4. ~~(iv) are prepared~~ Prepare students to integrate arts education across the curriculum.

c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements of teacher preparation programs for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

~~The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement.~~

~~The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher licenses. The State Board shall consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills. The State Board shall adopt new standards for the renewal of teacher licenses by May 15, 1998.~~

d. The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior.

e. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

f. All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide annual performance reports to the State Board of Education.

~~The performance reports shall follow a common format, shall be submitted according to a plan developed by the State Board, and shall include the information required under the plan developed by the State Board.~~

(b1) ~~The State Board of Education shall develop a plan to provide a focused review of require teacher education programs, masters degree programs in education, and masters degree programs in school administration to submit annual performance reports. The performance reports shall provide the State Board with a focused review of the programs and the current process of accrediting these programs in order to ensure that the programs produce graduates that are well prepared to teach. The plan shall include the development and implementation of a school of education performance report for each teacher education program in North Carolina.~~

(1) Teacher education program performance report. – The performance report for each teacher education program in North Carolina shall follow a common format and include at least the following elements:

a. ~~(i) quality~~ Quality of students entering the schools of education, including the average grade point average and average score on

- preprofessional skills tests that assess reading, writing, math and other ~~competencies;competencies~~.
- b. ~~(ii) graduation rates;Graduation rates.~~
- c. ~~(iii) time to graduation rates;Time-to-graduation rates.~~
- d. ~~(iv) averageAverage~~ scores of graduates on professional and content area examination for the purpose of ~~licensure;licensure~~.
- e. ~~(v) —percentagePercentage~~ of graduates receiving initial ~~licenses;licenses~~.
- f. ~~(vi) percentagePercentage~~ of graduates hired as ~~teachers;teachers~~.
- g. ~~(vii) percentagePercentage~~ of graduates remaining in teaching for four years;~~years~~.
- h. ~~(viii) graduateGraduate~~ satisfaction based on a common survey;~~andsurvey~~.
- i. ~~(ix) employerEmployer~~ satisfaction based on a common survey.
- j. Teacher contribution to the academic success of students.

~~The performance reports shall follow a common format. The performance reports shall be submitted annually. The State Board of Education shall develop a plan to be implemented beginning in the 1998-99 school year to reward and sanction approved teacher education programs and masters of education programs and to revoke approval of those programs based on the performance reports and other criteria established by the State Board of Education.~~

- (2) Masters degree programs in education and school administration performance report. — The State Board also shall develop and implement a plan for require submission to the State Board of annual performance reports forfrom all masters degree programs in education and school administration in North Carolina. To the extent it is appropriated, the performance report shall include similar indicators to those ~~developedrequired~~ for the performance report for teacher education programs as set forth in subdivision (1) of this subsection. The performance reports shall follow a common format.

- (3) Educator preparation program report card. — The State Board shall create a higher education educator preparation program report card reflecting the information collected in the annual performance reports for each North Carolina institution offering teacher education programs and master of education programs. The report cards shall, at a minimum, summarize information reported on all of the performance indicators for the performance reports required by subdivision (1) of this subsection.

- (4) Submission of annual performance reports. — Both plans for performance Performance reports also shall include a method to provide the annual performance reports be provided annually to the Board of Governors of The University of North Carolina, the State Board of Education, and the boards of trustees of the independent colleges. The State Board of Education shall review the schools of education performance reports and the performance reports for masters degree programs in education and school administration each year the performance reports are submitted. The State Board shall submit the performance report for the 1999-2000 school year to the Joint Legislative Education Oversight Committee by December 15, 2000. SubsequentThe performance reports and the educator preparation program report cards shall be submitted to the Joint Legislative Education Oversight Committee on an annual basis by October 1.

- (5) State Board action based on performance. — The State Board of Education shall reward and sanction approved teacher education programs and master

of education programs and revoke approval of those programs based on the performance reports and other criteria established by the State Board of Education.

(b2) An undergraduate student seeking a degree in teacher education must attain passing scores on a preprofessional skills test prior to admission to an approved teacher education program in a North Carolina college or university. The State Board of Education shall permit students to fulfill this requirement by achieving the prescribed minimum scores set by the State Board of Education for the Praxis I tests or by achieving the appropriate required score, as determined by the State Board of Education, on the verbal and mathematics portions of the ~~SAT-SAT~~ or ACT. The minimum combined verbal and mathematics score set by the State Board of Education for the SAT shall be ~~between 900 and 1,200~~ 1,100 or greater. The minimum composite score set by the State Board of Education for the ACT shall be 24 or greater.

(c) It is the policy of the State of North Carolina to encourage lateral entry into the profession of teaching by skilled individuals from the private sector. To this end, before the 1985-86 school year begins, the State Board of Education shall develop criteria and procedures to accomplish the employment of such individuals as classroom teachers. Beginning with the 2006-2007 school year, the criteria and procedures shall include preservice training in (i) the identification and education of children with disabilities and (ii) positive management of student behavior, effective communication for defusing and deescalating disruptive or dangerous behavior, and safe and appropriate use of seclusion and restraint. Skilled individuals who choose to enter the profession of teaching laterally may be granted a ~~provisional~~ lateral entry teaching license for no more than three years and shall be required to obtain licensure before contracting for a fourth year of service with any local administrative unit in this State.

...."

SECTION 9.3.(c) G.S. 115C-296, as rewritten by subsections (a) and (b) of this section, reads as rewritten:

"§ 115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.

(a) The State Board of Education shall have entire control of licensing all applicants for teaching positions in all public ~~elementary and high~~ schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all licenses and shall determine and fix the salary for each grade and type of license which it authorizes.

The State Board of Education ~~may~~ shall require an applicant for an initial bachelors degree ~~certificate~~ license or graduate degree ~~certificate~~ license to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. Elementary Education (K-6) and special education general curriculum teachers shall also achieve a prescribed minimum score on subtests or standard examinations specific to teaching reading and mathematics. The State Board of Education shall permit an applicant to fulfill any such testing requirement before or during the applicant's second year of teaching provided the applicant took the examination at least once during the first year of teaching. The State Board of Education shall make any required standard initial licensure exam ~~sufficiently~~ rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has ~~adequate~~ received high quality academic and professional preparation to ~~teach~~ teach effectively.

(a1) The State Board shall adopt policies that establish the minimum scores for any required standard examinations and other measures necessary to assess the qualifications of professional personnel as required under subsection (a) of this section. For purposes of this subsection, the State Board shall not be subject to Article 2A of Chapter 150B of the General Statutes. At least 30 days prior to changing any policy adopted under this subsection, the State

Board shall provide written notice to all North Carolina schools of education and to all local boards of education. The written notice shall include the proposed revised policy.

(a2) The State Board of Education shall establish a schedule of fees for teacher licensure and administrative changes. The schedule may include fees for any of the following services:

- (1) Application for demographic or administrative changes to a license.
- (2) Application for a duplicate license or for copies of documents in the licensure files.
- (3) Application for a renewal, extension, addition, upgrade, reinstatement, and variation to a license.
- (4) Initial application for a New, In-State Approved Program Graduate.
- (5) Initial application for an Out-of-State license.
- (6) All other applications.

An applicant must pay any nonrefundable service fees at the time an application is submitted.

(a3) For the purposes of subsection (a2) of this section, the State Board of Education shall not be subject to Article 2A of Chapter 150B of the General Statutes.

(a4) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15 in any year that the amount of fees in the fee schedule established under subsection (a2) of this section has been modified during the previous 12 months. The report shall include the number of personnel paid from licensure receipts, any change in personnel paid from receipts, other related costs covered by the receipts, and the estimated unexpended receipts as of June 30 of the year reported.

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel licensed in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several licensure requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs.

(1) Licensure standards. –

- a. The licensure program shall provide for initial licensure after completion of preservice training, continuing licensure after three years of teaching experience, and license renewal every five years thereafter, until the retirement of the teacher. The last license renewal received prior to retirement shall remain in effect for five years after retirement. The licensure program shall also provide for lifetime licensure after 50 years of teaching.
- b. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing licensure. The new requirements shall reflect more rigorous standards for continuing licensure and shall be aligned with high quality professional development programs that reflect State priorities for improving student achievement. Standards for continuing licensure shall include at least eight continuing education credits, with at least three credits required in the teacher's academic subject areas. Standards for continuing licensure for elementary and middle school teachers shall include at least three continuing education credits related to literacy.

Literacy renewal credits shall include evidence-based assessment, diagnosis, and intervention strategies for students not demonstrating reading proficiency. Oral language, phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension shall be addressed in literacy-related activities leading to license renewal for elementary school teachers.

- c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher licenses. The State Board shall consider modifications in the license renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills.

(2) Teacher education programs. –

- a. The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina, the North Carolina Independent Colleges and Universities, and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

- b. To further ensure that teacher preparation programs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall do all of the following to ensure that students are prepared to teach in elementary schools:

1. Provide students with adequate coursework in the teaching of reading and mathematics.
2. Assess students prior to licensure to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's expectations.
3. Continue to provide students with preparation in applying formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student improvement.
4. Prepare students to integrate arts education across the curriculum.

- c. The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements of teacher preparation programs for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

- d. The standards for approval of institutions of teacher education shall require that teacher education programs for all students include the following demonstrated competencies:

1. in All teacher education programs. –

- I. (i) – the The identification and education of children with disabilities and disabilities.

- 1 II. ~~(ii) positive~~ Positive management of student behavior
2 and effective communication techniques for defusing
3 and deescalating disruptive or dangerous behavior.
- 4 2. Elementary and special education general curriculum teacher
5 education programs. –
- 6 I. Teaching of reading, including a substantive
7 understanding of reading as a process involving oral
8 language, phonological and phonemic awareness,
9 phonics, fluency, vocabulary, and comprehension.
- 10 II. Evidence-based assessment and diagnosis of specific
11 areas of difficulty with reading development and of
12 reading deficiencies.
- 13 III. Appropriate application of instructional supports and
14 services and reading interventions to ensure reading
15 proficiency for all students.
- 16 e. The State Board of Education shall incorporate the criteria developed
17 in accordance with G.S. 116-74.21 for assessing proposals under the
18 School Administrator Training Program into its school administrator
19 program approval standards.
- 20 f. All North Carolina institutions of higher education that offer teacher
21 education programs, masters degree programs in education, or
22 masters degree programs in school administration shall provide
23 annual performance reports to the State Board of Education.

24"

25 **SECTION 9.3.(d)** G.S. 150B-1(d) is amended by adding a new subdivision to
26 read:
27 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
28 following:

29 ...

30 (21) The State Board of Education in establishing a schedule of fees for teacher
31 licensure and administrative changes pursuant to G.S. 115C-296(a2)."

32 **SECTION 9.3.(e)** The State Board of Education shall develop a plan to require the
33 schools of education to measure performance and provide an annual report on the demonstrated
34 competencies included in their elementary and special education general curriculum teacher
35 education programs on (i) teaching of reading, including a substantive understanding of reading
36 as a process involving oral language, phonological and phonemic awareness, phonics, fluency,
37 vocabulary, and comprehension; (ii) evidence-based assessment and diagnosis of specific areas
38 of difficulty with reading development and of reading deficiencies; and (iii) appropriate
39 application of instructional supports and services and reading interventions to ensure reading
40 proficiency for all students. The plan shall address requiring this information to be included in
41 the annual performance reports to the State Board and the higher education educator
42 preparation program report cards required by G.S. 115C-296, as enacted by this section. The
43 State Board shall report to the Joint Legislative Education Oversight Committee on or before
44 March 15, 2014, on the plan to include this information in the performance reports required for
45 the 2014-2015 school year.

46 **SECTION 9.3.(f)** Subsection (b) of this section applies beginning with the
47 2013-2014 school year. Subsection (c) of this section applies beginning with the 2014-2015
48 school year.

49 For teachers who are in their fourth or fifth year of their current five-year license
50 renewal cycle, the changes required by G.S. 115C-296(b)(1)b., as enacted by subsections (b)

and (c) of this section, shall apply beginning with the first year of their next five-year license renewal cycle.

SCHOOL PERFORMANCE GRADES

SECTION 9.4.(a) Section 7A.3(e) of S.L. 2012-142 is repealed.

SECTION 9.4.(b) Article 8 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1B. School Performance.

"§ 115C-83.11. School performance scores, grades, including measure of student growth.

(a) The State Board of Education shall award school performance scores and grades as required by G.S. 115C-12(9)c1., calculated as provided in this section. Eighty percent (80%) of the overall performance score shall be determined by the results of the achievement calculation, and the remaining twenty percent (20%) shall be determined by the results of the student growth calculation. The State Board shall enter all necessary data for each indicator into the Education Value-Added Assessment System (EVAAS) in order to calculate an overall school achievement score and overall school growth score.

(b) Achievement Calculation. – Using EVAAS, the State Board of Education shall calculate the overall achievement score earned by schools. In calculating the overall school achievement score earned by schools, the State Board of Education shall (i) total the sum of points earned by the school; (ii) proportionally weigh the achievement indicators based on the number of students measured by any given achievement indicator; and (iii) proportionally adjust the scale to account for the absence of school achievement indicators for award of scores to a school that does not have a measure of one of the school achievement indicators annually assessed for the grades taught at that school.

(c) Growth Calculation. – Using EVAAS, the State Board shall calculate the overall growth score earned by schools. In calculating the total growth score earned by schools, the State Board of Education shall weight student growth on achievement measures as provided in subsection (b) of this section. The numerical values used to determine whether a school has met, exceeded, or has not met expected growth shall be translated to a 100-point scale. The equivalent number of points shall be added to a school's total sum of points.

(d) Elementary and Middle Schools Achievement Indicators. – For schools serving students in kindergarten through eighth grade, the overall school achievement score shall be calculated based on the sum of the following school achievement indicators that are weighted proportionally by the number of students measured by each indicator. The score shall be calculated as follows:

(1) One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.

(2) One point for each percent of students who score at or above proficient on annual assessments for reading in grades three through eight.

(3) One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.

(4) One point for each percent of students who score at or above proficient in Algebra I/Integrated Math I, English II, or Biology end-of-course tests.

(e) High Schools Achievement Indicators. – The school achievement score earned by schools serving students in ninth through 12th grade shall reflect academic achievement, career and college readiness, and graduation rate. The school achievement score shall be calculated based on the sum of the following school achievement indicators that are weighted proportionally by the number of students measured by each indicator. The score shall be calculated as follows:

(1) One point for each percent of students who score at or above proficient on annual assessments for mathematics.

- (2) One point for each percent of students who score at or above proficient on annual assessments for English.
- (3) One point for each percent of students who score at or above proficient on annual assessments for biology.
- (4) One point for each percent of students who complete a mathematics class beyond Algebra I/Integrated Math II with a passing grade.
- (5) One point for each percent of students who achieve the minimum score required for admission into a constituent institution of The University of North Carolina System on a nationally normed test of college readiness.
- (6) One point for each percent of students enrolled in Career and Technical Education courses who meet the standard when scoring at Silver, Gold, or Platinum levels on a nationally normed test of workplace readiness.
- (7) One point for each percent of students who graduate within four years of entering high school.

(f) Calculation of School Performance Scores and Grades. – The State Board of Education shall calculate school performance scores by totaling the sum of school achievement points, as provided in subsections (b), (d), (e) of this section, and school growth points, as provided in subsection (c) of this section, earned by the school. School achievement points shall account for eighty percent (80%), and school growth points shall account for twenty percent (20%) of the total sum. The sum of points shall be converted to a 100-point scale. The school performance score shall be used to determine the school performance grade based on the following scale:

- (1) At least 90 performance grade points for an overall school performance grade of A.
- (2) At least 80 performance grade points for an overall school performance grade of B.
- (3) At least 70 performance grade points for an overall school performance grade of C.
- (4) At least 60 performance grade points for an overall school performance grade of D.
- (5) A school that accumulates fewer than 60 points shall be assigned an overall school performance grade of F.

(g) Elementary and Middle School Reading and Math Scores. – For schools serving students in kindergarten through eighth grade, the school performance scores in reading and mathematics, respectively, shall be reported separately on the annual school report card provided under G.S. 115C-12(9)c1., 115C-238.29F, and 115C-238.66.

(h) Indication of Growth. – In addition to the overall school performance score and grade, the State Board shall include as a part of the annual school report card a separate indicator reflecting a measure of growth for performance on annual assessments for reading, mathematics, and science in grades three through eight and on annual assessments for mathematics, English, and biology in grades nine through 12. Using EVAAS, the State Board shall designate that a school has (i) met, (ii) failed to meet, or (iii) exceeded expected growth. The growth measure shall be clearly displayed in the annual school report card provided under G.S. 115C-12(9)c1., 115C-238.29F, and 115C-238.66."

SECTION 9.4.(c) G.S. 115C-12(9)c1. reads as rewritten:

- "c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account

factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. As a part of the annual "report card" for each local school administrative unit, the State Board shall ~~award~~ award, in accordance with G.S. 115C-83.11, an overall numerical school performance score on a scale of zero to 100 and a corresponding letter grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance score and grade shall reflect student performance on annual subject-specific assessments, college and workplace readiness measures, and graduation rates. For schools serving students in any grade from kindergarten to eighth grade, separate performance scores and grades shall also be awarded based on the school performance in reading and mathematics respectively. The annual "report card" for schools serving students in third grade also shall include the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.7(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.7(b)."

SECTION 9.4.(d) This section applies beginning with the 2012-2013 school year.

PAY FOR EXCELLENCE

SECTION 9.5. When a robust evaluation instrument and process that accurately assesses and evaluates the effectiveness of teachers, especially in the area of student growth, is wholly implemented in North Carolina, it is the intent of the General Assembly that the evaluation instrument and process be utilized in the implementation of a plan of performance pay for teachers in this State.

TEACHER CONTRACTS

SECTION 9.6.(a) G.S. 115C-325 is repealed.

SECTION 9.6.(b) Part 3 of Article 22 of Chapter 115C of the General Statutes is amended by adding new sections to read:

"§ 115C-325.1. Definitions.

As used in this Part, the following definitions apply:

- (1) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.
- (2) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school administrator during the time of the contract. The word "demote" does not include (i) a suspension without pay pursuant to G.S. 115C-325.5(a); (ii) the elimination or reduction of bonus payments, including merit-based supplements or a systemwide modification in the amount of any applicable local supplement; (iii) any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director; or (iv) any reduction of pay as compared to a prior term of contract.
- (3) "Disciplinary suspension" means a final decision to suspend a teacher or school administrator without pay for no more than 60 days under G.S. 115C-325.5(b).

(4) "School administrator" means a principal, assistant principal, supervisor, or director whose major function includes the direct or indirect supervision of teaching or any other part of the instructional program, as provided in G.S. 115C-287.1(a)(3).

(5) "Teacher" means a person meeting each of the following requirements:

a. Who holds at least one of the following licenses issued by the State Board of Education:

1. A current standard professional educator's license.

2. A current lateral entry teaching license.

3. A regular, not expired, vocational license.

b. Whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel.

c. Who is employed to fill a full-time, permanent position.

(6) "Year" means a calendar year beginning July 1 and ending June 30.

"§ 115C-325.2. Personnel files.

(a) Maintenance of Personnel File. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher's professional conduct, except that the superintendent may elect not to place in a teacher's file (i) a letter of complaint that contains invalid, irrelevant, outdated, or false information or (ii) a letter of complaint when there is no documentation of an attempt to resolve the issue. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five days' notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file. Any teacher may petition the local board of education to remove any information from the teacher's personnel file that the teacher deems invalid, irrelevant, or outdated. The board may order the superintendent to remove said information if it finds the information is invalid, irrelevant, or outdated.

(b) Inspection of Personnel Files. – The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any preemployment data or other information obtained about a teacher before the teacher's employment by the board may be kept in a file separate from the teacher's personnel file and need not be made available to the teacher. No data placed in the preemployment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher, except the data may be used to substantiate G.S. 115C-325.4(a)(7) or G.S. 115C-325.4(a)(14) as grounds for dismissal or demotion.

"§ 115C-325.3. Teacher contracts.

(a) Length of Contract. – A contract between the local board of education and a teacher who has been employed by the local board of education for less than three years shall be for a term of one school year. A contract or renewal of contract between the local board of education and a teacher who has been employed by the local board of education for three years or more shall be for a term of one, two, three, or four school years.

(b) Superintendent Recommendation to Local Board. – Local boards of education shall employ teachers upon the recommendation of the superintendent. If a superintendent intends to recommend to the local board of education that a teacher be offered a new or renewed contract, the superintendent shall submit the recommendation to the local board for action and shall include in the recommendation the length of the term of contract. A superintendent shall only recommend a teacher for a contract of a term longer than one school year if the teacher has shown effectiveness as demonstrated by proficiency on the evaluation instrument. The local board may approve the superintendent's recommendation, may decide not to offer the teacher a

new or renewed contract, or may decide to offer the teacher a renewed contract for a different term than recommended by the superintendent.

(c) Dismissal During Term of Contract. – A teacher shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure set forth in G.S. 115C-325.4.

(d) Recommendation on Nonrenewal. – If a superintendent decides not to recommend that the local board of education offer a renewed contract to a teacher, the superintendent shall give the teacher written notice of the decision no later than June 1.

(e) Right to Petition for Hearing. – A teacher shall have the right to petition the local board of education for a hearing no later than 10 days after receiving written notice. The local board may, in its discretion, grant a hearing regarding the superintendent's recommendation for nonrenewal. The local board of education shall notify the teacher making the petition of its decision whether to grant a hearing. If the request for a hearing is granted, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the teacher a renewed contract. The board shall notify a teacher whose contract will not be renewed for the next school year of its decision by June 15; provided, however, if a teacher submits a request for a hearing, the board shall provide the nonrenewal notification within 10 days of the hearing or such later date upon the written consent of the superintendent and teacher. A decision not to offer a teacher a renewed contract shall not be arbitrary, capricious, discriminatory, for personal or political reasons, or on any basis prohibited by State or federal law.

(f) Failure to Offer Contract or Notify on Nonrenewal of Contract. – If a teacher fails to receive a contract offer but does not receive written notification from the superintendent of a recommendation of nonrenewal, and the teacher continues to teach in the local school administrative unit without entering into a contract with the local board, upon discovery of the absence of contract, the board by majority vote shall do one of the following:

(1) Offer the teacher a one-year contract expiring no later than June 30 of the current school year.

(2) Dismiss the teacher and provide the teacher with the equivalent of one additional month's pay. A teacher dismissed as provided in this section shall be considered an at-will employee and shall not be entitled to a hearing or appeal of the dismissal.

(g) Local boards of education and teachers employed by the local board may mutually modify the terms of the contract to permit part-time employment. An individual that mutually modifies a full-time contract to permit part-time employment or enters into a part-time contract is not a teacher as defined in G.S. 115C-325.1(5).

"§ 115C-325.4. Dismissal or demotion for cause.

(a) Grounds. – No teacher shall be dismissed, demoted, or reduced to employment on a part-time basis for disciplinary reasons during the term of the contract except for one or more of the following:

(1) Inadequate performance. In determining whether the professional performance of a teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Inadequate performance for a teacher shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard.

(2) Immorality.

(3) Insubordination.

(4) Neglect of duty.

- (5) Physical or mental incapacity.
- (6) Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.
- (7) Conviction of a felony or a crime involving moral turpitude.
- (8) Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.
- (9) Failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes of this State.
- (10) Failure to comply with such reasonable requirements as the board may prescribe.
- (11) Any cause which constitutes grounds for the revocation of the teacher's teaching license or the school administrator's administrator license.
- (12) Failure to maintain his or her license in a current status.
- (13) Failure to repay money owed to the State in accordance with the provisions of Article 60 of Chapter 143 of the General Statutes.
- (14) Providing false information or knowingly omitting a material fact on an application for employment or in response to a preemployment inquiry.
- (15) A justifiable decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding.

(b) Dismissal Procedure. – The procedures provided in G.S. 115C-325.6 shall be followed for dismissals, demotions, or reductions to part-time employment for disciplinary reasons for any reason specified in subsection (a) of this section.

"§ 115C-325.5. Teacher suspension.

(a) Immediate Suspension Without Pay. – If a superintendent believes that cause exists for dismissing a teacher for any reason specified in G.S. 115C-325.4 and that immediate suspension of the teacher is necessary, the superintendent may suspend the teacher without pay. Before suspending a teacher without pay, the superintendent shall meet with the teacher and give him or her written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond. Within five days after a suspension under this subsection, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the teacher shall be reinstated immediately, shall be paid for the period of suspension, and all records of the suspension shall be removed from the teacher's personnel file.

(b) Disciplinary Suspension Without Pay. – A teacher recommended for disciplinary suspension without pay may request a hearing before the board. The hearing shall be conducted as provided in G.S. 115C-325.7. If no request is made within 15 days, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension.

(c) Suspension With Pay. – If a superintendent believes that cause may exist for dismissing or demoting a teacher for any reasons specified in G.S. 115C-325.4 but that additional investigation of the facts is necessary and circumstances are such that the teacher should be removed immediately from the teacher's duties, the superintendent may suspend the teacher with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall notify the board of education within two days of the superintendent's action and shall notify the teacher within two days of the action and the reasons for it. If the superintendent has not initiated dismissal or demotion proceedings against the teacher within the 90-day period, the teacher shall be reinstated to the teacher's duties immediately, and all records of the suspension with pay shall be removed from the teacher's personnel file at the teacher's request.

1 However, if the superintendent and the teacher agree to extend the 90-day period, the
2 superintendent may initiate dismissal or demotion proceedings against the teacher at any time
3 during the period of the extension.

4 **"§ 115C-325.6. Procedure for dismissal or demotion of a teacher for cause.**

5 (a) Recommendation of Dismissal or Demotion. – A teacher may not be dismissed,
6 demoted, or reduced to part-time employment for disciplinary reasons during the term of the
7 contract except upon the superintendent's recommendation based on one or more of the grounds
8 in G.S. 115C-325.4.

9 (b) Notice of Recommendation. – Before recommending to a board the dismissal or
10 demotion of a teacher, the superintendent shall give written notice to the teacher by certified
11 mail or personal delivery of the superintendent's intention to make such recommendation and
12 shall set forth as part of the superintendent's recommendation the grounds upon which he or she
13 believes such dismissal or demotion is justified. The superintendent also shall meet with the
14 teacher and provide written notice of the charges against the teacher, an explanation of the basis
15 for the charges, and an opportunity to respond if the teacher has not done so under
16 G.S. 115C-325.5(a). The notice shall include a statement to the effect that the teacher, within
17 14 days after the date of receipt of the notice, may request a hearing before the board on the
18 superintendent's recommendation. A copy of Part 3 of Article 22 of Chapter 115C of the
19 General Statutes shall also be sent to the teacher.

20 (c) Request for Hearing. – Within 14 days after receipt of the notice of
21 recommendation, the teacher may file with the superintendent a written request for a hearing
22 before the board on the superintendent's recommendation. The superintendent shall submit his
23 or her recommendation to the board. Within five days after receiving the superintendent's
24 recommendation and before taking any formal action, the board shall set a time and place for
25 the hearing and shall notify the teacher by certified mail or personal delivery of the date, time,
26 and place of the hearing. The time specified shall not be less than 10 nor more than 30 days
27 after the board has notified the teacher, unless both parties agree to an extension. The hearing
28 shall be conducted as provided in G.S. 115C-325.7.

29 (d) No Request for Hearing. – If the teacher does not request a hearing before the board
30 within the 14 days provided, the superintendent may submit his or her recommendation to the
31 board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation
32 or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or
33 suspend the teacher without pay.

34 **"§ 115C-325.7. Hearing before board.**

35 (a) The following procedures shall apply for a board hearing for dismissal, demotion,
36 reduction to part-time employment for disciplinary reasons, or disciplinary suspension without
37 pay:

- 38 (1) The hearing shall be private.
- 39 (2) The hearing shall be conducted in accordance with reasonable rules adopted
40 by the State Board of Education to govern such hearings.
- 41 (3) At the hearing, the teacher and the superintendent shall have the right to be
42 present and to be heard, to be represented by counsel, and to present through
43 witnesses any competent testimony relevant to the issue of whether grounds
44 exist for a dismissal, demotion, reduction to part-time employment for
45 disciplinary reasons, or disciplinary suspension without pay.
- 46 (4) Rules of evidence shall not apply to a hearing under this subsection, and the
47 board may give probative effect to evidence that is of a kind commonly
48 relied on by reasonably prudent persons in the conduct of serious affairs.
- 49 (5) At least five days before the hearing, the superintendent shall provide to the
50 teacher a list of witnesses the superintendent intends to present, a brief

- 1 statement of the nature of the testimony of each witness, and a copy of any
2 documentary evidence the superintendent intends to present.
3 (6) At least three days before the hearing, the teacher shall provide the
4 superintendent a list of witnesses the teacher intends to present, a brief
5 statement of the nature of the testimony of each witness, and a copy of any
6 documentary evidence the teacher intends to present.
7 (7) No new evidence may be presented at the hearing except upon a finding by
8 the board that the new evidence is critical to the matter at issue and the party
9 making the request could not, with reasonable diligence, have discovered
10 and produced the evidence according to the schedule provided in this
11 section.
12 (8) The board may subpoena and swear witnesses and may require them to give
13 testimony and to produce records and documents relevant to the grounds for
14 dismissal, demotion, reduction to part-time employment for disciplinary
15 reasons, or disciplinary suspension without pay.
16 (9) The board shall decide all procedural issues, including limiting cumulative
17 evidence, necessary for a fair and efficient hearing.
18 (10) The superintendent shall provide for making a transcript of the hearing. The
19 teacher may request and shall receive at no charge a transcript of the
20 proceedings.

21 **"§ 115C-325.8. Right of appeal.**

22 (a) A teacher who (i) has been dismissed, demoted, or reduced to employment on a
23 part-time basis for disciplinary reasons during the term of the contract as provided in
24 G.S. 115C-325.4, or has received a disciplinary suspension without pay as provided in
25 G.S. 115C-325.5, and (ii) requested a hearing before the local board of education, shall have a
26 further right of appeal from the final decision of the local board of education to the superior
27 court of the State on one or more of the following grounds that the decision:

- 28 (1) Is in violation of constitutional provisions.
29 (2) Is in excess of the statutory authority or jurisdiction of the board.
30 (3) Was made upon unlawful procedure.
31 (4) Is affected by other error of law.
32 (5) Is unsupported by substantial evidence in view of the entire record as
33 submitted.
34 (6) Is arbitrary or capricious.

35 (b) An appeal pursuant to this section must be filed within 30 days of notification of the
36 final decision of the local board of education and shall be decided on the administrative record.
37 The superior court shall have authority to affirm or reverse the local board's decision or remand
38 the matter to the local board of education. The superior court shall not have authority to award
39 monetary damages or to direct the local board of education to enter into an employment
40 contract of more than one year, ending June 30.

41 **"§ 115C-325.9. Teacher resignation.**

42 (a) Teacher Resignation Following Recommendation for Dismissal. – If a teacher has
43 been recommended for dismissal under G.S. 115C-325.4 and the teacher chooses to resign
44 without the written agreement of the superintendent, then:

- 45 (1) The superintendent shall report the matter to the State Board of Education.
46 (2) The teacher shall be deemed to have consented to (i) the placement in the
47 teacher's personnel file of the written notice of the superintendent's intention
48 to recommend dismissal and (ii) the release of the fact that the
49 superintendent has reported this teacher to the State Board of Education to
50 prospective employers, upon request. The provisions of G.S. 115C-321 shall
51 not apply to the release of this particular information.

(3) The teacher shall be deemed to have voluntarily surrendered his or her license pending an investigation by the State Board of Education in a determination whether or not to seek action against the teacher's license. This license surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the license surrender shall not prevent the State Board of Education from taking any further action it deems appropriate. The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the teacher's license within 45 days from the date of resignation.

(b) Thirty Days' Notice Resignation Requirement. – A teacher who is not recommended for dismissal should not resign during the term of the contract without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign during the term of the contract without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's license for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

"§ 115C-325.10. Application to certain institutions.

Notwithstanding any law or regulation to the contrary, this Part shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human Services, Public Instruction, and the Divisions of Juvenile Justice and Adult Correction of the Department of Public Safety, regardless of the age of the students.

"§ 115C-325.11. Dismissal of school administrators and teachers employed in low-performing residential schools.

(a) Notwithstanding any other provision of this section or any other law, this section shall govern the dismissal by the State Board of Education of teachers, principals, assistant principals, directors, supervisors, and other licensed personnel assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team. The State Board shall dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

(b) The State Board may dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school.

(2) That assistance team makes the recommendation to dismiss the teacher, principal, assistant principal, director, supervisor, or other licensed personnel for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

Within 30 days of any dismissal under this subsection, a teacher, principal, assistant principal, director, supervisor, or other licensed personnel may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this section or any other law, this subsection shall govern the dismissal by the State Board of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general

1 knowledge standard set by the State Board. The failure to meet the general knowledge standard
2 after one retest shall be substantial evidence of the inadequate performance of the licensed staff
3 member.

4 Within 30 days of any dismissal under this subsection, a licensed staff member may request
5 a hearing before a panel of three members designated by the State Board. The State Board shall
6 adopt procedures to ensure that due process rights are afforded to licensed staff members
7 recommended for dismissal under this subsection. Decisions of the panel may be appealed on
8 the record to the State Board.

9 (d) The State Board or the superintendent of a residential school may terminate the
10 contract of a school administrator dismissed under this section. Nothing in this section shall
11 prevent the State Board from refusing to renew the contract of any person employed in a school
12 identified as low-performing.

13 (e) Neither party to a school administrator or teacher contract is entitled to damages
14 under this section.

15 (f) The State Board shall have the right to subpoena witnesses and documents on behalf
16 of any party to the proceedings under this section.

17 **"§ 115C-325.12. Procedure for dismissal of principals employed in low-performing**
18 **schools.**

19 (a) Dismissal of Principals Assigned to Low-Performing Schools With Assistance
20 Teams. – Notwithstanding any other provision of this Part or any other law, this section
21 governs the State Board's dismissal of principals assigned to low-performing schools to which
22 the State Board has assigned an assistance team.

23 (b) Authority of State Board to Dismiss Principal. – The State Board through its
24 designee may, at any time, recommend the dismissal of any principal who is assigned to a
25 low-performing school to which an assistance team has been assigned. The State Board through
26 its designee shall recommend the dismissal of any principal when the State Board receives from
27 the assistance team assigned to that principal's school two consecutive evaluations that include
28 written findings and recommendations regarding the principal's inadequate performance.

29 (c) Procedures for Dismissal of Principal. –

30 (1) If the State Board through its designee recommends the dismissal of a
31 principal under this section, the principal shall be suspended with pay
32 pending a hearing before a panel of three members of the State Board. The
33 purpose of this hearing, which shall be held within 60 days after the
34 principal is suspended, is to determine whether the principal shall be
35 dismissed.

36 (2) The panel shall order the dismissal of the principal if it determines from
37 available information, including the findings of the assistance team, that the
38 low performance of the school is due to the principal's inadequate
39 performance.

40 (3) The panel may order the dismissal of the principal if (i) it determines that the
41 school has not made satisfactory improvement after the State Board assigned
42 an assistance team to that school and (ii) the assistance team makes the
43 recommendation to dismiss the principal for one or more grounds
44 established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

45 (4) If the State Board or its designee recommends the dismissal of a principal
46 before the assistance team assigned to the principal's school has evaluated
47 that principal, the panel may order the dismissal of the principal if the panel
48 determines from other available information that the low performance of the
49 school is due to the principal's inadequate performance.

50 (5) In all hearings under this section, the burden of proof is on the principal to
51 establish that the factors leading to the school's low performance were not

1 due to the principal's inadequate performance. In all hearings under this
2 section, the burden of proof is on the State Board to establish that the school
3 failed to make satisfactory improvement after an assistance team was
4 assigned to the school and to establish one or more of the grounds
5 established for dismissal or demotion of a teacher under G.S. 115C-325.4.

6 (6) In all hearings under this section, two consecutive evaluations that include
7 written findings and recommendations regarding that principal's inadequate
8 performance from the assistance team are substantial evidence of the
9 inadequate performance of the principal.

10 (7) The State Board shall adopt procedures to ensure that due process rights are
11 afforded to principals under this section. Decisions of the panel may be
12 appealed on the record to the State Board.

13 (d) The State Board of Education or a local board may terminate the contract of a
14 principal dismissed under this section.

15 (e) Neither party to a school administrator contract is entitled to damages under this
16 section.

17 (f) The State Board shall have the right to subpoena witnesses and documents on behalf
18 of any party to the proceedings under this section.

19 **"§ 115C-325.13. Procedure for dismissal of teachers employed in low-performing schools.**

20 (a) Notwithstanding any other provision of this Part or any other law, this section shall
21 govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors
22 assigned to schools that the State Board has identified as low-performing and to which the State
23 Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall
24 dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two
25 consecutive evaluations that include written findings and recommendations regarding that
26 person's inadequate performance from the assistance team. These findings and
27 recommendations shall be substantial evidence of the inadequate performance of the teacher,
28 assistant principal, director, or supervisor.

29 (b) The State Board may dismiss a teacher, assistant principal, director, or supervisor
30 when:

31 (1) The State Board determines that the school has failed to make satisfactory
32 improvement after the State Board assigned an assistance team to that school
33 under G.S. 115C-105.38; and

34 (2) That assistance team makes the recommendation to dismiss the teacher,
35 assistant principal, director, or supervisor for one or more grounds
36 established in G.S. 115C-325.4 for dismissal or demotion for cause.

37 A teacher, assistant principal, director, or supervisor may request a hearing before a panel
38 of three members of the State Board within 30 days of any dismissal under this section. The
39 State Board shall adopt procedures to ensure that due process rights are afforded to persons
40 recommended for dismissal under this section. Decisions of the panel may be appealed on the
41 record to the State Board.

42 (c) Notwithstanding any other provision of this Part or any other law, this section shall
43 govern the State Board's dismissal of licensed staff members who have engaged in a
44 remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general
45 knowledge standard set by the State Board. The failure to meet the general knowledge standard
46 after one retest shall be substantial evidence of the inadequate performance of the licensed staff
47 member.

48 (d) A licensed staff member may request a hearing before a panel of three members of
49 the State Board within 30 days of any dismissal under this section. The State Board shall adopt
50 procedures to ensure that due process rights are afforded to licensed staff members

recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(e) The State Board of Education or a local board may terminate the contract of a teacher, assistant principal, director, or supervisor dismissed under this section.

(f) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(g) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section."

SECTION 9.6.(c) G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the local board of education from any final administrative decision in the following matters:

- (1) The discipline of a student under G.S. 115C-390.7, 115C-390.10, or 115C-390.11;
- (2) An alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board policy, including policies regarding grade retention of students;
- (3) The terms or conditions of employment or employment status of a school employee; and
- (4) Any other decision that by statute specifically provides for a right of appeal to the local board of education and for which there is no other statutory appeal procedure.

As used in this subsection, the term "final administrative decision" means a decision of a school employee from which no further appeal to a school administrator is available.

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

In all appeals to the board it is the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal of right brought before a local board of education under subdivision (1), (2), ~~(3),~~ or (4) of this subsection may be further appealed to the superior court of the State on the grounds that the local board's decision is in violation of constitutional provisions, is in excess of the statutory authority or jurisdiction of the board, is made upon unlawful procedure, is affected by other error of law, is unsupported by substantial evidence in view of the entire record as submitted, or is arbitrary or capricious. ~~However, the right of a noncertified employee to appeal decisions of a local board under subdivision (3) of this subsection shall only apply to decisions concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A noncertified employee may request and shall be entitled to receive written notice as to the reasons for the employee's dismissal, demotion, or suspension without pay. The notice shall be provided to the employee prior to any local board of education hearing on the issue. This subsection shall not alter the employment status of a noncertified employee."~~

SECTION 9.6.(d) G.S. 115C-287.1 reads as rewritten:

"§ 115C-287.1. Method of employment of principals, assistant principals, supervisors, and directors.

- 1 (a) (1) ~~Beginning July 1, 1995, all~~All persons employed as school administrators
2 shall be employed pursuant to this section.
- 3 (2) ~~Notwithstanding G.S. 115C-287.1(a)(1), the following school administrators~~
4 ~~shall be employed pursuant to G.S. 115C-325:~~
- 5 a. ~~School administrators who, as of July 1, 1995, are serving in a~~
6 ~~principal or supervisor position with career status in that position;~~
7 ~~and~~
- 8 b. ~~School administrators who, as of July 1, 1995, are serving in a~~
9 ~~principal or supervisor position and who are eligible to achieve~~
10 ~~career status on or before June 30, 1997.~~
- 11 ~~A school administrator shall cease to be employed pursuant to~~
12 ~~G.S. 115C-325 if the school administrator: (i) voluntarily relinquishes career~~
13 ~~status or the opportunity to achieve career status through promotion,~~
14 ~~resignation, or otherwise; or (ii) is dismissed or demoted or whose contract~~
15 ~~is not renewed pursuant to G.S. 115C-325.~~
- 16 (3) For purposes of this section, school administrator means a:
- 17 a. Principal;
18 b. Assistant principal;
19 c. Supervisor; or
20 d. Director,
21 whose major function includes the direct or indirect supervision of teaching
22 or of any other part of the instructional program.
- 23 (4) ~~Nothing in this section shall be construed to confer career status on any~~
24 ~~assistant principal or director, or to make an assistant principal eligible for~~
25 ~~career status as an assistant principal or a director eligible for career status as~~
26 ~~a director.~~
- 27 (b) Local boards of education shall employ school administrators ~~who are ineligible for~~
28 ~~career status as provided in G.S. 115C-325(c)(3),~~ upon the recommendation of the
29 superintendent. The initial contract between a school administrator and a local board of
30 education shall be for two to four years, ending on June 30 of the final 12 months of the
31 contract. In the case of a subsequent contract between a principal or assistant principal and a
32 local board of education, the contract ~~shall be for~~ may be for up to a term of four years. In the
33 case of an initial contract between a school administrator and a local board of education, the
34 first year of the contract may be for a period of less than 12 months provided the contract
35 becomes effective on or before September 1. A local board of education may, with the written
36 consent of the school administrator, extend, renew, or offer a new school administrator's
37 contract at any time after the first 12 months of the contract so long as the term of the new,
38 renewed, or extended contract does not exceed four years. Rolling annual contract renewals are
39 not allowed. Nothing in this section shall be construed to prohibit the filling of an
40 administrative position on an interim or temporary basis.
- 41 (c) The term of employment shall be stated in a written contract that shall be entered
42 into between the local board of education and the school administrator. The school
43 administrator shall not be dismissed or demoted during the term of the contract except for the
44 grounds and by the procedure by which a ~~career~~ teacher may be dismissed or demoted for cause
45 ~~as set forth in G.S. 115C-325.~~ G.S. 115C-325.4.
- 46 (d) If a superintendent intends to recommend to the local board of education that the
47 school administrator be offered a new, renewed, or extended contract, the superintendent shall
48 submit the recommendation to the local board for action. The local board may approve the
49 superintendent's recommendation or decide not to offer the school administrator a new,
50 renewed, or extended school administrator's contract.

1 If a superintendent decides not to recommend that the local board of education offer a new,
2 renewed, or extended school administrator's contract to the school administrator, the
3 superintendent shall give the school administrator written notice of his or her decision ~~and the~~
4 ~~reasons for his or her decision~~ no later than May 1 of the final year of the contract. The
5 superintendent's reasons may not be arbitrary, capricious, discriminatory, personal, ~~or~~
6 ~~political-political, or prohibited by State or federal law.~~ No action by the local board or further
7 notice to the school administrator shall be necessary unless the school administrator files with
8 the superintendent a written request, within 10 days of receipt of the superintendent's decision,
9 for a hearing before the local board. ~~Failure to file a timely request for a hearing shall result in a~~
10 ~~waiver of the right to appeal the superintendent's decision.~~ If a school administrator files a
11 timely request for a hearing, the local board shall conduct a hearing pursuant to the provisions
12 of G.S. 115C-45(c) and make a final decision on whether to offer the school administrator a
13 new, renewed, or extended school administrator's contract.

14 If the local board decides not to offer the school administrator a new, renewed, or extended
15 school administrator's contract, the local board shall notify the school administrator of its
16 decision by June 1 of the final year of the contract. A decision not to offer the school
17 administrator a new, renewed, or extended contract may be for any cause that is not arbitrary,
18 capricious, discriminatory, personal, ~~or political-political, or prohibited by State or federal law.~~
19 ~~The local board's decision not to offer the school administrator a new, renewed, or extended~~
20 ~~school administrator's contract is subject to judicial review in accordance with Article 4 of~~
21 ~~Chapter 150B of the General Statutes.~~

22 (e) Repealed by Session Laws 1995, c. 369, s. 1.

23 (f) If the superintendent or the local board of education fails to notify a school
24 administrator by June 1 of the final year of the contract that the school administrator will not be
25 offered a new school administrator's contract, the school administrator shall be entitled to 30
26 days of additional employment or severance pay beyond the date the school administrator
27 receives written notice that a new contract will not be offered.

28 (g) ~~If, prior to appointment as a school administrator, the school administrator held~~
29 ~~career status as a teacher in the local school administrative unit in which he or she is employed~~
30 ~~as a school administrator, a school administrator shall retain career status as a teacher if the~~
31 ~~school administrator is not offered a new, renewed, or extended contract by the local board of~~
32 ~~education, unless the school administrator voluntarily relinquished that right or is dismissed or~~
33 ~~demoted pursuant to G.S. 115C-325.~~

34 (h) An individual who holds a provisional assistant principal's certificate~~license~~ and
35 who is employed as an assistant principal under G.S. 115C-284(c) shall be considered a school
36 administrator for purposes of this section. Notwithstanding subsection (b) of this section, a
37 local board may enter into one-year contracts with a school administrator who holds a
38 provisional assistant principal's certificate~~license~~. ~~If the school administrator held career status~~
39 ~~as a teacher in the local school administrative unit prior to being employed as an assistant~~
40 ~~principal and the State Board for any reason does not extend the school administrator's~~
41 ~~provisional assistant principal's certificate, the school administrator shall retain career status as~~
42 ~~a teacher unless the school administrator voluntarily relinquished that right or is dismissed or~~
43 ~~demoted under G.S. 115C-325.~~ Nothing in this subsection or G.S. 115C-284(c) shall be
44 construed to require a local board to extend or renew the contract of a school administrator who
45 holds a provisional assistant principal's certificate~~license~~.

46 **SECTION 9.6.(e)** The State Board of Education shall develop by rule as provided
47 in Article 2A of Chapter 150B a model contract for use by local boards of education in
48 awarding teacher contracts. The State Board may adopt a temporary rule for a model contract
49 as provided in G.S. 150B-21.1 to provide a contract to local boards of education no later than
50 January 1, 2014, but shall replace the temporary rule with a permanent rule as soon as
51 practicable.

SECTION 9.6.(f) G.S. 115C-325(c)(1) is repealed effective May 1, 2013. Individuals who have not received career status prior to the 2012-2013 school year shall not be granted career status during the 2012-2013 school year. All teachers who have not been granted career status prior to the 2012-2013 school year shall be offered only one-year contracts, except for qualifying teachers offered a four-year contract as provided in subsection (g) of this section, until the 2018-2019 school year.

SECTION 9.6.(g) From July 1, 2013, to June 30, 2014, all superintendents shall review the performance and evaluations of all teachers who have been employed by the local board for at least three consecutive years. Based on these reviews, the superintendent shall identify and recommend to the local board twenty-five percent (25%) of those teachers employed by the local board for at least three consecutive years to be awarded four-year contracts beginning with the 2014-2015 school year. The superintendent shall not recommend to the local board any teacher for a four-year contract unless that teacher has shown effectiveness as demonstrated by proficiency on the teacher evaluation instrument. The local board of education shall review the superintendent's recommendation and may approve that recommendation or may select other teachers as part of the twenty-five percent (25%) to offer four-year contracts, but the local board shall not offer any teacher a four-year contract unless that teacher has shown effectiveness as demonstrated by proficiency on the teacher evaluation instrument. Contract offers shall be made and accepted no later than June 30, 2014. A teacher shall cease to be employed pursuant to G.S. 115C-325 and voluntarily relinquishes career status or any claim of career status by acceptance of a four-year contract as provided in this section.

SECTION 9.6.(h) Teachers employed by a local board of education on a four-year contract beginning with the 2014-2015 school year shall receive a five hundred dollar (\$500.00) annual pay raise for each year of the four-year contract.

SECTION 9.6.(i) Subsection (a) of this section becomes effective June 30, 2018, and no teacher employed by a local board of education on or after that date shall have career status. G.S. 115C-325 applies only to teachers with career status after June 30, 2014.

SECTION 9.6.(j) Subsection (b) of this section becomes effective July 1, 2014. G.S. 115C-325.1 through G.S. 115C-325.13, as enacted by this section, shall apply to all teachers on one- or four-year contracts beginning July 1, 2014. G.S. 115C-325.1 through G.S. 115C-325.13, as enacted by this section, shall apply to all teachers employed by local boards of education or the State on or after July 1, 2018.

SECTION 9.6.(k) Subsections (c) and (d) of this section become effective July 1, 2014, and apply to all employees employed on or after that date.

SECTION 9.6.(l) Except as otherwise provided in this section, this section is effective when this act becomes law.

TEACHER CONTRACT CONFORMING CHANGES

SECTION 9.7.(a) G.S. 115C-105.26(b)(2) reads as rewritten:

"(2) State rules and policies, except those pertaining to public school State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-287.1 and ~~G.S. 115C-325~~, in Part 3 of Article 22 of this Chapter, health and safety codes, compulsory attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System."

SECTION 9.7.(b) G.S. 115C-105.37B(a)(2) reads as rewritten:

"(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational

management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by ~~G.S. 115C-325~~. Part 3 of Article 22 of this Chapter."

SECTION 9.7.(c) G.S. 115C-105.38A reads as rewritten:

"§ 115C-105.38A. Teacher competency assurance.

...
(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the ~~certified/licensed~~ staff member shall take the general knowledge test a second time. If the ~~certified/licensed~~ staff member fails to acquire a passing score on the second test, the State Board shall begin a dismissal proceeding under ~~G.S. 115C-325(q)(2a)~~. G.S. 115C-325(q)(2a) or G.S. 115C-325.13.

...
(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

- (1) The dismissal of a principal under ~~G.S. 115C-325(q)(1)~~; G.S. 115C-325.12.
- (2) The dismissal of a teacher, assistant principal, director, or supervisor under ~~G.S. 115C-325(q)(2)~~; G.S. 115C-325(q)(2) or G.S. 115C-325.13.
- (3) The dismissal or demotion of ~~a career~~ an employee for any of the grounds listed under ~~G.S. 115C-325(e)~~; G.S. 115C-325(e) or G.S. 115C-325.4.
- (4) The nonrenewal of a school administrator's or ~~probationary~~ teacher's contract of ~~employment~~; or employment.
- (5) ~~The decision to grant career status.~~

...."

SECTION 9.7.(d) G.S. 115C-105.39 reads as rewritten:

"§ 115C-105.39. Dismissal or removal of personnel; appointment of interim superintendent.

(a) Within 30 days of the initial identification of a school as low-performing, whether by the local school administrative unit under G.S. 115C-105.37(a1) or by the State Board under G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the school's principal: (i) recommend to the local board that the principal be retained in the same position, (ii) recommend to the local board that the principal be retained in the same position and a plan of remediation should be developed, (iii) recommend to the local board that the principal be transferred, or (iv) proceed under ~~G.S. 115C-325~~ G.S. 115C-325.4 to dismiss or demote the principal. The principal may be retained in the same position without a plan for remediation only if the principal was in that position for no more than two years before the school is identified as low-performing. The principal shall not be transferred to another principal position unless (i) it is in a school classification in which the principal previously demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation to the principal for at least one year following the transfer to assure the principal does not impede student performance at the school to which the principal is being transferred; and (iii) the parents of the students at the school to which the principal is being transferred are notified. The principal shall not be transferred to another low-performing school in the local school administrative unit. If the superintendent intends to recommend demotion or dismissal, the superintendent shall notify the local board. Within 15 days of (i) receiving notification that the superintendent intends to proceed under ~~G.S. 115C-325~~ G.S. 115C-325.4 or (ii) its decision concerning the superintendent's recommendation, but no later than September 30, the local board shall submit to the State Board a written notice of the action taken and the basis for that action. If the State Board does not assign an assistance team to that school or if the State Board assigns an assistance team to that school and the superintendent proceeds under

~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall take no further action. If the State Board assigns an assistance team to the school and the superintendent is not proceeding under ~~G.S. 115C-325~~G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall vote to accept, reject, or modify the local board's recommendations. The State Board shall notify the local board of its action within five days. If the State Board rejects or modifies the local board's recommendations and does not recommend dismissal of the principal, the State Board's notification shall include recommended action concerning the principal's assignment or terms of employment. Upon receipt of the State Board's notification, the local board shall implement the State Board's recommended action concerning the principal's assignment or terms of employment unless the local board asks the State Board to reconsider that recommendation. The State Board shall provide an opportunity for the local board to be heard before the State Board acts on the local board's request for a reconsideration. The State Board shall vote to affirm or modify its original recommended action and shall notify the local board of its action within five days. Upon receipt of the State Board's notification, the local board shall implement the State Board's final recommended action concerning the principal's assignment or terms of employment. If the State Board rejects or modifies the local board's action and recommends dismissal of the principal, the State Board shall proceed under ~~G.S. 115C-325(q)(1)~~G.S. 115C-325.12.

(b) The State Board shall proceed under G.S. 115C-325(q)(2) or G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with ~~G.S. 115C-325(q)(2)~~G.S. 115C-325(q)(2) or G.S. 115C-325.13.

...."

SECTION 9.7.(e) G.S. 115C-238.68(3) reads as rewritten:

"(3) ~~Career status.~~Leave of absence from local school administrative unit. – ~~Employees of the board of directors shall not be eligible for career status.~~ If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at the regional school, the local school administrative unit shall grant the leave for one year. For the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at the regional school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2)."

SECTION 9.7.(f) G.S. 115C-276(l) reads as rewritten:

"(l) To Maintain Personnel Files and to Participate in Firing and Demoting of Staff. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains complaints, commendations, or suggestions for correction or improvement about the teacher and shall participate in the firing and demoting of staff, as provided in ~~G.S. 115C-325~~Part 3 of Article 22 of this Chapter."

1 **SECTION 9.7.(g)** G.S. 115C-285(a)(7) reads as rewritten:

2 "(7) All persons employed as principals in the schools and institutions listed in
3 ~~subsection (p) of G.S. 115C-325~~ G.S. 115C-325.10 shall be compensated at
4 the same rate as are teachers in the public schools in accordance with the
5 salary schedule adopted by the State Board of Education."

6 **SECTION 9.7.(h)** G.S. 115C-304 is repealed.

7 **SECTION 9.7.(i)** G.S. 115C-333 reads as rewritten:

8 **"§ 115C-333. Evaluation of licensed employees including certain superintendents;
9 mandatory improvement plans; State board notification upon dismissal of
10 employees.**

11 (a) Annual Evaluations; Low-Performing Schools. – Local school administrative units
12 shall evaluate at least once each year all licensed employees assigned to a school that has been
13 identified as low-performing. The evaluation shall occur early enough during the school year to
14 provide adequate time for the development and implementation of a mandatory improvement
15 plan if one is recommended under subsection (b) of this section. If the employee is a teacher
16 with career status as defined under G.S. 115C-325(a)(6), or a teacher as defined under
17 G.S. 115C-325.1(5), either the principal, the assistant principal who supervises the teacher, or
18 an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the
19 employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the
20 superintendent or the superintendent's designee shall conduct the evaluation.

21 All teachers in low-performing schools who have ~~not attained career status~~ been employed
22 for less than three consecutive years shall be observed at least three times annually by the
23 principal or the principal's designee and at least once annually by a teacher and shall be
24 evaluated at least once annually by a principal. This section shall not be construed to limit the
25 duties and authority of an assistance team assigned to a low-performing school under
26 G.S. 115C-105.38.

27 A local board shall use the performance standards and criteria adopted by the State Board
28 and may adopt additional evaluation criteria and standards. All other provisions of this section
29 shall apply if a local board uses an evaluation other than one adopted by the State Board.

30 (b) Mandatory Improvement Plans. –

31 ...

32 (2a) If a licensed employee in a low-performing school receives a rating on any
33 standard on an evaluation that is below proficient or otherwise represents
34 unsatisfactory or below standard performance in an area that the licensed
35 employee was expected to demonstrate, the individual or team that
36 conducted the evaluation shall recommend to the superintendent that (i) the
37 employee receive a mandatory improvement plan designed to improve the
38 employee's ~~performance or performance,~~ (ii) the superintendent recommend
39 to the local board that if the employee is a career status teacher the employee
40 be dismissed or demoted and if the employee is a teacher on contract the
41 teacher's contract not be recommended for renewal, or (iii) if the employee
42 engaged in inappropriate conduct or performed inadequately to such a
43 degree that such conduct or performance causes substantial harm to the
44 educational environment that a proceeding for immediate dismissal or
45 demotion be instituted. If the individual or team that conducted the
46 evaluation elects not to make ~~either any~~ of the above recommendations, the
47 said individual or team shall notify the superintendent of this decision. The
48 superintendent shall determine whether to develop a mandatory
49 improvement ~~plan~~ plan, to not recommend renewal of the employee's
50 contract, or to recommend a dismissal proceeding.

51 ...

(c) Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that if the employee is a teacher with career status the teacher be dismissed or demoted under G.S. 115C-325, or if the employee is a teacher on contract the employee's contract not be renewed or if the employee has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be immediately dismissed or demoted under G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school who is a teacher with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses an employee who is a teacher on contract for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-296(d). If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is a teacher with career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in force, force, or the employee is a teacher on contract subsequently dismissed under G.S. 115C-325.4.

...."

SECTION 9.7.(j) G.S. 115C-333.1 reads as rewritten:

"§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not ~~attained career status~~ been employed for at least three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers with career status or on a four-year contract who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers with career status or on a four-year contract to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual

1 evaluation of nonlicensed employees. A local board shall use the performance standards and
2 criteria adopted by the State Board and may adopt additional evaluation criteria and standards.
3 All other provisions of this section shall apply if a local board uses an evaluation other than one
4 adopted by the State Board.

5 ...

6 (d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan
7 under subsection (b) of this section, the principal shall assess the performance of the teacher a
8 second time. The principal shall also review and consider any report provided by the qualified
9 observer under subsection (c) of this section if one has been submitted before the end of the
10 mandatory improvement plan period. If, after the second assessment of the teacher and
11 consideration of any report from the qualified observer, the superintendent or superintendent's
12 designee determines that the teacher has failed to become proficient in any of the performance
13 standards identified as deficient in the mandatory improvement plan or demonstrate sufficient
14 improvement toward such standards, the superintendent may recommend that a teacher with
15 career status be dismissed or demoted under G.S. 115C-325, or if the teacher is on contract that
16 the teacher's contract not be renewed or if the teacher has engaged in inappropriate conduct or
17 performed inadequately to such a degree that such conduct or performance causes substantial
18 harm to the educational environment, that the teacher be immediately dismissed or demoted
19 under ~~G.S. 115C-325~~ G.S. 115C-325.4. The results of the second assessment produced
20 pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's
21 inadequate performance.

22 (e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a
23 mandatory improvement plan as described in this section shall not prohibit a superintendent
24 from initiating a dismissal proceeding against a teacher under the provisions of ~~G.S. 115C-325~~.
25 G.S. 115C-325 or G.S. 115C-325.4. However, the superintendent shall not be entitled to the
26 substantial evidence provision in subsection (d) of this section if such mandatory improvement
27 plan is not utilized.

28 (f) State Board Notification. – If a local board dismisses a teacher with career status for
29 any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses a teacher on
30 contract for cause or elects to not renew a teacher's contract as a result of a superintendent's
31 recommendation under subsection (d) of this section, it shall notify the State Board of the
32 action, and the State Board annually shall provide to all local boards the names of those
33 teachers. If a local board hires one of these teachers, within 60 days the superintendent or the
34 superintendent's designee shall observe the teacher, develop a mandatory improvement plan to
35 assist the teacher, and submit the plan to the State Board. The State Board shall review the
36 mandatory improvement plan and may provide comments and suggestions to the
37 superintendent. If on the next evaluation the teacher receives a rating on any standard that was
38 an area of concern on the mandatory improvement plan that is again below proficient or a
39 rating that otherwise represents unsatisfactory or below standard performance, the local board
40 shall notify the State Board, and the State Board shall initiate a proceeding to revoke the
41 teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least
42 a proficient rating on all of the overall performance standards that were areas of concern on the
43 mandatory improvement plan, the local board shall notify the State Board that the teacher is in
44 good standing, and the State Board shall not continue to provide the teacher's name to local
45 boards under this subsection unless the teacher has career status and is subsequently dismissed
46 under G.S. 115C-325 except for a reduction in ~~force~~ force or is a teacher on contract who is
47 subsequently dismissed under G.S. 115C-325.4. If, however, on this next evaluation the teacher
48 receives a developing rating on any standards that were areas of concern on the mandatory
49 improvement plan, the teacher shall have one more year to bring the rating to ~~proficient~~.
50 If proficient if the local board elects to renew the teacher's contract. If by the end of this second
51 year, year the teacher is not proficient in all standards that were areas of concern on the

1 mandatory improvement plan, the local board shall notify the State Board, and the State Board
2 shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

3"

4 **SECTION 9.7.(k)** G.S. 115C-335(b) reads as rewritten:

5 "(b) Training. – The State Board, in collaboration with the Board of Governors of The
6 University of North Carolina, shall develop programs designed to train principals and
7 superintendents in the proper administration of the employee evaluations developed by the
8 State Board. The Board of Governors shall use the professional development programs for
9 public school employees that are under its authority to make this training available to all
10 principals and superintendents at locations that are geographically convenient to local school
11 administrative units. The programs shall include methods to determine whether an employee's
12 performance has improved student learning, the development and implementation of
13 appropriate professional growth and mandatory improvement plans, the process for contract
14 nonrenewal, and the dismissal process under G.S. 115C-325. Part 3 of Article 22 of this
15 Chapter. The Board of Governors shall ensure that the subject matter of the training programs
16 is incorporated into the masters in school administration programs offered by the constituent
17 institutions. The State Board, in collaboration with the Board of Governors, also shall develop
18 in-service programs for licensed public school employees that may be included in a mandatory
19 improvement plan created under G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of
20 Governors shall use the professional development programs for public school employees that
21 are under its authority to make this training available at locations that are geographically
22 convenient to local school administrative units."

23 **SECTION 9.7.(l)** G.S. 115C-404(b) reads as rewritten:

24 "(b) Documents received under this section shall be used only to protect the safety of or
25 to improve the education opportunities for the student or others. Information gained in
26 accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a
27 student. Upon receipt of each document, the principal shall share the document with those
28 individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student,
29 and (ii) a specific need to know in order to protect the safety of the student or others. Those
30 individuals shall indicate in writing that they have read the document and that they agree to
31 maintain its confidentiality. Failure to maintain the confidentiality of these documents as
32 required by this section is grounds for the dismissal of an employee who is not employed on
33 contract, grounds for dismissal of an employee on contract not a career employee in accordance
34 with G.S. 115C-325.4(a)(9), and is grounds for dismissal of an employee who is a career
35 employee, teacher in accordance with G.S. 115C-325(e)(1)i."

36 **SECTION 9.7.(m)** G.S. 143B-146.7(b) reads as rewritten:

37 "(b) At any time after the State Board identifies a school as low-performing under this
38 Part, the ~~Secretary~~ State Board shall proceed under G.S. 115C-325(p1) or G.S. 115C-325.11 for
39 the dismissal of ~~certificated~~ licensed instructional personnel assigned to that school."

40 **SECTION 9.7.(n)** G.S. 143B-146.8 reads as rewritten:

41 "**§ 143B-146.8. Evaluation of certificated-licensed personnel and principals; action plans;**
42 **State Board notification.**

43 (a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at
44 least once each year all ~~certificated-licensed~~ personnel assigned to a participating school that
45 has been identified as low-performing but has not received an assistance team. The evaluation
46 shall occur early enough during the school year to provide adequate time for the development
47 and implementation of an action plan if one is recommended under subsection (b) of this
48 section. If the employee is a teacher as defined under ~~G.S. 115C-325(a)(6),~~
49 G.S. 115C-325(a)(6) with career status or a teacher as defined in G.S. 115C-325.1(5) on
50 contract, either the principal or an assessment team assigned under G.S. 143B-146.9 shall

1 conduct the evaluation. If the employee is a school administrator as defined under
2 G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

3 Notwithstanding this subsection or any other law, the principal shall observe at least three
4 times annually, a teacher shall observe at least once annually, and the principal shall evaluate at
5 least once annually, all teachers who have ~~not attained career status~~ been employed for less
6 than three consecutive years. All other employees defined as teachers under
7 G.S. 115C-325(a)(6) with career status or teachers as defined in G.S. 115C-325.1(5) on a
8 four-year contract who are assigned to participating schools that are not designated as
9 low-performing shall be evaluated annually unless the ~~Secretary~~ State Board adopts rules that
10 allow specified categories of teachers with career status or on four-year contracts to be
11 evaluated more or less frequently. The ~~Secretary~~ State Board also may adopt rules requiring the
12 annual evaluation of ~~noncertificated nonlicensed~~ personnel. This section shall not be construed
13 to limit the duties and authority of an assistance team assigned to a low-performing school.

14 ~~The Secretary shall use the State Board's performance standards and criteria unless the~~
15 ~~Secretary develops an alternative evaluation that is properly validated and that includes~~
16 ~~standards and criteria similar to those adopted by the State Board. All other provisions of this~~
17 ~~section shall apply if an evaluation is used other than one adopted by the State Board.~~

18 (b) Action Plans. – If a ~~certificated~~ licensed employee in a participating school that has
19 been identified as low-performing receives an unsatisfactory or below standard rating on any
20 function of the evaluation that is related to the employee's instructional duties, the individual or
21 team that conducted the evaluation shall recommend to the principal that: (i) the employee
22 receive an action plan designed to improve the employee's performance; or (ii) the principal
23 recommend ~~to the Secretary~~ that the employee who is a career teacher be dismissed or demoted
24 as provided in G.S. 115C-325 or the employee who is a teacher on contract not be
25 recommended for renewal; or (iii) if the employee who is a teacher on contract engages in
26 inappropriate conduct or performs inadequately to such a degree that such conduct or
27 performance causes substantial harm to the educational environment that a proceeding for
28 immediate dismissal or demotion under G.S. 115C-325.4 be instituted. The principal shall
29 determine whether to develop an action ~~plan~~ plan, to not recommend renewal of the employee's
30 contract, or to recommend a dismissal proceeding. The person who evaluated the employee or
31 the employee's supervisor shall develop the action plan unless an assistance team or assessment
32 team conducted the evaluation. If an assistance team or assessment team conducted the
33 evaluation, that team shall develop the action plan in collaboration with the employee's
34 supervisor. Action plans shall be designed to be completed within 90 instructional days or
35 before the beginning of the next school year. The ~~State Board, in consultation with the~~
36 ~~Secretary~~ Board shall develop guidelines that include strategies to assist in evaluating
37 ~~certificated~~ licensed personnel and developing effective action plans within the time allotted
38 under this section. The ~~Secretary~~ State Board may adopt policies for the development and
39 implementation of action plans or professional development plans for personnel who do not
40 require action plans under this section.

41 (c) Reevaluation. – Upon completion of an action plan under subsection (b) of this
42 section, the principal or the assessment team shall evaluate the employee a second time. If on
43 the second evaluation the employee receives one unsatisfactory or more than one below
44 standard rating on any function that is related to the employee's instructional duties, the
45 principal shall recommend that the employee with career status be dismissed or demoted under
46 G.S. 115C-325, or that an employee's contract not be renewed or if the employee engages in
47 inappropriate conduct or performs inadequately to such a degree that such conduct or
48 performance causes substantial harm to the educational environment, that the employee be
49 dismissed or demoted under G.S. 115C-325.4. The results of the second
50 evaluation shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If ~~the Secretary dismisses an employee is dismissed for any reason except a reduction in force under G.S. 115C-325(e)(1)l.~~ cause or an employee's contract is not renewed as a result of a superintendent's recommendation under subsection (b) or (c) of this section, the ~~Secretary shall notify the State Board~~ shall be notified of the action, and the State Board annually shall provide to all local boards of education the names of those individuals. If a local board hires one of these individuals, that local board shall proceed under G.S. 115C-333(d).

...."

SECTION 9.7.(o) G.S. 115C-105.38A, as amended by subsection (c) of this section, reads as rewritten:

"§ 115C-105.38A. Teacher competency assurance.

...

(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the licensed staff member shall take the general knowledge test a second time. If the licensed staff member fails to acquire a passing score on the second test, the State Board shall begin a dismissal proceeding under ~~G.S. 115C-325(q)(2a) or~~ G.S. 115C-325.13.

...

(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under G.S. 115C-325.12.

(2) The dismissal of a teacher, assistant principal, director, or supervisor under ~~G.S. 115C-325(q)(2) or~~ G.S. 115C-325.13.

(3) The dismissal or demotion of an employee for any of the grounds listed under ~~G.S. 115C-325(e) or~~ G.S. 115C-325.4.

(4) The nonrenewal of a school administrator's or teacher's contract of employment.

...."

SECTION 9.7.(p) G.S. 115C-105.39(b), as amended by subsection (d) of this section, reads as rewritten:

"(b) The State Board shall proceed under ~~G.S. 115C-325(q)(2) or~~ G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with ~~G.S. 115C-325(q)(2) or~~ G.S. 115C-325.13.

...."

SECTION 9.7.(q) G.S. 115C-238.29F(e)(3) reads as rewritten:

"(3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325 prior to receiving~~ received a leave of absence to teach at a charter school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the charter school if an

appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2)."~~

SECTION 9.7.(r) G.S. 115C-238.68(3), as amended by subsection (e) of this section, reads as rewritten:

"(3) Leave of absence from local school administrative unit. – If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at the regional school, the local school administrative unit shall grant the leave for one year. For the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has ~~career status under G.S. 115C-325~~ prior to ~~receiving~~ received a leave of absence to teach at the regional school may return to a public school in the local school administrative unit ~~with career status~~ at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. ~~If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2)."~~

SECTION 9.7.(s) G.S. 115C-333, as amended by subsection (i) of this section, reads as rewritten:

"§ 115C-333. Evaluation of licensed employees including certain superintendents; mandatory improvement plans; State board notification upon dismissal of employees.

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all licensed employees assigned to a school that has been identified as low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher ~~with career status as defined under G.S. 115C-325(a)(6), or a teacher as defined under G.S. 115C-325.1(5), either the principal, the assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.~~

All teachers in low-performing schools who have been employed for less than three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans. –

...

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the employee's performance, (ii) the superintendent recommend to the local board that ~~if the employee is a career status teacher the employee be dismissed or demoted and if the employee is a teacher on contract the teacher's~~ employee's contract not be recommended for renewal, or (iii) if the employee engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. If the individual or team that conducted the evaluation elects not to make any of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.

...

(c) Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that ~~if the employee is a teacher with career status the teacher be dismissed or demoted under G.S. 115C-325, or if the employee is a teacher on contract the~~ employee's contract not be renewed or if the employee has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be immediately dismissed or demoted under G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school ~~who is a teacher with career status for any reason except a reduction in force under G.S. 115C-325(c)(1)I., or dismisses an employee who is a teacher on contract for~~ cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-296(d). If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that

the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is ~~a teacher with career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in force, or the employee is a teacher on contract subsequently dismissed under G.S. 115C-325.4.~~

...."

SECTION 9.7.(t) G.S. 115C-333.1, as amended by subsection (j) of this section, reads as rewritten:

"§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not been employed for at least three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers ~~with career status or on a four-year contract~~who have been employed for three or more years who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers ~~with career status or on a four-year contract~~employed for three or more years to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

...

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that ~~a teacher with career status be dismissed or demoted under G.S. 115C-325, or if the teacher is on contract that the teacher's contract not be renewed-renewed,~~ or if the teacher has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the teacher be immediately dismissed or demoted under G.S. 115C-325.4. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of ~~G.S. 115C-325 or~~ G.S. 115C-325.4. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher~~with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses a teacher on contract~~ for cause or elects to not renew a teacher's contract as a result of a superintendent's recommendation under subsection (d) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those

1 teachers. If a local board hires one of these teachers, within 60 days the superintendent or the
2 superintendent's designee shall observe the teacher, develop a mandatory improvement plan to
3 assist the teacher, and submit the plan to the State Board. The State Board shall review the
4 mandatory improvement plan and may provide comments and suggestions to the
5 superintendent. If on the next evaluation the teacher receives a rating on any standard that was
6 an area of concern on the mandatory improvement plan that is again below proficient or a
7 rating that otherwise represents unsatisfactory or below standard performance, the local board
8 shall notify the State Board, and the State Board shall initiate a proceeding to revoke the
9 teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least
10 a proficient rating on all of the overall performance standards that were areas of concern on the
11 mandatory improvement plan, the local board shall notify the State Board that the teacher is in
12 good standing, and the State Board shall not continue to provide the teacher's name to local
13 boards under this subsection unless the teacher has career status and is subsequently dismissed
14 ~~under G.S. 115C-325 except for a reduction in force or is a teacher on contract who is~~
15 ~~subsequently dismissed~~ under G.S. 115C-325.4. If, however, on this next evaluation the teacher
16 receives a developing rating on any standards that were areas of concern on the mandatory
17 improvement plan, ~~the teacher shall have one more year to bring the rating to proficient if the~~
18 local board elects to renew the teacher's contract. If by the end of this second year the teacher is
19 not proficient in all standards that were areas of concern on the mandatory improvement plan,
20 the local board shall notify the State Board, and the State Board shall initiate a proceeding to
21 revoke the teacher's license under G.S. 115C-296(d).

22"

23 **SECTION 9.7.(u)** Article 23 of Chapter 115C of the General Statutes is amended
24 by adding a new section to read:

25 **"§ 115C-344. Employment benefits for exchange teachers.**

26 An exchange teacher is a nonimmigrant alien teacher participating in an exchange visitor
27 program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or
28 by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q). For
29 purposes of determining eligibility to receive employment benefits under this Chapter,
30 including personal leave, annual vacation leave, and sick leave, an exchange teacher shall be
31 considered a permanent teacher if employed with the expectation of at least six full consecutive
32 monthly pay periods of employment and if employed at least 20 hours per week. An exchange
33 teacher is not a teacher for purposes of the Teachers' and State Employees' Retirement System
34 of North Carolina as provided in G.S. 135-1(25)."

35 **SECTION 9.7.(v)** G.S. 115C-404(b), as amended by subsection (n) of this section,
36 reads as rewritten:

37 "(b) Documents received under this section shall be used only to protect the safety of or
38 to improve the education opportunities for the student or others. Information gained in
39 accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a
40 student. Upon receipt of each document, the principal shall share the document with those
41 individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student,
42 and (ii) a specific need to know in order to protect the safety of the student or others. Those
43 individuals shall indicate in writing that they have read the document and that they agree to
44 maintain its confidentiality. Failure to maintain the confidentiality of these documents as
45 required by this section is grounds for the dismissal of an employee who is not employed on
46 ~~contract, contract and~~ grounds for dismissal of an employee on contract in accordance with
47 ~~G.S. 115C-325.4(a)(9). G.S. 115C-325.4(a)(9), and grounds for dismissal of an employee who~~
48 ~~is a career teacher in accordance with G.S. 115C-325(e)(1);~~"

49 **SECTION 9.7.(w)** G.S. 143B-146.7(b), as amended by subsection (m) of this
50 section, reads as rewritten:

"(b) At any time after the State Board identifies a school as low-performing under this Part, the State Board shall proceed under ~~G.S. 115C-325(p1)~~ or G.S. 115C-325.11 for the dismissal of licensed instructional personnel assigned to that school."

SECTION 9.7.(x) G.S. 143B-146.8, as amended by subsection (n) of this section, reads as rewritten:

"§ 143B-146.8. Evaluation of licensed personnel and principals; action plans; State Board notification.

(a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at least once each year all licensed personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a ~~teacher as defined under G.S. 115C-325(a)(6) with career status or a teacher as defined in G.S. 115C-325.1(5) on contract~~, G.S. 115C-325.1(5), either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

Notwithstanding this subsection or any other law, the principal shall observe at least three times annually, a teacher shall observe at least once annually, and the principal shall evaluate at least once annually, all teachers who have been employed for less than three consecutive years. All other employees who have been employed for three or more years and are defined as teachers under G.S. 115C-325(a)(6) with career status or teachers as defined in G.S. 115C-325.1(5) on a four-year contract who are assigned to participating schools that are not designated as low-performing shall be evaluated annually unless the State Board adopts rules that allow specified categories of teachers with ~~career status or on four-year contracts~~ three or more years employment to be evaluated more or less frequently. The State Board also may adopt rules requiring the annual evaluation of nonlicensed personnel. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school.

(b) Action Plans. – If a licensed employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the principal that: (i) the employee receive an action plan designed to improve the employee's performance; or (ii) ~~the principal recommend that the employee who is a career teacher be dismissed or demoted as provided in G.S. 115C-325 or the employee who is a teacher on contract~~ the employee's contract not be recommended for renewal; or (iii) if the employee who is a teacher on contract engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion under G.S. 115C-325.4 be instituted. The principal shall determine whether to develop an action plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist in evaluating licensed personnel and developing effective action plans within the time allotted under this section. The State Board may adopt policies for the development and implementation of action plans or professional development plans for personnel who do not require action plans under this section.

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the principal or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the principal shall recommend that the ~~employee with career status be dismissed or demoted under G.S. 115C-325, or that an employee on employee's contract not be renewed-renewed,~~ or if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be dismissed or demoted under G.S. 115C-325.4. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

...."

SECTION 9.7.(y) Subsections (a) through (n) of this section become effective July 1, 2014. Subsections (o) through (x) become effective June 30, 2018.

PART X. COMMUNITY COLLEGES

REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE

SECTION 10.1.(a) Notwithstanding any other provision of law, and consistent with the authority established in G.S. 115D-3, the President of the North Carolina Community College System may reorganize the System Office in accordance with recommendations and plans submitted to and approved by the State Board of Community Colleges.

SECTION 10.1.(b) This section expires June 30, 2014.

CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS

SECTION 10.2. Of the funds appropriated to the Community Colleges System Office for the 2013-2015 fiscal biennium for the College Information System, up to one million two hundred fifty thousand dollars (\$1,250,000) shall not revert at the end of each fiscal year but shall remain available until expended. These funds may be used only to purchase periodic system upgrades.

BASIC SKILLS PLUS

SECTION 10.3.(a) Notwithstanding any other provision of law, the State Board of Community Colleges may authorize a local community college to use up to twenty percent (20%) of the State Literacy Funds allocated to it to provide employability skills, job-specific occupational and technical skills, and developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate.

SECTION 10.3.(b) Notwithstanding any other provision of law, if a community college is authorized by the State Board to provide employability skills, job-specific occupational or technical skills, or developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate, the college may waive the tuition and registration fees associated with this instruction.

ENROLLMENT FUNDING

SECTION 10.4.(a) Beginning with the 2013-2015 fiscal biennium, community colleges shall receive funding based on the number of full-time equivalent (FTE) students enrolled in curriculum, continuing education, and Basic Skills courses, by tiered funding level. Community colleges shall calculate this enrollment as the higher of the current year's total enrollment or the average enrollment of the last two academic years.

The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by February 1, 2014, on the use of nonrecurring funds appropriated to it to phase in this new enrollment funding model.

SECTION 10.4.(b) G.S. 115D-5 is amended by adding a new subsection to read:

"(v) Community colleges may teach technical education, health care, developmental education, and STEM-related courses at any time during the year, including the summer term. Student membership hours from these courses shall be counted when computing full-time equivalent students (FTE) for use in budget funding formulas at the State level."

SECTION 10.4.(c) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by October 1, 2014, on FTE for the 2014 summer term.

SECTION 10.4.(d) Subsection (b) of this section is effective when it becomes law and applies beginning with the summer 2014 term.

PERFORMANCE FUNDING

SECTION 10.5.(a) G.S. 115D-31.3 reads as rewritten:

"§ 115D-31.3. Institutional performance accountability.

(a) ~~Creation~~Implementation of Accountability Measures and Performance Standards. – The State Board of Community Colleges shall ~~create new~~adopt and implement a system of accountability measures and performance standards for the Community College System. ~~The At least once every three years, the~~ State Board of Community Colleges shall ~~review~~review, and revise if necessary, annually the accountability measures and performance standards to ensure that they are appropriate for use in recognition of successful institutional performance. If the State Board determines that accountability measures and performance standards must be revised following a review required by this subsection, the State Board shall report to the Joint Legislative Education Oversight Committee prior to the implementation of any proposed revisions.

(b) through (d) Repealed by Session Laws 2000-67, s. 9.7, effective July 1, 2000.

(e) Mandatory Performance Measures. – The State Board of Community Colleges shall evaluate each college on the following eight performance measures:

- (1) Progress of basic skills students.
- (2) ~~Passing rate for~~Attainment of General Educational Development (GED) ~~diploma examinations~~diplomas by students.
- (3) Performance of students who transfer to a four-year institution.
- (4) Success ~~rates~~ of developmental students in subsequent college-level English courses.
- (5) Success ~~rates~~ of developmental students in subsequent college-level math courses.
- (5a) Progress of first-year curriculum students.
- (6) Repealed by Session Laws 2012-142, s. 8.5, effective July 1, 2012.
- (7) Curriculum student retention and graduation.
- (8) Repealed by Session Laws 2012-142, s. 8.5, effective July 1, 2012.
- (9) ~~Passing rate for~~Attainment of licensure and ~~certification~~examinationscertifications by students.

The State Board may also evaluate each college on additional performance measures.

(f) Publication of Performance Ratings. – Each college shall publish its performance on the eight measures set out in subsection (e) of this section (i) annually in its electronic catalog or on the Internet and (ii) in its printed catalog each time the catalog is reprinted.

The Community Colleges System Office shall publish the performance of all colleges on all eight measures.

(g) ~~Recognition for of Successful Institutional Performance. – For the purpose of recognition for of successful institutional performance, the State Board of Community Colleges shall evaluate each college on the eight performance measures set out in subsection (e) of this section. For each of these eight performance measures on which a college performs successfully, the college may retain and carry forward into the next fiscal year one fourth of one percent (1/4 of 1%) of its final fiscal year General Fund appropriations. Subject to the availability of funds, the State Board may allocate funds among colleges based on the evaluation of each institution's performance, including at least the following components:~~

(1) ~~Program quality evaluated by determining a college's rate of student success on each measure as compared to a systemwide performance baseline and goal.~~

(2) ~~Program impact on student outcomes evaluated by the number of students succeeding on each measure.~~

(g1) ~~Carryforward of Funds Allocated Based on Performance. – A college that receives funds under subsection (g) of this section may retain and carry forward an amount up to or equal to its performance-based funding allocation for that year into the next fiscal year.~~

(h) ~~Recognition for Exceptional Institutional Performance. – Funds not allocated to colleges in accordance with subsection (g) of this section shall be used to reward exceptional institutional performance. A college is deemed to have achieved exceptional institutional performance if it succeeds on all eight performance measures. After all State aid budget obligations have been met, the State Board of Community Colleges shall distribute the remainder of these funds to colleges that achieve exceptional institutional performance status based on the pro rata share of total full time equivalent (FTE) students served at each college. The State Board may withhold the portion of funds for which a college may qualify as an exceptional institution while the college is under investigation by a State or federal agency or if its performance does not meet the standards established by the Southern Association of Colleges and Schools, the State Auditor's Office, or the State Board of Community Colleges. The State Board may release the funds at such time as the investigations are complete and the issues are resolved.~~

(i) ~~Permissible Uses of Funds. – Funds retained by colleges or distributed to colleges pursuant to this section shall be used for the purchase of equipment, initial program start up costs including faculty salaries for the first year of a program, and one time faculty and staff bonuses. These funds shall not be used for continuing salary increases or for other obligations beyond the fiscal year into which they were carried forward. These funds shall be encumbered within 12 months of the fiscal year into which they were carried forward.~~

(j) ~~Use of funds in low wealth counties. – Funds retained by colleges or distributed to colleges pursuant to this section may be used to supplement local funding for maintenance of plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2, and if the county in which the main campus of the community college is located meets all of the following:~~

(1) ~~Is designated as a Tier 1 county in accordance with G.S. 143B-437.08.~~

(2) ~~Had an unemployment rate of at least two percent (2%) above the State average or greater than seven percent (7%), whichever is higher, in the prior calendar year.~~

(3) ~~Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low wealth counties, is eighty percent (80%) or less of the State average.~~

~~Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended."~~

SECTION 10.5.(b) Section 9.2(b) of S.L. 1999-237 is repealed.

SECTION 10.5.(c) Section 8.6 of S.L. 2012-142 is repealed.

SECTION 10.5.(d) Effective only for the 2011-2012 reporting year, and notwithstanding G.S. 115D-31.3, the State Board of Community Colleges shall not require a college to report its performance on the progress of basic skills students as part of the mandatory performance standards prescribed by G.S. 115D-31.3(e), as amended by this section. In distributing performance-based funding allocations for the 2013-2014 fiscal year, notwithstanding G.S. 115D-31.3, the State Board of Community Colleges shall not consider the progress of basic skills students or the attainment of GED diplomas for the purpose of recognizing successful institutional performance. However, the State Board of Community Colleges shall distribute a portion of the Basic Skills block grant appropriated under this act for the 2013-2014 fiscal year based on the number of GED diplomas awarded by each college.

SECTION 10.5.(e) Beginning with the 2012-2013 reporting year, the State Board of Community Colleges shall require a college to report its performance on all eight of the mandatory performance standards prescribed by G.S. 115D-31.3(e), as amended by this section.

SECTION 10.5.(f) Beginning with the 2014-2015 fiscal year, the State Board of Community Colleges shall allocate three million three hundred thirty-three thousand three hundred thirty-three dollars (\$3,333,333) of the Basic Skills block grant in accordance with G.S. 115D-31.3(g), as amended by this section.

REPEAL OF SENIOR CITIZEN TUITION WAIVER

SECTION 10.6. G.S. 115D-5(b)(11) is repealed.

STUDY OF THE APPROVAL PROCESS FOR MULTICAMPUS CENTERS

SECTION 10.7. The State Board of Community Colleges shall develop a process for approval of community college multicampus centers. The Board shall report to the Joint Legislative Education Oversight Committee by January 1, 2014, on its plan for a multicampus approval process and any statutory changes necessary to implement the plan.

COOPERATION BY THE MANUFACTURING SOLUTIONS CENTER AND THE TEXTILE TECHNOLOGY CENTER

SECTION 10.8.(a) The General Assembly finds that the missions of both the Manufacturing Solutions Center at Catawba Valley Community College and the Textile Technology Center at Gaston College are to help North Carolina manufacturers create and maintain jobs and increase sales.

The Manufacturing Solutions Center accomplishes this mission by (i) enhancing and improving products through research and development; (ii) creating prototypes for new products; (iii) analyzing new materials to enhance structure; (iv) testing products for reliability and quality; (v) training personnel in Lean Manufacturing and Supply Chain strategies; (vi) providing a forum for rollout of new technologies; (vii) providing hands-on assistance to companies in the areas of international sales and government procurement; and (viii) advocating for industry.

The Textile Technology Center accomplishes this mission by (i) developing a world-class workforce for the textile industry in North Carolina; (ii) identifying and solving problems confronting the textile industry; and (iii) serving as a statewide center of excellence that serves all components of the textile industry.

SECTION 10.8.(b) The General Assembly further finds that the strategies of the Manufacturing Solutions Center and the Textile Technology Center are complementary and that cooperation by the Centers is in the best interest of the State; therefore, the General Assembly directs the Centers to work cooperatively whenever possible to maximize the State's ability to help North Carolina manufacturers create and maintain jobs and increase sales.

EXPAND INDUSTRIAL AND ENGINEERING TECHNOLOGIES EDUCATION TO FRESHMEN AND SOPHOMORE HIGH SCHOOL STUDENTS

SECTION 10.9.(a) G.S. 115D-20(4)a.2. reads as rewritten:

"§ 115D-20. Powers and duties of trustees.

The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it by the State Board of Community Colleges. The powers and duties of trustees shall include the following:

(4) To apply the standards and requirements for admission and graduation of students and other standards established by the State Board of Community Colleges. Notwithstanding any law or administrative rule to the contrary, local community colleges are permitted to offer the following programs:

a. Subject to the approval of the State Board of Community Colleges, local community colleges may collaborate with local school administrative units to offer courses through the following programs:

2. Academic transition pathways for qualified junior and senior high school students that lead to a career technical education certificate or ~~diploma~~ diploma and academic transition pathways for qualified freshmen and sophomore high school students that lead to a career technical education certificate or diploma in industrial and engineering technologies."

SECTION 10.9.(b) The Community Colleges System Office shall report to the Joint Legislative Education Oversight Committee by October 1, 2014, and October 1, 2015, on freshmen and sophomore students served under G.S. 115D-20(4)a.2., as amended by subsection (a) of this section. The report shall include the number of and budget FTE for freshmen students and the number of and budget FTE for sophomore students.

STATE BOARD OF COMMUNITY COLLEGES MEETINGS

SECTION 10.10. G.S. 115D-2.1(g) reads as rewritten:

"(g) The State Board of Community Colleges shall meet at stated times established by the State Board, but not less frequently than ~~four~~ eight times a year. The State Board of Community Colleges shall also meet with the State Board of Education and the Board of Governors of The University of North Carolina at least once a year to discuss educational matters of mutual interest and to recommend to the General Assembly such policies as are appropriate to encourage the improvement of public education at every level in this State; these joint meetings shall be hosted by the three Boards according to the schedule set out in G.S. 115C-11(b1). Special meetings of the State Board may be set at any regular meeting or may be called by the chairman. A majority of the qualified members of the State Board shall constitute a quorum for the transaction of business."

ACQUISITION BY COMMUNITY COLLEGES OF REAL PROPERTY BY LEASE PURCHASE

SECTION 10.11.(a) G.S. 115D-58.15 reads as rewritten:

"§ 115D-58.15. Lease purchase and installment purchase contracts for ~~equipment~~ equipment and real property.

(a) Authority. – ~~The~~ Notwithstanding any other provision of law to the contrary, the board of trustees of a community college may use lease purchase or installment purchase contracts to purchase or finance the purchase of equipment or real property as provided in this

1 section. A college shall not have more than five State-funded contracts in effect at any one
2 time.

3 (b) Contract Approval. – Contracts for more than one hundred thousand dollars
4 (\$100,000) or for a term of more than three years shall be subject to review and approval as
5 provided in this subsection. If the source of funds for payment of the obligation by the
6 community college is intended to be local funds, the contract must be approved by resolution of
7 the tax-levying authority, and the authority must acknowledge in writing its understanding that
8 the community college may require appropriations from the tax-levying authority in order to
9 meet the college's obligations under the contract. The tax-levying authority may in each fiscal
10 year appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the
11 contract. The source of funds for lease purchase or installment purchase contracts for real
12 property shall be local funds. If the source of funds for payment of the obligation by the
13 community college is intended to be State funds, the contract must be approved by resolution of
14 the State Board of Community Colleges. The State Board may in each fiscal year allocate
15 sufficient funds to meet the amounts to be paid during the fiscal year under the contract.

16 (c) Local Government Commission. – A contract that is subject to approval by the
17 tax-levying authority also shall be subject to approval by the Local Government Commission as
18 provided in Article 8 of Chapter 159 of the General Statutes if the contract:

- 19 (1) Extends for five or more years from the date of the contract;
- 20 (2) Obligates the board of trustees to pay sums of money to another, regardless
21 of whether the payee is a party to the contract; and
- 22 (3) Obligates the board of trustees to pay five hundred thousand dollars
23 (\$500,000) or more over the full term of the contract.

24 (d) Application of Section. – When determining whether a contract is subject to
25 approval under this section the total cost of exercising an option to upgrade property shall be
26 taken into consideration. The term of a contract shall include periods that may be added to the
27 original term through the exercise of an option to renew or extend.

28 (e) Nonsubstitution Clause. – No contract entered into under this section may contain a
29 nonsubstitution clause that restricts the right of a board of trustees to:

- 30 (1) Continue to provide a service or activity; or
- 31 (2) Replace or provide a substitute for any property financed or purchased by
32 the contract.

33 (f) Nonappropriations Clause. – No deficiency judgment may be rendered against any
34 board of trustees, any tax-levying authority, the State Board of Community Colleges, or the
35 State of North Carolina in any action for breach of a contractual obligation authorized by this
36 section. The taxing power of a tax-levying authority and the State is not and may not be
37 pledged directly or indirectly to secure any moneys due under a contract authorized by this
38 section."

39 **SECTION 10.11.(b)** G.S. 115D-20(11) reads as rewritten:

40 "(11) To enter into lease purchase and installment purchase contracts for
41 equipment and real property under G.S. 115D-58.15."

43 **CLARIFY EMPLOYEE ACADEMIC ASSISTANCE**

44 **SECTION 10.12.** G.S. 115D-5(b1) reads as rewritten:

45 "(b1) The State Board of Community Colleges shall not waive tuition and registration fees
46 for community college faculty or staff members. Community colleges may, however, use State
47 or local funds to pay tuition and registration fees for one course per semester for full-time
48 community college faculty or staff members employed for a nine-, ten-, eleven-, or
49 twelve-month term. Community colleges may also use State and local funds to pay tuition and
50 registration fees for professional development courses and for other courses consistent with the
51 academic assistance program authorized by the State Personnel Commission."

REVISE TARGETED ASSISTANCE CRITERIA

SECTION 10.13. G.S. 115D-40.1(b) reads as rewritten:

"(b) Targeted Assistance. – Notwithstanding subsection (a) of this section, the State Board may allocate ~~no more than up to~~ ten percent (10%) of the funds appropriated for Financial Assistance for Community College Students ~~to the following students:~~

- (1) Students who ~~do not qualify for need-based assistance but who~~ enroll in low-enrollment programs that prepare students for high-demand ~~occupations, and occupations.~~
- (2) Students with disabilities who have been referred by the Department of Health and Human Services, Division of Vocational Rehabilitation ~~Rehabilitation~~, and are enrolled in a community college."

REPURPOSE OF FUNDS

SECTION 10.14.(a) Of the funds appropriated to Forsyth Technical Community College in fiscal year 2005-2006 for the construction of the Center for Emerging Technologies at Forsyth Technical Community College, the sum of three million dollars (\$3,000,000) for fiscal year 2013-2014 shall be transferred by the State Treasurer to Budget Code 26800 to be administered by the North Carolina Community Colleges System Office. The Community Colleges System Office shall allocate up to three hundred thousand dollars (\$300,000) of these funds each fiscal year to Forsyth Technical Community College for the operating costs and lease expenses for the community college's biotechnology, nanotechnology, design, and advanced information technology programs; Small Business Center; and Corporate and Industrial Training programs. The Community Colleges System Office shall continue to allocate these funds to Forsyth Technical Community College for this purpose until those funds are expended. No additional State funds shall be made available to Forsyth Technical Community College to be used for the purposes described in this section.

SECTION 10.14.(b) The State Treasurer shall transfer all funds in Budget Codes 40520 and 40620 that are unencumbered as of July 1, 2013, except those funds to be transferred in accordance with subsection (a) of this section, to Budget Code 16800. Of the funds transferred to Budget Code 16800 under this subsection, the State Board of Community Colleges shall allocate those funds to community colleges under the equipment allocation formula for the 2013-2014 fiscal year in accordance with G.S. 115D-31(d).

PART XI. UNIVERSITIES**USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS**

SECTION 11.1.(a) There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of sixty-four million two hundred eighty-seven thousand two hundred forty-two dollars (\$64,287,242) for the 2013-2014 fiscal year and the sum of thirty-seven million two hundred eighty-seven thousand two hundred forty-two dollars (\$37,287,242) for the 2014-2015 fiscal year to be used for The University of North Carolina Need-Based Financial Aid Program.

SECTION 11.1.(b) There is appropriated from the Escheat Fund income to the State Board of Community Colleges the sum of fifteen million two hundred forty-six thousand three hundred seventy-three dollars (\$15,246,373) for the 2013-2014 fiscal year and the sum of sixteen million three hundred thirty-five thousand dollars (\$16,335,000) for the 2014-2015 fiscal year to be used for community college grants.

SECTION 11.1.(c) There is appropriated from the Escheat Fund income to the Department of Administration, Division of Veterans Affairs, the sum of six million five hundred twenty thousand nine hundred sixty-four dollars (\$6,520,964) for the 2013-2014 fiscal

year and the sum of six million five hundred twenty thousand nine hundred sixty-four dollars (\$6,520,964) for the 2014-2015 fiscal year to be used for need-based student financial aid.

SECTION 11.1.(d) The funds appropriated by this section shall be allocated by the State Educational Assistance Authority (SEAA) for need-based student financial aid in accordance with G.S. 116B-7. If the interest income generated from the Escheat Fund is less than the amounts referenced in this section, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this section; however, under no circumstances shall the Escheat Fund principal be reduced below the sum required in G.S. 116B-6(f). If any funds appropriated under this section remain uncommitted for need-based financial aid as of the end of a fiscal year, the funds shall be returned to the Escheat Fund, but only to the extent the funds exceed the amount of the Escheat Fund income for that fiscal year.

SECTION 11.1.(e) The State Education Assistance Authority shall perform all of the administrative functions necessary to implement this program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the scholarship programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. SEAA may make recommendations for redistribution of funds to The University of North Carolina, Department of Administration, and the President of the Community College System regarding their respective scholarship programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

SECTION 11.1.(f) G.S. 116B-7(a) reads as rewritten:

"(a) The income derived from the investment or deposit of the Escheat Fund shall be distributed annually on or before ~~July 15~~ August 15 to the State Education Assistance Authority for grants and loans to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. Such grants and loans shall be made upon terms, consistent with the provisions of this Chapter, pursuant to which the State Education Assistance Authority makes grants and loans to other students under G.S. 116-201 to 116-209.23, Article 23 of Chapter 116 of the General Statutes, policies of the Board of Governors of The University of North Carolina regarding need-based grants for students of The University of North Carolina, and policies of the State Board of Community Colleges regarding need-based grants for students of the community colleges."

UNC NEED-BASED FINANCIAL AID FORWARD FUNDING RESERVE/PROVIDE FUNDS FOR UNC NEED-BASED GRANTS

SECTION 11.2.(a) It is the intent of the General Assembly to move the UNC Need-Based Financial Aid Program grant funding into a reserve in the North Carolina Student Loan Fund designated for that purpose so that funds appropriated for grants in a fiscal year are awarded to students for the following academic year. This change will provide additional program stability.

SECTION 11.2.(b) The UNC Need-Based Financial Aid Forward Funding Reserve is established as a reserve in the North Carolina Student Loan Fund. The funds in the UNC Need-Based Financial Aid Forward Funding Reserve shall be held in reserve for the 2013-2014 fiscal year and, beginning with the 2014-2015 fiscal year, shall be used to fund grants from the UNC Need-Based Financial Aid Program for the 2014-2015 program year and each subsequent program year.

SECTION 11.2.(c) Section 6.11(e) of this act appropriates funds from the Education Lottery Fund in the amount of fifty-five million one hundred twenty-eight thousand six hundred twenty dollars (\$55,128,620) for the 2013-2014 fiscal year to the UNC Need-Based Financial Aid Forward Funding Reserve. The following funds shall also be transferred to the UNC Need-Based Financial Aid Forward Funding Reserve (Reserve):

- (1) The sum of fifty-nine million eight hundred fifty-nine thousand five hundred sixty-two dollars (\$59,859,562) shall be transferred from the North Carolina Student Loan Fund to the Reserve.
- (2) Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2013-2015 fiscal biennium, the sum of three million four hundred seventy-five thousand five hundred thirty-eight dollars (\$3,475,538) for the 2013-2014 fiscal year and the sum of three million four hundred fifty-four thousand six hundred fifty-six dollars (\$3,454,656) for the 2014-2015 fiscal year shall be transferred to the Reserve.
- (3) Notwithstanding G.S. 115C-269.2, the sum of three million five hundred twenty-five thousand dollars (\$3,525,000) shall be transferred from the fund balance of the National Board Certification Loan program to the Reserve.
- (4) The sum of five hundred thousand dollars (\$500,000) shall be transferred from the John B. McLendon Scholarship Fund established in G.S. 116-209.40 to the Reserve.

SECTION 11.2.(d) There is appropriated from the Escheat Fund for the 2013-2014 fiscal year to the UNC Need-Based Financial Aid Forward Funding Reserve the sum of one million eighty-eight thousand six hundred twenty-seven dollars (\$1,088,627).

SECTION 11.2.(e) G.S. 116-209.40 is repealed.

COORDINATED RESIDENCY DETERMINATION PROCESS

SECTION 11.3.(a) The General Assembly finds that it is in the best interest of the State for the University System, the Community College System, and the State Education Assistance Authority to apply the criteria in G.S. 116-143.1 to determine residency for tuition purposes in a coordinated and similar manner. Therefore, The University of North Carolina, the North Carolina Community College System, and the State Education Assistance Authority shall jointly develop and implement a coordinated and centralized process to be used by those three entities when determining the residency for tuition purposes of students who apply for admission and are admitted to a constituent institution of The University of North Carolina or a community college under the jurisdiction of the State Board of Community Colleges and for private college students receiving State-funded financial aid. In developing a centralized residency determination process, The University of North Carolina General Administration, the North Carolina Community College System, and the State Education Assistance Authority shall consult with the North Carolina Independent Colleges and Universities.

SECTION 11.3.(b) No later than January 1, 2014, The University of North Carolina, the North Carolina Community College System, and the State Education Assistance Authority shall report to the Joint Legislative Education Oversight Committee regarding the progress in developing and implementing a coordinated and centralized process and any necessary statutory changes.

IMPLEMENT TUITION SURCHARGE STUDY RECOMMENDATIONS

SECTION 11.4.(a) G.S. 116-143.7 reads as rewritten:

"§ 116-143.7. Tuition surcharge.

(a) The Board of Governors of The University of North Carolina shall impose a fifty percent (50%) tuition surcharge on students who take more than 140 degree credit hours to complete a baccalaureate degree in a four-year program or more than one hundred ten percent (110%) of the credit hours necessary to complete a baccalaureate degree in any program officially designated by the Board of Governors as a five-year program. ~~Courses and credit hours taken include those taken at that constituent institution or accepted for transfer. Courses and credit hours that count toward the surcharge include those taken at that constituent~~

institution and those taken at either another constituent institution or a community college established pursuant to G.S. 115D-4 and accepted for transfer. In calculating the number of degree credit hours taken:

(1) Included are courses that a student:

- a. Fails.
- b. Does not complete unless the course was officially dropped by the student pursuant to the academic policy of the appropriate constituent institution.

(2) Excluded are credit hours earned through:

- a. The College Board's Advanced Placement Program, CLEP examinations, or similar programs.
- b. Institutional advanced placement, course validation, or any similar procedure for awarding course credit.
- c. Summer term or extension programs.
- d. Courses and credit hours transferred and accepted for credit from an institution of higher education that is not a constituent institution or a community college established pursuant to G.S. 115D-4.

(b) No surcharge shall be imposed on any student who exceeds the degree credit hour limits within the equivalent of four academic years of regular term enrollment or within five academic years of regular term enrollment in a degree program officially designated by the Board of Governors as a five-year program.

(c) Upon application by a student, the tuition surcharge shall be waived if the student demonstrates that any of the following have substantially disrupted or interrupted the student's pursuit of a degree: (i) a military service obligation, (ii) serious medical debilitation, (iii) a short-term or long-term disability, or (iv) other extraordinary hardship. The Board of Governors shall establish the appropriate procedures to implement the waiver provided by this subsection.

(d) Each constituent institution shall implement procedures to notify students regarding the tuition surcharge and to provide appropriate advance notice to a student when the student is approaching the credit hour limit regarding the tuition surcharge. The procedures shall comply with the tuition surcharge notification principles established by the Board of Governors."

SECTION 11.4.(b) G.S. 116-11 is amended by adding a new subdivision to read:

"(7a) The Board of Governors shall develop a uniform core set of notification principles regarding the tuition surcharge, including a process for each campus to notify students at orientation and through each semester's tuition statements and a process to provide appropriate advance notification to a student when the student is approaching the credit hour limit regarding the tuition surcharge. The Board of Governors shall direct each constituent institution to implement these procedures."

SECTION 11.4.(c) This section applies to the 2013 fall academic semester and each subsequent academic semester.

UNC MANAGEMENT FLEXIBILITY REDUCTION

SECTION 11.5.(a) The management flexibility reduction for The University of North Carolina shall not be allocated by the Board of Governors to the constituent institutions and affiliated entities using an across-the-board method but in a manner that recognizes the importance of the academic missions and differences among The University of North Carolina entities.

Before taking reductions in instructional budgets, the Board of Governors and the campuses of the constituent institutions shall consider all of the following:

- (1) Reducing State funding for centers and institutes, speaker series, and other nonacademic activities.

- (2) Faculty workload adjustments.
- (3) Restructuring of research activities.
- (4) Implementing cost-saving span of control measures.
- (5) Reducing the number of senior and middle management positions.
- (6) Eliminating low-performing, redundant, or low-enrollment programs.
- (7) Using alternative funding sources.
- (8) Protecting direct classroom services.

The Board of Governors and the campuses of the constituent institutions also shall review the institutional trust funds and the special funds held by or on behalf of The University of North Carolina and its constituent institutions to determine whether there are monies available in those funds that can be used to assist with operating costs. In addition, the campuses of the constituent institutions also shall require their faculty to have a teaching workload equal to the national average in their Carnegie classification.

SECTION 11.5.(b) In allocating the management flexibility reduction, no reduction in State funds shall be allocated in either fiscal year of the 2013-2015 biennium to any of the following:

- (1) UNC Need-Based Financial Aid.
- (2) North Carolina Need-Based Scholarship.
- (3) Any special responsibility constituent institution which has been granted a basic type designation of "Special Focus Institution" under the Carnegie Classification of Institutions of Higher Education.
- (4) Any special responsibility constituent institution which has been granted a basic type designation of "Baccalaureate Colleges—Arts & Sciences" under the Carnegie Classification of Institutions of Higher Education.
- (5) Any constituent high school of The University of North Carolina.

SECTION 11.5.(c) The University of North Carolina shall report on the implementation of the management flexibility reduction in subsection (a) of this section to the Office of State Budget and Management and the Fiscal Research Division no later than October 1, 2013. This report shall identify both of the following by campus:

- (1) The total number of positions eliminated by type (faculty/nonfaculty).
- (2) The low-performing, redundant, and low-enrollment programs that were eliminated.

UNC BOARD OF GOVERNORS REPORT ON OVERHEAD RECEIPTS

SECTION 11.6.(a) G.S. 116-11 is amended by adding a new subdivision to read:

"(9a) The Board of Governors shall report to the Joint Legislative Education Oversight Committee and the Office of State Budget and Management by March 1 of each year regarding the sum of facilities and administrative fees and overhead receipts for The University of North Carolina that are collected and expended by each constituent institution. The report shall include all of the following information:

- a. The collection of facilities and administrative fees and overhead receipts by line item and by grant or program.
- b. The use of facilities and administrative fees and overhead receipts showing line item expenditures by grant or program.
- c. The sum of facilities and administrative fees and overhead receipts collected or expended by each constituent institution for maintenance and operation of facilities that were constructed with or at any time operated by funds from the General Fund."

SECTION 11.6.(b) Section 31.14 of S.L. 2001-424 is repealed.

1 **STUDENT CHARGES AT THE NORTH CAROLINA SCHOOL OF SCIENCE AND**
2 **MATH**

3 **SECTION 11.7.(a)** G.S. 116-40.22 reads as rewritten:

4 **"§ 116-40.22. Management flexibility.**

5 ...

6 (c) Tuition and Fees. – Notwithstanding any provision in Chapter 116 of the General
7 Statutes to the contrary, in addition to any tuition and fees set by the Board of Governors
8 pursuant to G.S. 116-11(7), the Board of Trustees of the institution may recommend to the
9 Board of Governors tuition and fees for program-specific and institution-specific needs at that
10 institution without regard to whether an emergency situation exists and not inconsistent with
11 the actions of the General Assembly. Any tuition and fees set pursuant to this subsection are
12 appropriated for use by the institution. Notwithstanding this subsection, neither the Board of
13 Governors of The University of North Carolina nor its Board of Trustees shall impose any
14 tuition or mandatory fee at the North Carolina School of Science and Mathematics without the
15 approval of the General ~~Assembly~~. Assembly, except as provided in subsection (e) of this
16 section.

17 ...

18 (e) The Board of Governors of The University of North Carolina may approve, upon
19 the recommendation of the Board of Trustees of the North Carolina School of Science and
20 Mathematics, the imposition of fees not inconsistent with actions of the General Assembly for
21 distance education services provided by the North Carolina School of Science and Mathematics
22 to nonresidents and for students participating in extracurricular enrichment programs sponsored
23 by the School."

24 **SECTION 11.7.(b)** G.S. 116-143 reads as rewritten:

25 **"§ 116-143. State-supported institutions of higher education required to charge tuition**
26 **and fees.**

27 ...

28 (b) In the event that said students are unable to pay the cost of tuition and required
29 academic fees as the same may become due, in cash, the said several boards of trustees are
30 hereby authorized and empowered, in their discretion, to accept the obligation of the student or
31 students together with such collateral or security as they may deem necessary and proper, it
32 being the purpose of this Article that all students in State institutions of higher learning shall be
33 required to pay tuition, and that free tuition is hereby abolished. Notwithstanding this section,
34 neither the Board of Governors of The University of North Carolina nor its Board of Trustees
35 shall impose any tuition or mandatory fee at the North Carolina School of Science and
36 Mathematics without the approval of the General ~~Assembly~~. Assembly, except as provided in
37 subsection (e) of this section.

38 ...

39 (e) The Board of Governors of The University of North Carolina may approve, upon
40 the recommendation of the Board of Trustees of the North Carolina School of Science and
41 Mathematics, the imposition of fees not inconsistent with actions of the General Assembly for
42 distance education services provided by the North Carolina School of Science and Mathematics
43 to nonresidents and for students participating in extracurricular enrichment programs sponsored
44 by the School."

45 **SECTION 11.7.(c)** This section applies to the 2013-2014 spring academic
46 semester and each subsequent academic semester.

47
48 **STUDENT CHARGES AT THE UNC SCHOOL OF THE ARTS**

49 **SECTION 11.8.(a)** Article 4 of Chapter 116 of the General Statutes is amended by
50 adding a new section to read:

51 **"§ 116-68.1. Fees.**

The Board of Governors of The University of North Carolina may set fees, not inconsistent with the actions of the General Assembly, to be paid by in-State high school students enrolled at the University of North Carolina School of the Arts to assist with expenses of the institution. The Board of Trustees may recommend to the Board of Governors of The University of North Carolina that fees be set, not inconsistent with actions of the General Assembly, to be paid by in-State high school students enrolled at the University of North Carolina School of the Arts to assist with expenses of the institution. The University of North Carolina School of the Arts may charge and collect fees established as provided by this section from in-State high school students enrolled at the University of North Carolina School of the Arts."

SECTION 11.8.(b) This section applies to the 2014-2015 academic year and each subsequent academic year.

AUTHORIZE STATE EDUCATION ASSISTANCE AUTHORITY TO CONTINUE TO COLLECT NORTH CAROLINA TEACHING FELLOWS REPAYMENTS

SECTION 11.9. Subsection (b) of Section 1.38 of S.L. 2011-266 is repealed.

UNC DISPOSITION AND ACQUISITION OF REAL PROPERTY

SECTION 11.10.(a) G.S. 116-198.34(5) reads as rewritten:

"(5) To acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities upon such terms and conditions as the Board determines, subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes, an acquisition or a disposition by easement, lease, or rental agreement of real property or space in any building on the Centennial Campus, on the Horace Williams Campus, on a Millennial Campus, or on a Kannapolis Research Campus made for a period of ~~10-25~~ years or less shall not require the approval of the Governor and the Council of State. All other acquisitions and dispositions made under this subdivision for a period in excess of ~~10-25~~ years are subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes."

SECTION 11.10.(b) This section becomes effective July 1, 2013, and expires June 30, 2015.

UNC CAMPUS HOUSING

SECTION 11.11.(a) Part 3 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-40.11. Prohibit assignment of members of the opposite sex to same dormitory room, suite, or campus apartment.

Notwithstanding any other provision of law, The University of North Carolina shall prohibit the assignment of members of the opposite sex to the same dormitory room, dormitory suite, or campus apartment unless the students are siblings, they are parent and child, or they are legally married and there is a valid marriage license on file at the campus housing office that documents the marriage."

SECTION 11.11.(b) This section applies to housing assignments for the 2013 fall semester and each subsequent semester.

UNC/WAKE FOREST INSTITUTE FOR REGENERATIVE MEDICINE/PROFIT SHARING WITH STATE

SECTION 11.12.(a) Of the funds appropriated by this act for the 2013-2015 fiscal biennium to the Board of Governors of The University of North Carolina the sum of seven million dollars (\$7,000,000) for the 2013-2014 fiscal year and the sum of seven million dollars (\$7,000,000) for the 2014-2015 fiscal year shall be allocated to Wake Forest University Health Sciences (hereinafter "Wake Forest") in support of the Wake Forest Institute for Regenerative Medicine (hereinafter "Institute") and its Department of Defense Armed Forces Institute for Regenerative Medicine and current good manufacturing practices (cGMP) facility.

SECTION 11.12.(b) Wake Forest shall reimburse the State for State funds appropriated for the Institute under subsection (a) of this section and in prior fiscal years by returning to the State five percent (5%) of the royalty revenue received by the Institute from commercialized projects arising under those research projects supported by the State funds, either through direct research support or through substantial utilization of the cGMP facility not reimbursed through other funds ("Subject Projects"). Royalty revenue reimbursed to the State shall be subject to all of the following:

- (1) The total amount to be reimbursed to the State shall be limited to the aggregate amount of State funds allocated to Wake Forest for the Institute plus simple interest at the rate of four percent (4%) annually from the time of disbursement until reimbursement commences.
- (2) Wake Forest shall be entitled to deduct the expenses reasonably incurred in prosecuting, defending, and enforcing patent rights for the Subject Projects, except to the extent the expenses are recovered from a third party, before calculating the amount to be paid to the State.
- (3) Calculation of the payments to the State shall be based upon the formula provided in subsection (c) of this section.
- (4) Payments shall be made to the State and used by the State in a manner consistent with federal law.

SECTION 11.12.(c) Wake Forest on behalf of the Institute shall annually calculate and remit reimbursement payments to the State based upon the following formula:

- (1) Payments to the State shall be based on that share of royalty revenue proportional to the State funds used for the Subject Project, which shall be calculated as the ratio of State funds to total funds used to support the Subject Project, based on budgets developed consistent with federal research funding accounting guidelines and including the fair market value of unreimbursed cGMP facility utilization.
- (2) Wake Forest shall calculate net royalty revenue on a Subject Project-by-Subject-Project basis by deducting any expenses authorized under subsection (b)(2) of this section from the total royalty revenue received from the Subject Project.
- (3) Wake Forest shall multiply net royalty revenue by the support ratio calculated in subsection (c)(1) of this section and then multiply the product by five percent (5%) to determine the State royalty share ("State Royalty Share").
- (4) The State Royalty Share shall be remitted to the State unless the cumulative State Royalty Share payments have satisfied the total aggregate amount to be reimbursed as provided in subsection (b)(1) of this section.

SECTION 11.12.(d) Wake Forest on behalf of the Institute shall comply with the following reporting requirements:

- (1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Board of Governors of The University of North Carolina on prior State fiscal year program activities, objectives, and

1 accomplishments and prior State fiscal year itemized expenditures and fund
2 sources. The annual report shall include a report of royalty revenues
3 generated from the Subject Projects.

- 4 (2) Provide to the Fiscal Research Division a copy of the Institute's annual
5 audited financial statement within 30 days of issuance of the statement.

6 **SECTION 11.12.(e)** Remaining allotments after September 1 shall not be released
7 to the Institute if the reporting requirements provided in subsection (d) of this section are not
8 satisfied.

9 **SECTION 11.12.(f)** No more than one hundred twenty thousand dollars
10 (\$120,000) in State funds shall be used for the annual salary of any one employee of the
11 Institute. For purposes of this subsection, the term "State funds" means funds appropriated by
12 the State to the Institute and interest earned on those funds.

13 **SECTION 11.12.(g)** No State funds shall be used by the Institute (i) to hire or
14 facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist,
15 without regard to the person's title; or (ii) to facilitate any lobbying efforts.

16 17 **UNC/STRATEGIC PLAN FUNDS**

18 **SECTION 11.13.** Of the funds appropriated by this act to the Board of Governors
19 of The University of North Carolina for the 2013-2015 fiscal biennium, the Board of Governors
20 may spend a sum of up to fifteen million dollars (\$15,000,000) for the 2013-2014 fiscal year
21 and a sum of up to fifteen million dollars (\$15,000,000) for the 2014-2015 fiscal year to
22 implement provisions of The University of North Carolina Strategic Plan as set out in the report
23 "Our Time, Our Future: The University of North Carolina Compact with North Carolina."

24 25 **PART XII. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

26 27 **SUBPART XII-A. CENTRAL MANAGEMENT AND SUPPORT**

28 29 **DEPARTMENT FLEXIBILITY TO ACHIEVE DEPARTMENTAL PRIORITIES AND** 30 **ENHANCE FISCAL OVERSIGHT AND ACCOUNTABILITY.**

31 **SECTION 12A.1.(a)** Notwithstanding any other provision of law and consistent
32 with the intent of G.S. 143B-10, the Secretary of the Department of Health and Human
33 Services may reorganize positions and related operational costs within the Department (i) upon
34 a demonstration by the Department of cost-effectiveness and (ii) after approval by the Office of
35 State Budget and Management (OSBM) of a written proposal submitted by the Department to
36 OSBM. Proposals submitted to OSBM under this section shall, at a minimum, identify the
37 positions involved and the strategies to be implemented in order to achieve efficiencies.

38 **SECTION 12A.1.(b)** Notwithstanding G.S. 143C-6-4 and in order to enhance
39 fiscal oversight and accountability, the Secretary of the Department of Health and Human
40 Services may realign existing resources to expand its internal audit capacity. The Secretary
41 may, with the approval of OSBM, identify up to 32 existing positions for this purpose. The
42 expanded Office of Internal Audit shall provide the Department's management personnel with
43 independent reviews and analyses of various functions and services within the Department,
44 including operational audits, performance audits, compliance audits, financial audits, and other
45 special reviews. Any realignment of resources and positions pursuant to this subsection is
46 subject to the prior approval of OSBM.

47 **SECTION 12A.1.(c)** By no later than June 30, 2014, the Department shall report
48 any actions undertaken pursuant to this section to the Joint Legislative Oversight Committee on
49 Health and Human Services and the Fiscal Research Division. The report shall, at a minimum,
50 identify the positions involved and the strategies implemented to achieve efficiencies, to
51 expand internal audit capacity, or both.

COMPETITIVE GRANTS PROCESS FOR NONPROFIT FUNDING

SECTION 12A.2.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Office of the Secretary, the sum of nine million five hundred twenty-nine thousand one hundred thirty-four dollars (\$9,529,134) for the 2013-2014 fiscal year and the sum of five million two hundred seventy-three thousand eight hundred thirty-five dollars (\$5,273,835) appropriated in Section 12J.1 of this act for the 2013-2014 fiscal year shall be used to implement a request for application (RFA) process to allow non-State entities to apply for and receive State funds on a competitive basis.

SECTION 12A.2.(b) The Office of the Secretary shall administer grants awarded to non-State entities pursuant to this section and shall require non-State entities to match ten percent (10%) of the total amount of the grant. The Office of the Secretary shall prioritize grant awards to those non-State entities that are able to leverage non-State funds in addition to the grant award.

SECTION 12A.2.(c) Grants shall be awarded to non-State entities dedicated to providing services statewide and supporting any of the following State health and wellness initiatives:

- (1) A program targeting advocacy, support, education, or residential services for persons diagnosed with autism.
- (2) A comprehensive program of education, advocacy, and support related to brain injury and those affected by brain injury.
- (3) A system of residential supports for those afflicted with substance abuse addiction.
- (4) A program of advocacy and supports for individuals with intellectual and developmental disabilities or severe and persistent mental illness, substance abusers, or the elderly.
- (5) Supports and services to children and adults with developmental disabilities or mental health diagnoses.
- (6) A food distribution system for needy individuals.
- (7) The provision and coordination of services for the homeless.
- (8) The provision of maternity and high-risk pregnancy services.
- (9) The provision of services for individuals aging out of foster care.
- (10) Programs promoting wellness, physical activity, and health education programming for North Carolinians.
- (11) A program focused on enhancing vision screening through the State's public school system.
- (12) Provision for the delivery of after-school services for at-risk youth.
- (13) The provision of direct services for amyotrophic lateral sclerosis (ALS) and those diagnosed with the disease.

SECTION 12A.2.(d) The Department shall submit a written report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the use of these funds no later than April 1, 2014. The report shall include at least all of the following:

- (1) The identity and a brief description of each grantee and each program or initiative offered by the grantee.
- (2) The amount of funding awarded to each grantee.
- (3) The number of persons served by each grantee, broken down by program or initiative.

SECTION 12A.2.(e) Funds received by the Department of Health and Human Services pursuant to this section shall supplement and not supplant existing funds for health and wellness programs and initiatives.

HEALTH INFORMATION TECHNOLOGY

SECTION 12A.3.(a) The Department of Health and Human Services, in cooperation with the State Chief Information Officer, shall coordinate health information technology (HIT) policies and programs within the State of North Carolina. The Department's goal in coordinating State HIT policy and programs shall be to avoid duplication of efforts and to ensure that each State agency, public entity, and private entity that undertakes health information technology activities does so within the area of its greatest expertise and technical capability and in a manner that supports coordinated State and national goals, which shall include at least all of the following:

- (1) Ensuring that patient health information is secure and protected, in accordance with applicable law.
- (2) Improving health care quality, reducing medical errors, reducing health disparities, and advancing the delivery of patient-centered medical care.
- (3) Providing appropriate information to guide medical decisions at the time and place of care.
- (4) Ensuring meaningful public input into HIT infrastructure development.
- (5) Improving the coordination of information among hospitals, laboratories, physicians' offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information.
- (6) Improving public health services and facilitating early identification and rapid response to public health threats and emergencies, including bioterrorist events and infectious disease outbreaks.
- (7) Facilitating health and clinical research.
- (8) Promoting early detection, prevention, and management of chronic diseases.

SECTION 12A.3.(b) The Department of Health and Human Services shall establish and direct an HIT management structure that is efficient and transparent and that is compatible with the Office of the National Health Coordinator for Information Technology (National Coordinator) governance mechanism. The HIT management structure shall be responsible for all of the following:

- (1) Developing a State plan for implementing and ensuring compliance with national HIT standards and for the most efficient, effective, and widespread adoption of HIT.
- (2) Ensuring that (i) specific populations are effectively integrated into the State plan, including aging populations, populations requiring mental health services, and populations utilizing the public health system, and (ii) unserved and underserved populations receive priority consideration for HIT support.
- (3) Identifying all HIT stakeholders and soliciting feedback and participation from each stakeholder in the development of the State plan.
- (4) Ensuring that existing HIT capabilities are considered and incorporated into the State plan.
- (5) Identifying and eliminating conflicting HIT efforts where necessary.
- (6) Identifying available resources for the implementation, operation, and maintenance of health information technology, including identifying resources and available opportunities for North Carolina institutions of higher education.
- (7) Ensuring that potential State plan participants are aware of HIT policies and programs and the opportunity for improved health information technology.
- (8) Monitoring HIT efforts and initiatives in other states and replicating successful efforts and initiatives in North Carolina.

- (9) Monitoring the development of the National Coordinator's strategic plan and ensuring that all stakeholders are aware of and in compliance with its requirements.
- (10) Monitoring the progress and recommendations of the HIT Policy and Standards Committee and ensuring that all stakeholders remain informed of the Committee's recommendations.
- (11) Monitoring all studies and reports provided to the United States Congress and reporting to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the impact of report recommendations on State efforts to implement coordinated HIT.

SECTION 12A.3.(c) Section 10.24(c) of S.L. 2011-145 reads as rewritten:

~~"SECTION 10.24.(c) Beginning October 1, 2011, the Department of Health and Human Services shall provide quarterly written reports. By no later than January 15, 2015, the Department of Health and Human Services shall provide a written report on the status of HIT efforts to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The reports due each January 1 and July 1 shall consist of updates to substantial initiatives or challenges that have occurred since the most recent comprehensive report. The reports due each October 1 and April 1 report shall be comprehensive and shall include all of the following:~~

- (1) Current status of federal HIT initiatives.
- (2) Current status of State HIT efforts and initiatives among both public and private entities.
- (3) A breakdown of current public and private funding sources and dollar amounts for State HIT initiatives.
- (4) Department efforts to coordinate HIT initiatives within the State and any obstacles or impediments to coordination.
- (5) HIT research efforts being conducted within the State and sources of funding for research efforts.
- (6) Opportunities for stakeholders to participate in HIT funding and other efforts and initiatives during the next quarter.
- (7) Issues associated with the implementation of HIT in North Carolina and recommended solutions to these issues."

FUNDS FOR REPLACEMENT MEDICAID MANAGEMENT INFORMATION SYSTEM/IMPLEMENTATION OF REPLACEMENT MMIS

SECTION 12A.4.(a) The Secretary of the Department of Health and Human Services may utilize prior year earned revenue received for the replacement MMIS in the amount of nine million six hundred fifty-eight thousand one hundred fifty-two dollars (\$9,658,152) for the 2013-2014 fiscal year and in the amount of one million six hundred sixty-six thousand six hundred twenty-five dollars (\$1,666,625) for the 2014-2015 fiscal year. In the event the Department does not receive prior year earned revenues in the amounts authorized by this section, or funds are insufficient to advance the project, the Department may, with prior approval from the Office of State Budget and Management (OSBM), utilize overrealized receipts and funds appropriated to the Department to achieve the level of funding specified in this section for the replacement MMIS.

SECTION 12A.4.(b) The Department shall make full development of the replacement MMIS a top priority. During development and implementation of the replacement MMIS, the Department shall develop plans to ensure the timely and effective implementation of enhancements to the system to provide the following capabilities:

- (1) Receiving and tracking premiums or other payments required by law.
- (2) Compatibility with the Health Information System.

1 **SECTION 12A.4.(c)** The Department shall make every effort to expedite the
2 implementation of the enhancements. The replacement MMIS shall have the capability to fully
3 implement the administration of NC Health Choice, Ticket to Work, CAP Children's Program,
4 all relevant Medicaid waivers, and the Medicare 646 waiver as it applies to Medicaid eligibles.

5 **SECTION 12A.4.(d)** The Office of the State Chief Information Officer (SCIO) and
6 the Office of Information Technology Services (ITS) shall work in cooperation with the
7 Department to ensure the timely and effective implementation of the replacement MMIS and
8 any enhancements. The SCIO shall ensure that the replacement MMIS meets all State
9 requirements for project management and shall immediately report any failure to meet these
10 requirements to the Joint Legislative Oversight Committee on Health and Human Services, the
11 Joint Legislative Oversight Committee on Information Technology, the Fiscal Research
12 Division, and the Office of State Budget and Management. The SCIO shall also immediately
13 report if any replacement MMIS project, or portion of a project, is listed as red in the project
14 portfolio management tool.

15 **SECTION 12A.4.(e)** Notwithstanding G.S. 114-2.3, the Department shall consult
16 with the Office of the SCIO concerning the retention of private counsel for the replacement
17 MMIS, and as directed by the Office of the SCIO, retain private counsel with expertise in
18 pertinent information technology and computer law to negotiate and review contract
19 amendments associated with the replacement MMIS. The private counsel engaged by the
20 Department shall review the replacement MMIS contract amendments between the Department
21 and the vendors to ensure that the requirements of subsection (c) of this section are met in their
22 entirety and that the terms of the contract amendments are in the State's best interest.

23 **SECTION 12A.4.(f)** The Department shall immediately report any changes to the
24 replacement MMIS implementation schedules to the Joint Legislative Oversight Committee on
25 Health and Human Services, the Joint Legislative Oversight Committee on Information
26 Technology, the Fiscal Research Division, and the Office of State Budget and Management,
27 with a full explanation of the reason for the change and any associated costs.

28 **SECTION 12A.4.(g)** The Department shall provide the following reports on the
29 replacement MMIS by the dates specified in this subsection to the Joint Legislative Oversight
30 Committee on Health and Human Services, the Joint Legislative Oversight Committee on
31 Information Technology, the Fiscal Research Division, and the Office of State Budget and
32 Management:

- 33 (1) By no later than August 1, 2013, a progress report on full implementation of
34 the replacement MMIS, which shall include at least all of the following:
- 35 a. An updated estimate of the costs associated with operating and
36 maintaining the system during the 2013-2014 fiscal year and during
37 the 2014-2015 fiscal year, with an explanation for any changes from
38 previous submissions.
 - 39 b. Any issues encountered following the "go-live" date of July 1, 2013,
40 how each issue was resolved, any cost associated with the resolution
41 of each issue, and the source of funding for the associated cost.
 - 42 c. Any system requirements for manual workarounds, any cost
43 associated with these system requirements, the source of funding
44 used to pay for the associated cost, the time line for implementing an
45 automated solution for each manual workaround, the cost associated
46 with transitioning to each automated solution, and the source of
47 funding for each identified cost.
 - 48 d. A comparison of timeliness and accuracy of payments for legacy
49 system and replacement system transactions, using the same criteria
50 for both.

- 1 e. Required capabilities that are not available in the replacement MMIS
2 on the "go-live" date of July 1, 2013, with a date for the
3 implementation of each, as well as any cost associated with
4 implementation.
- 5 (2) By no later than September 1, 2013, a plan for the elimination of the Office
6 of Medicaid Management Information System Services (OMMISS) and the
7 transfer of its remaining operations to other Divisions within the Department
8 of Health and Human Services. This plan shall include at least all of the
9 following:
- 10 a. The specific operations to be transferred to other Divisions within the
11 Department, the specific Division to which each operation will be
12 transferred, the State personnel that will be impacted by each
13 transfer, costs associated with each transfer, and sources of funding
14 to enable the identified Divisions to assume these transferred
15 operations.
- 16 b. Any State personnel costs that will result from the dissolution of
17 OMMISS, including the costs of any severance payments and any
18 compensatory time earned during the course of the project, broken
19 down by employee; and any identified sources of funding to pay for
20 these personnel costs.
- 21 c. A plan for transitioning out of the space currently leased by the State
22 for OMMISS, costs associated with this transition, and any savings
23 that will result from the transition.
- 24 (3) By no later than October 1, 2013, a preliminary report on the Department's
25 plan for achieving system certification, which shall include at least all of the
26 following:
- 27 a. A description of the process.
- 28 b. A detailed time line.
- 29 c. Any issues that could impact the timing of system certification and
30 plans to mitigate identified issues.
- 31 d. Any costs associated with system certification.
- 32 e. Any identified funding sources to pay for costs associated with
33 system certification.

34 **SECTION 12A.4.(h)** The Department shall complete the Reporting and Analytics
35 Project solution simultaneously with the implementation of the replacement MMIS.

36 **SECTION 12A.4.(i)** Notwithstanding any other provision of law and to the extent
37 permitted by federal law, the Department shall not approve any overtime or compensatory time
38 related to the replacement MMIS after the replacement MMIS "go-live" date of July 1, 2013,
39 without the prior written approval of the Office of State Personnel for each specific instance of
40 overtime or compensatory time.

41 **SECTION 12A.4.(j)** Beginning when the replacement MMIS is fully implemented,
42 the Department shall require all Medicaid claim adjudication to be performed by the
43 replacement MMIS, including all Medicaid claim adjudication performed by entities under
44 contract with the Department. The Department may charge entities under contract with the
45 Department a fee not to exceed the amount necessary to cover the full operating cost of
46 Medicaid claim adjudication performed by the replacement MMIS.

47 48 **FRAUD DETECTION THROUGH NORTH CAROLINA ACCOUNTABILITY AND** 49 **COMPLIANCE TECHNOLOGY SYSTEM**

50 **SECTION 12A.5.** The Department of Health and Human Services shall integrate
51 with and leverage the State's enterprise-level fraud detection system operated by the North

Carolina Financial Accountability and Compliance Technology System (NC FACTS) in an effort to detect and prevent potential fraud, waste, and improper payments. Integration shall involve the following information technology systems:

- (1) Medicaid Management Information System (MMIS).
- (2) North Carolina Child Treatment Program (NC CTP) State-funded secure database.
- (3) North Carolina Families Accessing Services through Technology (NC FAST).

FUNDING FOR NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH TECHNOLOGY (NC FAST); REPORT ON ELIGIBILITY DETERMINATIONS FOR THE EXCHANGE

SECTION 12A.6.(a) Funds appropriated in this act in the amount of eight hundred sixty-four thousand six hundred fifty-five dollars (\$864,655) for State fiscal year 2014-2015 along with the cash balance in Budget Code 24410 Fund 2411 for the North Carolina Families Accessing Services through Technology (NC FAST) project shall be used to match federal funds in fiscal years 2013-2014 and 2014-2015 to expedite the development and implementation of the Eligibility Information System (EIS), Child Care, Low Income Energy Assistance, and Crisis Intervention Programs, and Child Service components of the NC FAST project.

SECTION 12A.6.(b) The Department of Health and Human Services shall report on NC FAST's performance in providing eligibility determinations for Medicaid applicants on the federally facilitated Health Benefit Exchange, a required function of NC FAST directed by Section 2 of S.L. 2013-5. The report shall contain a description of the following:

- (1) Funding sources, funding amounts, and expenditures for the project beginning in fiscal year 2012-2013 through the time of the report.
- (2) Any challenges with the eligibility determination project and how NC FAST solved those challenges.
- (3) The number of eligibility determinations performed for applicants on the federally facilitated Health Benefit Exchange, including an analysis of on what days and for how many persons eligibility determinations were performed as well as how many applicants were determined to be eligible.

The Department shall submit a report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Information Technology three months after open enrollment begins for the federally facilitated Health Benefit Exchange.

LIABILITY INSURANCE

SECTION 12A.7. Article 31 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-31-26. Medical liability insurance for certain physicians and dentists.

(a) The Secretary of the Department of Health and Human Services and the Secretary of the Department of Public Safety may provide medical liability insurance not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of these Departments who are licensed to practice medicine or dentistry; on behalf of all licensed physicians who are faculty members of The University of North Carolina who perform work on a contractual basis for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs; and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only

while they are engaged in providing medical and dental services pursuant to their State employment or training.

(b) The coverage provided pursuant to this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States, or that arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to willful or wanton negligence.

(c) The coverage provided pursuant to this section shall not require any additional appropriations and, except as provided in subsection (a) of this section, shall not apply to any individual providing contractual service to the Department of Health and Human Services or the Department of Public Safety."

ELIMINATE UNNECESSARY AND REDUNDANT REPORTS

SECTION 12A.8.(a) Eliminate Outcomes Evaluation Study on the Effectiveness of Substance Abuse Services Provided to Person Convicted of DWI. – G.S. 122C-142.1(j) is repealed.

SECTION 12A.8.(b) Eliminate Evaluation of Efficiency and Effectiveness of Family Resource Center Grant Program. – G.S. 143B-152.15(b) is repealed.

SECTION 12A.8.(c) Eliminate Annual Report on Progress of MH/DD/SAS State Plan. – G.S. 122C-102(c) is repealed.

SECTION 12A.8.(d) Eliminate Annual Report on North Carolina State Plan on Healthcare Associated Infections. – G.S. 130A-150(e) is repealed.

SECTION 12A.8.(e) Eliminate Annual Report on The Health Insurance Program for Children. – G.S. 108A-70.27(b) is repealed.

SECTION 12A.8.(f) Eliminate Annual Report by State Child Fatality Review Team. – G.S. 143B-150.20(h) is repealed.

SECTION 12A.8.(g) Forgiveness of Late Reports. – Notwithstanding any other provision of law, unless otherwise required in this act, the Department of Health and Human Services is not required to submit any report due on or before January 6, 2013, to the General Assembly; to any committee, commission, subcommittee, task force, or division of the General Assembly; or to any other department, unit, or subdivision of State government, if the Department has not already submitted the report prior to July 1, 2013. This subsection shall not be construed to eliminate any reports due from the Department after January 6, 2013, except as otherwise provided by law.

CANCER COORDINATION REPORTING

SECTION 12A.9. G.S. 130A-33.51(b) reads as rewritten:

"(b) The Committee shall submit a written report not later than May 1, 1994, and not later than October 1 of each subsequent year, ~~to the Governor and to the Joint Legislative Commission on Governmental Operations.~~ the Secretary. The report shall address the progress in implementation of a cancer control program. The report shall include an accounting of funds expended and anticipated funding needs for full implementation of recommended programs."

MEETINGS OF CANCER COORDINATION COMMITTEE

SECTION 12A.10. G.S. 130A-33.50(b) reads as rewritten:

"(b) The Committee shall have up to 34 members, including the Secretary of the Department or the Secretary's designee. The members of the Committee shall elect a chair and vice-chair from among the Committee membership. The Committee shall meet not more than twice a year at the call of the chair. Six of the members shall be legislators, three of whom shall be appointed by the Speaker of the House of Representatives, and three of whom shall be appointed by the President Pro Tempore of the Senate. Four of the members shall be cancer

survivors, two of whom shall be appointed by the Speaker of the House of Representatives, and two of whom shall be appointed by the President Pro Tempore of the Senate. The remainder of the members shall be appointed by the Governor as follows:

- (1) One member from the Department of Environment and Natural Resources;
- (2) Three members, one from each of the following: the Department, the Department of Public Instruction, and the North Carolina Community College System;
- (3) Four members representing the cancer control programs at North Carolina medical schools, one from each of the following: the University of North Carolina at Chapel Hill School of Medicine, the Bowman Gray School of Medicine, the Duke University School of Medicine, and the East Carolina University School of Medicine;
- (4) One member who is an oncology nurse representing the North Carolina Nurses Association;
- (5) One member representing the Cancer Committee of the North Carolina Medical Society;
- (6) One member representing the Old North State Medical Society;
- (7) One member representing the American Cancer Society, North Carolina Division, Inc.;
- (8) One member representing the North Carolina Hospital Association;
- (9) One member representing the North Carolina Association of Local Health Directors;
- (10) One member who is a primary care physician licensed to practice medicine in North Carolina;
- (11) One member representing the American College of Surgeons;
- (12) One member representing the North Carolina Oncology Society;
- (13) One member representing the Association of North Carolina Cancer Registrars;
- (14) One member representing the Medical Directors of the North Carolina Association of Health Plans; and
- (15) Up to four additional members at large.

Except for the Secretary, the members shall be appointed for staggered four-year terms and until their successors are appointed and qualify. The Governor may remove any member of the Committee from office in accordance with the provisions of G.S. 143B-13. Members may succeed themselves for one term and may be appointed again after being off the Committee for one term."

LAPSED SALARY FUNDS REPORT

SECTION 12A.11. Section 10.20 of S.L. 2012-142 is repealed.

PRISON REPORT

SECTION 12A.12. G.S. 148-19(d) reads as rewritten:

"(d) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall adopt standards for the delivery of mental health and mental retardation services to inmates in the custody of the Division of Adult Correction of the Department of Public Safety. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall give the Secretary of Public Safety an opportunity to review and comment on proposed standards prior to promulgation of such standards; however, final authority to determine such standards remains with the Commission. The Secretary of the Department of Health and Human Services shall designate an agency or agencies within the Department of Health and Human Services to monitor the implementation by the Division of Adult Correction

of the Department of Public Safety of these standards and of substance abuse standards adopted by the Division of Adult Correction of the Department of Public Safety. ~~The Secretary of Health and Human Services shall send a written report on the progress which the Division of Adult Correction of the Department of Public Safety has made on the implementation of such standards to the Governor, the Lieutenant Governor, and the Speaker of the House. Such reports shall be made on an annual basis beginning January 1, 1978.~~

MODIFICATIONS TO JUSTUS-WARREN TASK FORCE

SECTION 12A.13. G.S. 143B-216.60 reads as rewritten:

"§ 143B-216.60. The Justus-Warren Heart Disease and Stroke Prevention Task Force.

...

(e) The Task Force shall meet ~~at least quarterly or more frequently~~ not more than twice annually at the call of the Chair.

~~(f) The Task Force Chair may establish committees for the purpose of making special studies pursuant to its duties, and may appoint non Task Force members to serve on each committee as resource persons. Resource persons shall be voting members of the committees and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6. Committees may meet with the frequency needed to accomplish the purposes of this section.~~

...."

MODIFICATIONS TO COMMISSION FOR THE BLIND

SECTION 12A.14.(a) Eliminate Professional Advisory Committee. – Part 8 of Article 3 of Chapter 143B of the General Statutes is repealed.

SECTION 12A.14.(b) G.S. 143B-158 reads as rewritten:

"§ 143B-158. Commission for the Blind.

(a) The Commission for the Blind of the Department of Health and Human Services shall consist of ~~13~~19 members as follows:

- (1) One representative of the Statewide Independent Living Council.
- (2) One representative of a parent training and information center established pursuant to section 631(c) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1431(c).
- (3) One representative of the State's Client Assistance Program.
- (4) One vocational rehabilitation counselor who has knowledge of and experience in vocational rehabilitation services for the blind. A vocational rehabilitation counselor appointed pursuant to this subdivision shall serve as a nonvoting member of the Commission if the counselor is an employee of the Department of Health and Human Services.
- (5) One representative of community rehabilitation program services providers.
- (6) One current or former applicant for, or recipient of, vocational rehabilitation services.
- (7) One representative of a disability advocacy group representing individuals who are blind.
- (8) One parent, family member, guardian, advocate, or authorized representative of an individual who is blind, has multiple disabilities, and either has difficulty representing himself or herself or who is unable, due to disabilities, to represent himself or herself.
- (9) One representative of business, industry, and labor.
- (10) One representative of the directors of projects carried out under section 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, if there are any of these projects in the State.

(11) One representative of the Department of Public Instruction.

(12) One representative of the Commission on Workforce Development.

(12a) Two licensed physicians nominated by the North Carolina Medical Society whose practice is limited to ophthalmology.

(12b) Two optometrists nominated by the North Carolina State Optometric Society.

(12c) Two opticians nominated by the North Carolina Opticians Association.

(13) The Director of the Division of Services for the Blind shall serve as an ex officio, nonvoting member.

(b) The members of the Commission for the Blind shall be appointed by the Governor. The Governor shall appoint members after soliciting recommendations from representatives of organizations representing a broad range of individuals who have disabilities and organizations interested in those individuals. In making appointments to the Commission, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Commission.

(c) ~~A-Except for individuals appointed to the Commission under subdivisions (12a), (12b), and (12c) of subsection (a) of this section, a majority of Commission members shall be persons who are blind, as defined in G.S. 111-11. A majority of Commission members shall be persons who are G.S. 111-11 and who are not employed by the Division of Services for the Blind.~~

(d) The Commission for the Blind shall select a Chairperson from among its members.

(e) The term of office of members of the Commission is three years. The term of members appointed under subdivisions (1), (2), (3), ~~and (4)-(4), and (12a)~~ of subsection (a) of this section shall expire on June 30 of years evenly divisible by three. The term of members appointed under subdivisions (5), (6), (7), ~~and (8)-(8), and (12b)~~ of subsection (a) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. The term of members appointed under subdivisions (9), (10), (11), ~~and (12)-(12), and (12c)~~ of subsection (a) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three.

(f) No individual may be appointed to more than two consecutive three-year terms. Upon the expiration of a term, a member shall continue to serve until a successor is appointed, as provided by G.S. 128-7. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(g) A member of the Commission shall not vote on any issue before the Commission that would have a significant and predictable effect on the member's financial interest. The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(h) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(i) A majority of the Commission shall constitute a quorum for the transaction of business.

(j) All clerical and other services required by the Commission shall be supplied by the Secretary of Health and Human Services."

SUBPART XII-B. DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION

NC PRE-K

SECTION 12B.1.(a) Eligibility. – The Department of Health and Human Services, Division of Child Development and Early Education, shall continue implementing the prekindergarten program (NC Pre-K). The NC Pre-K program shall serve children who are four

years of age on or before August 31 of the program year. In determining eligibility, the Division shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if those children have other designated risk factors. Furthermore, any age-eligible child who is a child of either of the following shall be eligible for the program: (i) an active duty member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces who was ordered to active duty by the proper authority within the last 18 months or is expected to be ordered within the next 18 months or (ii) a member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces who was injured or killed while serving on active duty. Eligibility determinations for prekindergarten participants may continue through local education agencies and local North Carolina Partnership for Children, Inc., partnerships.

Other than developmental disabilities or other chronic health issues, the Division shall not consider the health of a child as a factor in determining eligibility for participation in the NC Pre-K program.

SECTION 12B.1.(b) Multiyear Contracts. – The Division of Child Development and Early Education shall require the NC Pre-K contractor to issue multiyear contracts for licensed private child care centers providing NC Pre-K classrooms.

SECTION 12B.1.(c) Programmatic Standards. – All entities operating prekindergarten classrooms shall adhere to all of the policies prescribed by the Division of Child Development and Early Education regarding programmatic standards and classroom requirements.

SECTION 12B.1.(d) NC Pre-K Committees. – The Division of Child Development and Early Education shall establish a standard decision-making process to be used by local NC Pre-K committees in awarding prekindergarten classroom slots and student selection.

SECTION 12B.1.(e) SEEK. – All prekindergarten classrooms shall be required to participate in the Subsidized Early Education for Kids (SEEK) accounting system to streamline the payment function for these classrooms with a goal of eliminating duplicative systems and streamlining the accounting and payment processes among the subsidy reimbursement systems. Prekindergarten funds transferred may be used to add these programs to SEEK.

SECTION 12B.1.(f) Pilot Program. – The Division of Child Development and Early Education shall create a pilot program that provides funding for NC Pre-K classrooms on a per classroom basis. The pilot program shall include three different NC Pre-K contractual regions that are geographically diverse. The local NC Pre-K administrator shall contract with the provider for operation of a classroom established pursuant to the pilot program. The Division shall provide a report on the status of the pilot program to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than January 31, 2014. The report shall include the following:

- (1) The number of students served.
- (2) The amount of funds paid for each classroom.
- (3) The amount of funds paid per student.
- (4) The attendance information on students in the pilot program as compared to those students in a classroom having a traditional funding structure.
- (5) Information on the number of students and students' families using the Subsidized Early Education for Kids (SEEK) system.
- (6) A cost comparison of the classroom pilots to the average cost per student through the per student funding methodology.

SECTION 12B.1.(g) Reporting. – The Division of Child Development and Early Education shall submit an annual report no later than March 15 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Health and Human Services, the Office of State Budget and Management, and the Fiscal Research Division. The report shall include the following:

- (1) The number of children participating in the NC Pre-K program by county.
- (2) The number of children participating in the NC Pre-K program who have never been served in other early education programs such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.
- (3) The expected NC Pre-K expenditures for the programs and the source of the local contributions.
- (4) The results of an annual evaluation of the NC Pre-K program.

COUNTY DEPARTMENTS OF SOCIAL SERVICES TO ADMINISTER CHILD CARE SUBSIDY

SECTION 12B.2.(a) It is the intent of the General Assembly to streamline services at the local level. To that end, only a county department of social services shall administer child care subsidy funds. Any child care subsidy funds previously administered by a local North Carolina Partnership for Children, Inc., partnership shall be administered by the county department of social services. Expenditures for child care subsidy, including North Carolina Partnership for Children, Inc., child care subsidy funds, for fiscal years 2013-2014 and 2014-2015 shall not be less than the expenditures for child care subsidy for the 2012-2013 fiscal year. Any administrative savings the Department of Health and Human Services, Division of Child Development and Early Education, can identify based on the administration of child care subsidy by county departments of social services shall be allocated to child care subsidy.

SECTION 12B.2.(b) The Department of Health and Human Services, Division of Child Development and Early Education, shall report on the implementation of the requirements of subsection (a) of this section to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than April 1, 2014.

CHILD CARE SUBSIDY RATES

SECTION 12B.3.(a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

SECTION 12B.3.(b) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%

SECTION 12B.3.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

- (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying

parents, whichever is lower, unless prohibited by subsection (f) of this section.

(2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower, unless prohibited by subsection (f) of this section.

(3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.

(4) No payments shall be made for transportation services or registration fees charged by child care facilities.

(5) Payments for subsidized child care services for postsecondary education shall be limited to a maximum of 20 months of enrollment.

(6) The Department of Health and Human Services shall implement necessary rule changes to restructure services, including, but not limited to, targeting benefits to employment.

SECTION 12B.3.(d) Provisions of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

(1) Except as applicable in subdivision (2) of this subsection, payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.

(2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

SECTION 12B.3.(e) A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to parents for each age group of enrollees within the county. The Division of Child Development and Early Education shall also calculate a statewide rate and regional market rate for each rated license level for each age category.

SECTION 12B.3.(f) The Division of Child Development and Early Education shall continue implementing policies that improve the quality of child care for subsidized children, including a policy in which child care subsidies are paid, to the extent possible, for child care in the higher quality centers and homes only. The Division shall define higher quality, and subsidy funds shall not be paid for one- or two-star rated facilities. For those counties with an inadequate number of four- and five-star rated facilities, the Division shall continue a transition period that allows the facilities to continue to receive subsidy funds while the facilities work on the increased star ratings. The Division may allow exemptions in counties where there is an inadequate number of four- and five-star rated facilities for nonstar rated programs, such as religious programs.

SECTION 12B.3.(g) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. Except as authorized by subsection (f) of this section, no separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

SECTION 12B.3.(h) Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 12B.3.(i) Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

- (1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.
- (2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.
- (3) The child for whom a child care subsidy is sought is a citizen of the United States.

SECTION 12B.3.(j) Department of Health and Human Services, Division of Child Development and Early Education, shall require all county departments of social services to include on any forms used to determine eligibility for child care subsidy whether the family waiting for subsidy is receiving assistance through the NC Pre-K Program or Head Start.

CHILD CARE ALLOCATION FORMULA

SECTION 12B.4.(a) The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) North Carolina Partnership for Children, Inc., subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) North Carolina Partnership for Children, Inc., subsidy allocation:

- (1) Funds shall be allocated to a county based upon the projected cost of serving children under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.
- (2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.
- (3) For fiscal years 2013-2014 and 2014-2015, the Division of Child Development and Early Education shall base the formula identified in subdivision (1) of this subsection on the same data source used for the 2012-2013 fiscal year.
- (4) The Department of Health and Human Services shall allocate to counties all State funds appropriated for child care subsidy and shall not withhold funds during the 2013-2014 and 2014-2015 fiscal years.

SECTION 12B.4.(b) The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including North Carolina Partnership for Children, Inc., funds within a county.

CHILD CARE FUNDS MATCHING REQUIREMENTS

SECTION 12B.5. No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving its initial allocation of

child care funds appropriated by this act unless federal law requires a match. If the Department reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing agencies beyond their initial allocation, local purchasing agencies must provide a twenty percent (20%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of a disaster as defined in G.S. 166A-19.3(6).

CHILD CARE REVOLVING LOAN

SECTION 12B.6. Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL SERVICES/USE OF SUBSIDY FUNDS FOR FRAUD DETECTION

SECTION 12B.7.(a) The Department of Health and Human Services, Division of Child Development and Early Education, shall fund the allowance that county departments of social services may use for administrative costs at four percent (4%) of the county's total child care subsidy funds allocated in the Child Care Development Fund Block Grant plan or eighty thousand dollars (\$80,000), whichever is greater.

SECTION 12B.7.(b) Each county department of social services may use up to two percent (2%) of child care subsidy funds allocated to the county for fraud detection and investigation initiatives.

STUDY USE OF UNIQUE STUDENT IDENTIFIER/CHILD CARE SUBSIDY

SECTION 12B.8.(a) In coordination with the Department of Public Instruction (DPI), the Department of Health and Human Services, Division of Child Development and Early Education (DCDEE), shall study assigning a unique student identifier to monitor, throughout their education, the performance levels of children receiving child care subsidies. The study shall be designed to provide data on the efficacy of child care facilities participating in the child care subsidy program or the North Carolina Partnership for Children, Inc. The study shall define the requirements for the following:

- (1) Establishing the unique identifier.
- (2) Collecting, maintaining, and analyzing data.
- (3) Recommending a solution that will allow for the cost-effective acquisition and maintenance of data from child care facilities.
- (4) Recommending an interface with DPI applications that monitors and analyzes student performance.
- (5) Estimating the cost for developing an interface and implementing the requirements identified in the study.

SECTION 12B.8.(b) DCDEE shall report the results of the study to the Joint Legislative Committee on Health and Human Services, the Joint Legislative Education Oversight Committee, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division no later than April 1, 2014.

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS/SALARY SCHEDULE/MATCH REQUIREMENT ADJUSTMENTS

SECTION 12B.9.(a) Policies. – The North Carolina Partnership for Children, Inc., and its Board shall establish policies that focus the North Carolina Partnership for Children, Inc.'s mission on improving child care quality in North Carolina for children from birth to five

years of age. North Carolina Partnership for Children, Inc.-funded activities shall include assisting child care facilities with (i) improving quality, including helping one-, two-, and three-star rated facilities increase their star ratings and (ii) implementing prekindergarten programs. State funding for local partnerships shall also be used for evidence-based or evidence-informed programs for children from birth to five years of age that do the following:

- (1) Increase children's literacy.
- (2) Increase the parents' ability to raise healthy, successful children.
- (3) Improve children's health.
- (4) Assist four- and five-star rated facilities in improving and maintaining quality.

SECTION 12B.9.(b) Administration. – Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management. The North Carolina Partnership for Children, Inc., shall develop a single statewide contract management system that incorporates features of the required standard fiscal accountability plan described in G.S. 143B-168.12(a)(4). All local partnerships shall be required to participate in the contract management system and shall be directed by the North Carolina Partnership for Children, Inc., to collaborate, to the fullest extent possible, with other local partnerships to increase efficiency and effectiveness.

SECTION 12B.9.(c) Salaries. – The salary schedule developed and implemented by the North Carolina Partnership for Children, Inc., shall set the maximum amount of State funds that may be used for the salary of the Executive Director of the North Carolina Partnership for Children, Inc., and the directors of the local partnerships. The North Carolina Partnership for Children, Inc., shall base the schedule on the following criteria:

- (1) The population of the area serviced by a local partnership.
- (2) The amount of State funds administered.
- (3) The amount of total funds administered.
- (4) The professional experience of the individual to be compensated.
- (5) Any other relevant factors pertaining to salary, as determined by the North Carolina Partnership for Children, Inc.

The salary schedule shall be used only to determine the maximum amount of State funds that may be used for compensation. Nothing in this subsection shall be construed to prohibit a local partnership from using non-State funds to supplement an individual's salary in excess of the amount set by the salary schedule established under this subsection.

SECTION 12B.9.(d) Match Requirements. – It is the intent of the General Assembly to continue to increase the percentage of the match of cash and in-kind contributions required of the North Carolina Partnership for Children, Inc., and the local partnerships. The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match one hundred percent (100%) of the total amount budgeted for the program in each fiscal year of the biennium. Of the funds the North Carolina Partnership for Children, Inc., and the local partnerships are required to match, contributions of cash shall be equal to at least eleven percent (11%), and in-kind donated resources shall be equal to no more than three percent (3%) for a total match requirement of fourteen percent (14%) for the 2013-2014 fiscal year; and contributions of cash shall be equal to at least eleven percent (11%), and in-kind donated resources shall be equal to no more than four percent (4%) for a total match requirement of fifteen percent (15%) for the 2014-2015 fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only

in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

- (1) Be verifiable from the contractor's records.
- (2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.
- (3) Not include expenses funded by State funds.
- (4) Be supplemental to and not supplant preexisting resources for related program activities.
- (5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.
- (6) Be otherwise allowable under federal or State law.
- (7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.
- (8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a fourteen percent (14%) match by June 30 of the 2013-2014 fiscal year and a fifteen percent (15%) match by June 30 of the 2014-2015 fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

SECTION 12B.9.(e) Bidding. – The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

- (1) For amounts of five thousand dollars (\$5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.
- (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen thousand dollars (\$15,000), three written quotes.
- (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than forty thousand dollars (\$40,000), a request for proposal process.
- (4) For amounts of forty thousand dollars (\$40,000) or more, a request for proposal process and advertising in a major newspaper.

SECTION 12B.9.(f) Allocations. – The North Carolina Partnership for Children, Inc., shall not reduce the allocation for counties with less than 35,000 in population below the 2012-2013 funding level.

SECTION 12B.9.(g) Performance-Based Evaluation. – The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

SECTION 12B.9.(h) Expenditure Restrictions. – The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2013-2014 and 2014-2015 shall be administered and distributed in the following manner:

(1) Capital expenditures are prohibited for fiscal years 2013-2014 and 2014-2015. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).

(2) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal years 2013-2014 and 2014-2015.

For fiscal years 2013-2014 and 2014-2015, local partnerships shall not spend any State funds on marketing campaigns, advertising, or any associated materials. Local partnerships may spend any private funds the local partnerships receive on those activities.

SUBPART XII-C. DIVISION OF SOCIAL SERVICES

REVISE DATES/TANF BENEFIT IMPLEMENTATION

SECTION 12C.1.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan 2012-2015," prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2012, through September 30, 2015. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section and as amended by this act or any other act of the 2013 General Assembly, to the United States Department of Health and Human Services.

SECTION 12C.1.(b) The counties approved as Electing Counties in the North Carolina Temporary Assistance for Needy Families State Plan 2012-2015, as approved by this section are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

SECTION 12C.1.(c) Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for years 2012 through 2015 pursuant to G.S. 108A-27(e) shall operate under the Electing County budget requirements effective July 1, 2012. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2015.

SECTION 12C.1.(d) For the 2013-2014 fiscal year, Electing Counties shall be held harmless to their Work First Family Assistance allocations for the 2012-2013 fiscal year, provided that remaining funds allocated for Work First Family Assistance and Work First Diversion Assistance are sufficient for payments made by the Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

SECTION 12C.1.(e) In the event that departmental projections of Work First Family Assistance and Work First Diversion Assistance for the 2013-2014 fiscal year indicate that remaining funds are insufficient for Work First Family Assistance and Work First Diversion Assistance payments to be made on behalf of Standard Counties, the Department is authorized to deallocate funds, of those allocated to Electing Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by the Office of State Budget and Management. If the Department adjusts the allocation set forth in subsection (d) of this section, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS

SECTION 12C.2.(a) Notwithstanding the provisions of G.S. 143B-150.6, the Intensive Family Preservation Services (IFPS) Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

SECTION 12C.2.(b) The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of IFPS shall provide information and data that allows for the following:

- (1) An established follow-up system with a minimum of six months of follow-up services.
- (2) Detailed information on the specific interventions applied, including utilization indicators and performance measurement.
- (3) Cost-benefit data.
- (4) Data on long-term benefits associated with IFPS. This data shall be obtained by tracking families through the intervention process.
- (5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
- (6) The number and percentage, by race, of children who received IFPS compared to the ratio of their distribution in the general population involved with Child Protective Services.

SECTION 12C.2.(c) The Department shall establish a performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (b) of this section. The amount of funding shall be based on the individual performance of each program.

CHILD CARING INSTITUTIONS

SECTION 12C.3. Until the Social Services Commission adopts rules setting standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the maximum reimbursement for child caring institutions shall not exceed the rate established for the specific child caring institution by the Department of Health and Human Services, Office of the Controller. In determining the maximum reimbursement, the State shall include county and IV-E reimbursements.

USE OF FOSTER CARE BUDGET FOR GUARDIANSHIP ASSISTANCE PROGRAM

SECTION 12C.4. Of the funds available for the provision of foster care services, the Department of Health and Human Services, Division of Social Services, may provide for the financial support of children who are deemed to be (i) in a permanent family placement setting, (ii) eligible for legal guardianship, and (iii) otherwise unlikely to receive permanency. The Division of Social Services shall design the Guardianship Assistance Program (GAP) in such a manner that no additional expenses are incurred beyond the funds budgeted for foster care. The Guardianship Assistance Program rates shall reimburse the legal guardian for room and board and be set at the same rate as the foster care room and board rates in accordance with rates established under G.S. 108A-49.1. The Social Services Board shall adopt rules establishing a Guardianship Assistance Program to implement this section, including defining the phrase "legal guardian" as used in this section.

CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM (NC REACH)

1 **SECTION 12C.5.(a)** Of the funds appropriated from the General Fund to the
2 Department of Health and Human Services, the sum of five hundred forty-seven thousand two
3 hundred forty-five dollars (\$547,245) for the 2013-2014 fiscal year and six hundred ten
4 thousand eight hundred seventeen dollars (\$610,817) for the 2014-2015 fiscal year shall be
5 used to expand support for the child welfare postsecondary support program for the educational
6 needs of foster youth aging out of the foster care system and special needs children adopted
7 from foster care after age 12 by providing assistance with the "cost of attendance" as that term
8 is defined in 20 U.S.C. § 108711. These funds shall be allocated by the State Education
9 Assistance Authority.

10 **SECTION 12C.5.(b)** Of the funds appropriated from the General Fund to the
11 Department of Health and Human Services, the sum of fifty thousand dollars (\$50,000) for the
12 2013-2014 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2014-2015 fiscal
13 year shall be allocated to the North Carolina State Education Assistance Authority (SEAA).
14 The SEAA shall use these funds only to perform administrative functions necessary to manage
15 and distribute scholarship funds under the child welfare postsecondary support program.

16 **SECTION 12C.5.(c)** Of the funds appropriated from the General Fund to the
17 Department of Health and Human Services, the sum of three hundred thirty-nine thousand four
18 hundred ninety-three dollars (\$339,493) for the 2013-2014 fiscal year and the sum of three
19 hundred thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the 2014-2015
20 fiscal year shall be used to contract with an entity to administer the child welfare postsecondary
21 support program described under subsection (a) of this section, which administration shall
22 include the performance of case management services.

23 **SECTION 12C.5.(d)** Funds appropriated to the Department of Health and Human
24 Services for the child welfare postsecondary support program shall be used only for students
25 attending public institutions of higher education in this State.
26

27 **REQUIRE DRUG TESTING/WORK FIRST PROGRAM ASSISTANCE**

28 **SECTION 12C.6.(a)** G.S. 108A-29.1 reads as rewritten:

29 **"§ 108A-29.1. ~~Substance abuse treatment required; drug~~ Drug testing required for Work**
30 **First Program applicants and recipients.**

31 ~~(a) Each applicant or current recipient of Work First Program benefits, determined by a~~
32 ~~Qualified Professional in Substance Abuse (QPSA) or by a physician certified by the American~~
33 ~~Society of Addiction Medicine (ASAM) to be addicted to alcohol or drugs and to be in need of~~
34 ~~professional substance abuse treatment services shall be required, as part of the person's MRA~~
35 ~~and as a condition to receiving Work First Program benefits, to participate satisfactorily in an~~
36 ~~individualized plan of treatment in an appropriate treatment program. As a mandatory program~~
37 ~~component of participation in an addiction treatment program, each applicant or current~~
38 ~~recipient shall be required to submit to an approved, reliable, and professionally administered~~
39 ~~regimen of testing for presence of alcohol or drugs, without advance notice, during and after~~
40 ~~participation, in accordance with the addiction treatment program's individualized plan of~~
41 ~~treatment, follow up, and continuing care services for the applicant or current recipient. The~~
42 ~~Department shall require a drug test to screen each applicant for or recipient of Work First~~
43 ~~Program assistance. The cost of the drug testing is the responsibility of the individual tested.~~
44 ~~The Department shall provide notice of drug testing to each applicant or recipient. The notice~~
45 ~~shall advise the applicant or recipient that drug testing will be conducted as a condition of~~
46 ~~receiving Work First Program assistance, and that the results of the drug tests will remain~~
47 ~~confidential and will not be released to law enforcement. The applicant or recipient shall be~~
48 ~~advised that the required drug testing may be avoided if the applicant or recipient does not~~
49 ~~apply for Work First Program assistance. Dependent children under the age of 18 are exempt~~
50 ~~from the requirements of this section. The Department shall require the following:~~

- (1) That for two-parent households, both parents comply with the drug testing requirement.
- (2) That any teen parent who is emancipated pursuant to Article 35 of Chapter 7B of the General Statutes comply with the drug testing requirement.
- (3) That each applicant or recipient be advised before testing that he or she may inform the agent administering the test of any prescription or over-the-counter medication he or she is taking.
- (4) That each applicant or recipient being tested sign a written acknowledgement that he or she has received and understood the notice and advice provided under this subsection.
- (5) That each applicant or recipient who fails a drug test understands that he or she has the right to take one or more additional tests.

(b) ~~An applicant or current recipient who fails to comply with any requirement imposed pursuant to this section shall not be eligible for benefits or shall be subject to the termination of benefits, but shall be considered to be receiving benefits for purposes of determining eligibility for medical assistance.~~ For an applicant or current recipient who tests negative for controlled substances, the Department shall increase the amount of the initial Work First Program assistance by the amount paid by the applicant or recipient for the drug testing. An applicant or recipient who tests positive for controlled substances as a result of a drug test required under this section is ineligible to receive Work First Program assistance for one year from the date of the positive drug test, except as provided in subsection (b1) of this section. The individual may reapply after one year. However, if the individual has any subsequent positive drug tests, the individual shall be ineligible for benefits for three years from the date of the subsequent positive drug test unless the individual reapplies pursuant to subsection (b1) of this section.

(b1) An applicant or recipient deemed ineligible may reapply for Work First Program assistance if the individual can document the successful completion of a substance abuse treatment program offered by a provider under subsection (e) of this section and licensed by the Department. The applicant or recipient who reapplies for Work First Program assistance after completion of a substance abuse program shall pass a drug test. The cost of any drug testing and substance abuse program provided under this subsection shall be the responsibility of the applicant or recipient being tested and receiving treatment. An applicant or recipient who reapplies for Work First Program assistance pursuant to this subsection may reapply one time only.

(c) The children of any applicant or current recipient shall remain eligible for benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

(d) ~~An applicant or current recipient shall not be regarded as failing to comply with the requirements of this section if an appropriate drug or alcohol treatment program is unavailable.~~ The Social Services Commission shall adopt rules pertaining to the testing of applicants and recipients under this section.

(e) Area mental health authorities organized pursuant to Article 4 of Chapter 122C of the General Statutes shall be responsible for administering the provisions of this section.

(f) ~~The requirements of this section may be waived or modified as necessary in the case of individual applicants or recipients to the degree necessary to comply with Medicaid eligibility provisions."~~

SECTION 12C.6.(b) The Department of Health and Human Services, Division of Social Services, shall report to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than April 1, 2014, on the implementation of this section.

SECTION 12C.6.(c) This section becomes effective November 1, 2013.

DSS STUDY/PROCEDURES FOR REPORTING CHILD ABUSE

SECTION 12C.7.(a) The Department of Health and Human Services, Division of Social Services, shall study the policies and procedures in place for reporting child abuse. In conducting the study, the Division shall review the following:

- (1) Reports of child abuse in child care facilities.
- (2) How reports of child abuse are received.
- (3) The number of inaccurate reports of child abuse the Division receives annually.
- (4) The number of children the Division has placed in child protective services pursuant to a report of child abuse.
- (5) The reasons a child is placed in child protective services pursuant to a report of child abuse.
- (6) The procedures the Division follows after determining child abuse has occurred as well as the procedures the Division follows after determining child abuse has not occurred.
- (7) The number of reports the Division has determined to be false and a summary of actions taken in response to false reports.
- (8) Procedures and actions the Division follows in removing or redacting reports or other information made available to the public regarding an individual accused of child abuse or a child care facility where the alleged abuse occurred when there is a determination that no abuse has occurred.
- (9) Any recommendations the Division has for improving the process for reporting instances of child abuse.

SECTION 12C.7.(b) The Division of Social Services shall report the results of the study and any recommendations to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than April 1, 2014.

CODIFY WORK FIRST FAMILY ASSISTANCE ELIGIBILITY AND PAYMENT LEVELS

SECTION 12C.8. Part 2 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"§ 108A-27A. Income eligibility and payment level for Work First Family Assistance.

The maximum net family annual income eligibility standards for Work First Family Assistance are the same standards of need for eligibility for the categorically needy under the Medicaid Program, as provided in the eligibility table found in G.S. 108-54.6(a). The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need."

SUBPART XII-D. DIVISION OF AGING AND ADULT SERVICES

STATEWIDE IMPLEMENTATION OF PROJECT C.A.R.E.

SECTION 12D.1.(a) Funds appropriated in this act to the Department of Health and Human Services, Division of Aging & Adult Services, for the 2013-2015 fiscal biennium for the Caregiver Alternatives to Running On Empty project (Project C.A.R.E.) shall be used to support Alzheimer's-related activities consistent with the goals of Project C.A.R.E. in all 100 counties. By no later than December 31, 2013, the Department shall submit a report on the progress of statewide implementation of Project C.A.R.E. to the Joint Legislative Oversight Committee on Health and Human Services, the Fiscal Research Division, and the Governor's Advisory Council on Aging.

SECTION 12D.1.(b) Section 10.35B of S.L. 2010-31 is repealed.

TIERED STATE-COUNTY SPECIAL ASSISTANCE PILOT

SECTION 12D.2.(a) It is the intent of the General Assembly to create a State-County Special Assistance program that allows counties greater flexibility in serving individual needs within their communities and greater control over how county funds are used to support this program in light of the fact that counties are required to pay for fifty percent (50%) of the costs of this program. To that end, the General Assembly directs the Department of Health and Human Services to establish a pilot program in accordance with subsection (b) of this section.

SECTION 12D.2.(b) The Department of Health and Human Services, Division of Aging and Adult Services, shall establish a pilot program to implement a tiered rate structure within the State-County Special Assistance program for individuals residing in group homes, in-home living arrangements, and assisted living residences as defined in G.S. 131D-2.1. The purposes of the pilot program are to (i) determine the best way to implement a block grant for this program statewide and (ii) test the feasibility and effectiveness of implementing a tiered rate structure to address program participants' intensity of need, including medication management. The Department shall select a minimum of four and a maximum of six counties to participate in the pilot program, at least two of which shall be rural counties and at least two of which shall be urban counties. The pilot program shall be implemented during the 2013-2014 fiscal year for at least a 12-month period.

SECTION 12D.2.(c) The Department shall implement the pilot program in collaboration with the local departments of social services in the counties selected for participation. As part of the pilot program, the selected counties shall receive a State General Fund allocation as a block grant to be equally matched with county general funds. The General Fund allocation provided to each county participating in the pilot program shall be calculated based upon the average annual Special Assistance expenditures for that county during the 2011-2013 fiscal biennium, adjusted for the amount of projected annual growth in the number of Special Assistance recipients in that county during the 2013-2015 fiscal biennium. These funds may be used to pay for room, board, and personal care services, including medication management, for individuals eligible to receive State-County Special Assistance, subject to the following limitations and requirements:

- (1) These funds shall not be used to cover any portion of the cost of providing services for which an individual receives Medicaid coverage.
- (2) The pilot program shall comply with all federal and State requirements governing the existing State-County Special Assistance program.
- (3) The tiered rate structure shall be based upon intensity of need, and an individual's placement within a tier shall be based upon an independent assessment of the individual's need for room, board, and assistance with activities of daily living, including medication management.

SECTION 12D.2.(d) By no later than February 1, 2014, the Department shall submit a progress report on the implementation and operation of the pilot program, including any obstacles to implementation; and by no later than February 1, 2015, the Department shall submit a final report on the results of the pilot program, along with any recommendations based on these results, to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The report due by February 1, 2015, shall include information from all participating counties on at least all of the following:

- (1) The amount of the tiered rates implemented as part of the pilot program.
- (2) The cost methodology for determining these tiered rates.
- (3) The number of individuals participating in the pilot program while residing in a group home.
- (4) The number of individuals participating in the pilot program while residing in an in-home living arrangement.

- (5) The number of individuals participating in the pilot program while residing in an assisted living residence as defined by G.S. 131D-2.1, broken down by facility type.
- (6) A comparison of the number of recipients of State-County Special Assistance prior to and during the pilot program, broken down by county and living arrangement.
- (7) Any other information the Department deems relevant for determining the best way to implement a block grant statewide for the State-County Special Assistance program.

SECTION 12D.2(e). As used in this section, the term "group home" means any facility that (i) is licensed under Chapter 122C of the General Statutes, (ii) meets the definition of a supervised living facility under 10A NCAC 27G .5601, and (iii) serves adults whose primary diagnosis is mental illness or a developmental disability but may also have other diagnoses.

SUBPART XII-E. DIVISION OF PUBLIC HEALTH

INCREASE PERMIT FEES FOR CERTAIN FOOD AND LODGING ESTABLISHMENTS

SECTION 12E.1.(a) G.S. 130A-247 is amended by adding a new subdivision to read:

"(8) "Temporary food establishment" means an establishment not otherwise exempted from this part pursuant to G.S. 130A-250 that (i) prepares or serves food, (ii) operates for a period of time not to exceed 21 days in one location, and (iii) is affiliated with and endorsed by a transitory fair, carnival, circus, festival, or public exhibition."

SECTION 12E.1.(b) G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging and Adult Services of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, temporary food establishments, limited food services establishments, and public school cafeterias, a fee of ~~seventy-five~~one hundred twenty dollars ~~(\$75.00)~~(\$120.00) for each permit issued. This fee shall be reassessed annually for permits that do not expire. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than ~~thirty-three and one-third percent (33 1/3%)~~ fifty dollars (\$50.00) of each fee collected under this subsection may be used to support State health programs and activities."

SECTION 12E.1.(c) G.S. 130A-248(d1) reads as rewritten:

"(d1) The Department shall charge a twenty-five dollar (\$25.00) late payment fee to any establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, temporary food establishments, limited food services establishments, and public school cafeterias, that fails to pay the fee required by subsection (d) of this section within 45 days after billing by the Department. The Department may, in accordance with G.S. 130A-23, suspend the permit of an establishment that fails to pay the required fee within 60 days after billing by the Department. The Department shall charge a reinstatement fee of one hundred fifty dollars (\$150.00) to any establishment that requests reinstatement of its permit after the permit has been suspended. The Commission shall adopt rules to implement this subsection.

The clear proceeds of civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 12E.1.(d) G.S. 130A-248 is amended by adding a new subsection to read:

"(d2) A local health department shall charge each temporary food establishment and each limited food services establishment a fee of seventy-five dollars (\$75.00) for each permit issued. A local health department shall use all fees collected under this subsection for local food, lodging, and institution sanitation programs and activities."

SECTION 12E.1.(e) Subsections (a) through (d) of this section become effective on July 1, 2013, and apply to food and lodging permits effective or reassessed on or after July 1, 2013.

SECTION 12E.1.(f) Section 31.11A of S.L. 2011-145, as amended by Section 61A of S.L. 2011-391 and Section 10.15 of S.L. 2012-142, is repealed.

MODIFICATIONS TO ORAL HEALTH STRATEGY

SECTION 12E.2.(a) It is the intent of the General Assembly to redirect the resources of the Oral Health Section within the Department of Health and Human Services, Division of Public Health, to provide direct clinical care in dental clinics operated or sponsored by local health departments.

SECTION 12E.2.(b) Effective October 1, 2013, the Secretary of Health and Human Services shall eliminate 39 full-time equivalent dental hygienist positions, two full-time equivalent dental equipment technician positions, and seven full-time equivalent administrative positions within the Oral Health Section of the Division of Public Health. The Secretary shall reallocate the funds that become available as a result of eliminating the 39 full-time equivalent dental hygienist positions and the two full-time equivalent dental equipment technician positions in the form of grants-in-aid to local health departments that operate or sponsor dental clinics. The local health departments shall use these grants-in-aid for the sole purpose of hiring dental hygienists or dental assistants to provide direct clinical care in the dental clinics operated or sponsored by the local health departments.

SECTION 12E.2.(c) By no later than February 1, 2014, the Department shall submit a revised statewide oral health strategic plan to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. The plan shall include at least all of the following:

- (1) Recommendations for reorganizing the Department's Oral Health Section.
- (2) Strategies for reducing oral diseases through prevention, education, and health promotion services.
- (3) Strategies for monitoring public oral health.
- (4) Strategies for increasing access to dental care.

FUNDS FOR SCHOOL NURSES

SECTION 12E.3.(a) All funds appropriated in this act for the School Nurse Funding Initiative shall be used to supplement and not supplant other State, local, or federal funds appropriated or allocated for this purpose. Communities shall maintain their current level of effort and funding for school nurses. These funds shall not be used to fund nurses for State agencies. These funds shall be distributed to local health departments according to a formula that includes all of the following:

- (1) School nurse-to-student ratio.
- (2) Percentage of students eligible for free or reduced meals.
- (3) Percentage of children in poverty.
- (4) Per capita income.
- (5) Eligibility as a low-wealth county.

(6) Mortality rates for children between one and 19 years of age.

(7) Percentage of students with chronic illnesses.

(8) Percentage of county population consisting of minority persons.

SECTION 12E.3.(b) The Division of Public Health shall ensure that school nurses funded with State funds (i) do not assist in any instructional or administrative duties associated with a school's curriculum and (ii) perform all of the following with respect to school health programs:

(1) Serve as the coordinator of the health services program and provide nursing care.

(2) Provide health education to students, staff, and parents.

(3) Identify health and safety concerns in the school environment and promote a nurturing school environment.

(4) Support healthy food services programs.

(5) Promote healthy physical education, sports policies, and practices.

(6) Provide health counseling, assess mental health needs, provide interventions, and refer students to appropriate school staff or community agencies.

(7) Promote community involvement in assuring a healthy school and serve as school liaison to a health advisory committee.

(8) Provide health education and counseling and promote healthy activities and a healthy environment for school staff.

(9) Be available to assist the county health department during a public health emergency.

SECTION 12E.3.(c) Section 6.9(b) of S.L. 2011-145, as amended by Section 6.2 of S.L. 2012-142, is repealed.

CHILDREN'S DEVELOPMENTAL SERVICE AGENCIES

SECTION 12E.4. In order to reduce the amount of State funds appropriated for the Children's Developmental Service Agencies (CDSAs) program, the Department of Health and Human Services, Division of Public Health, shall close four CDSAs, effective July 1, 2014. The Department shall retain the CDSAs with the highest caseloads of children residing in rural and medically underserved areas. By no later than March 1, 2014, the Department shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division identifying the four CDSAs selected for closure in accordance with this section.

AIDS DRUG ASSISTANCE PROGRAM

SECTION 12E.5.(a) The Department of Health and Human Services shall work with the Department of Public Safety (DPS) to use DPS funds to purchase pharmaceuticals for the treatment of individuals in the custody of DPS who have been diagnosed with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome (HIV/AIDS) in a manner that allows these funds to be accounted for as State matching funds in the Department of Health and Human Services drawdown of federal Ryan White funds earmarked for the AIDS Drug Assistance Program (ADAP).

SECTION 12E.5.(b) By no later than April 1, 2014, and by no later than April 1, 2015, the Department of Health and Human Services, Division of Public Health, shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on all of the following:

(1) Use of the funds appropriated to support ADAP for the preceding fiscal year.

(2) Steps taken by DHHS to reduce the waiting list for ADAP.

(3) Alternative options for serving individuals diagnosed with HIV/AIDS who are eligible to receive services under ADAP, including the State Medicaid

1 program and the federally facilitated Health Benefit Exchange that will
2 operate in this State.

3 4 **COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE**

5 **SECTION 12E.6.(a)** Funds appropriated in this act to the Department of Health
6 and Human Services, Division of Public Health, for the Community-Focused Eliminating
7 Health Disparities Initiative (CFEHDI) shall be used to provide a maximum of 12 grants-in-aid
8 to close the gap in the health status of African-Americans, Hispanics/Latinos, and American
9 Indians as compared to the health status of white persons. These grants-in-aid shall focus on the
10 use of measures to eliminate or reduce health disparities among minority populations in this
11 State with respect to heart disease, stroke, diabetes, obesity, asthma, HIV/AIDS, and cancer.
12 The Office of Minority Health shall coordinate and implement the grants-in-aid program
13 authorized by this section.

14 **SECTION 12E.6.(b)** In implementing the grants-in-aid program authorized by
15 subsection (a) of this section, the Department shall ensure all of the following:

- 16 (1) The amount of any grant-in-aid is limited to three hundred thousand dollars
17 (\$300,000).
- 18 (2) Only community-based organizations, faith-based organizations, local health
19 departments, hospitals, and CCNC networks located in urban and rural areas
20 of the western, eastern, and Piedmont areas of this State are eligible to apply
21 for these grants-in-aid. No more than four grants-in-aid shall be awarded to
22 applicants located in any one of the three areas specified in this subdivision.
- 23 (3) Each eligible applicant shall be required to demonstrate substantial
24 participation and involvement with all other categories of eligible applicants,
25 in order to ensure an evidence-based medical home model that will affect
26 change in health and geographic disparities.
- 27 (4) Eligible applicants shall select one or more of the following chronic illnesses
28 or conditions specific to the applicant's geographic area as the basis for
29 applying for a grant-in-aid under this section to affect change in the health
30 status of African-Americans, Hispanics/Latinos, or American Indians:
 - 31 a. Heart Disease.
 - 32 b. Stroke.
 - 33 c. Diabetes.
 - 34 d. Obesity.
 - 35 e. Asthma.
 - 36 f. HIV/AIDS.
 - 37 g. Cancer.
- 38 (5) The minimum duration of the grant period for any grant-in-aid is two years.
- 39 (6) The maximum duration of the grant period for any grant-in-aid is three
40 years.
- 41 (7) If approved for a grant-in-aid, the grantee (i) shall not use more than eight
42 percent (8%) of the grant funds for overhead costs and (ii) shall be required
43 at the end of the grant period to demonstrate significant gains in addressing
44 one or more of the health disparity focus areas identified in subsection (a) of
45 this section.
- 46 (8) An independent panel with expertise in the delivery of services to minority
47 populations, health disparities, chronic illnesses and conditions, and
48 HIV/AIDS shall conduct the review of applications for grants-in-aid. The
49 Department shall establish the independent panel required by this section.

50 **SECTION 12E.6.(c)** The grants-in-aid awarded under this section shall be awarded
51 in honor of the memory of the following deceased members of the General Assembly: Bernard

Allen, Pete Cunningham, John Hall, Robert Holloman, Howard Hunter, Ed Jones, Jeanne Lucas, Vernon Malone, William Martin, and William Wainwright. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who are African-American, as well as disparities among other minority populations in North Carolina.

SECTION 12E.6.(d) Section 10.21(d) of S.L. 2011-145 reads as rewritten:

"SECTION 10.21.(d) ~~By October 1, 2012, and annually thereafter, October 1, 2013, the Department shall submit a report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on funds appropriated to the CFEHDI. The report shall include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State, and shall also address all of the following:~~

- (1) Which community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks received CFEHDI grants-in-aid.
- (2) The amount of funding awarded to each grantee.
- (3) Which of the minority populations were served by each grantee.
- (4) Which community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks were involved in fulfilling the goals and activities of each grant-in-aid awarded under this section and what activities were planned and implemented by the grantee to fulfill the community focus of the CFEHDI program.
- (5) How the activities implemented by the grantee fulfilled the goal of reducing health disparities among minority populations, and the specific success in reducing particular incidences."

STRATEGIES FOR IMPROVING MEN'S HEALTH

SECTION 12E.7. Article 7 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 5A. Men's Health.

"§ 130A-223.1. Department to establish strategies for improving men's health.

The Department of Health and Human Services, Division of Public Health, Chronic Disease and Injury Prevention Section, shall work to expand the State's attention and focus on the prevention of disease and improvement in the quality of life for men over their entire lifespan. The Department shall develop strategies for achieving these goals, which shall include, but not be limited to, all of the following:

- (1) Developing a strategic plan to improve health care services.
- (2) Building public health awareness.
- (3) Developing initiatives within existing programs.
- (4) Pursuing federal and State funding for the screening, early detection, and treatment of prostate cancer and other diseases affecting men's health."

SUBPART XII-F. DIVISION OF MH-DD-SAS AND STATE OPERATED HEALTHCARE FACILITIES

ESTABLISH STATEWIDE TELEPSYCHIATRY PROGRAM

SECTION 12F.1.(a) By no later than October 1, 2013, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall develop and submit a plan for implementation of a statewide telepsychiatry program to the Joint Legislative Oversight Committee on Health and Human

Services and the Fiscal Research Division. The plan shall be substantially similar to the Albemarle Hospital Foundation telepsychiatry program currently operating in 12 hospitals in eastern North Carolina and include at least all of the following:

- (1) Specific steps to be taken by the Department, within a specified time period, to establish and administer the program statewide.
- (2) Program costs and rates of payment for telepsychiatry services.
- (3) Recommendations for addressing liability issues related to participation in telepsychiatry.

SECTION 12F.1.(b) Chapter 122C of the General Statutes is amended by adding a new Article to read:

"Article 1B.

"Statewide Telepsychiatry Program.

"§ 122C-20.5. Department to establish statewide telepsychiatry program.

(a) The following definitions apply in this section:

- (1) Consultant site. – The site at which the consulting provider is physically located at the time the consulting provider delivers the acute mental health or substance abuse care by means of telepsychiatry.
- (2) Referring site. – A hospital licensed under Chapter 131E of the General Statutes at which a patient experiencing an acute mental health or substance abuse crisis is physically located.
- (3) Telepsychiatry. – The delivery of acute mental health or substance abuse care, including diagnosis or treatment, by means of two-way real-time interactive audio or video by a consulting provider at a consultant site to an individual patient at a referring site. The term does not include the standard use of telephones, facsimile transmissions, unsecured electronic mail, or a combination of these in the course of care.
- (4) Consulting provider. – A physician or other health care provider licensed in this State to provide acute mental health or substance abuse care.

(b) By no later than January 1, 2014, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall establish a statewide telepsychiatry program that allows referring sites to utilize consulting providers at a consultant site to provide timely psychiatric assessment and rapid initiation of treatment for patients at the referring site experiencing an acute mental health or substance abuse crisis.

(c) The Commission shall adopt rules necessary to implement this section. The rules shall specify at least all of the following:

- (1) Requirements to ensure the health and safety of patients.
- (2) Participation and equipment requirements for consultant sites, consulting providers, and referring sites.
- (3) Rates of payment for telepsychiatry services.

(d) The Department shall periodically evaluate the effectiveness of the statewide telepsychiatry program."

SECTION 12F.1.(c) G.S. 143B-147(a)(1) is amended by adding a new sub-subdivision to read:

"(1) To adopt rules regarding the

...

g. Statewide telepsychiatry program established pursuant to G.S. 122C-20.5."

SECTION 12F.1.(d) Funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2013-2015 fiscal biennium for the statewide telepsychiatry program shall be used for the following purposes:

- (1) To establish and administer the statewide telepsychiatry program authorized in G.S. 122C-20.5.
- (2) To purchase needed telepsychiatry equipment for State-owned and State-operated hospitals participating in the statewide telepsychiatry program.
- (3) To contract with an outside vendor for management of the statewide telepsychiatry program.

FUNDS FOR LOCAL INPATIENT PSYCHIATRIC BEDS OR BED DAYS

SECTION 12F.2.(a) Use of Funds. – Of the funds appropriated in Section 2.1 of this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for crisis services, the sum of thirty-eight million one hundred twenty-one thousand six hundred forty-four dollars (\$38,121,644) for the 2013-2014 fiscal year and the sum of thirty-eight million one hundred twenty-one thousand six hundred forty-four dollars (\$38,121,644) for the 2014-2015 fiscal year shall be used to purchase additional local inpatient psychiatric beds or bed days not currently funded by or through LME/MCOs. In addition, at the discretion of the Secretary of Health and Human Services, existing funds allocated to LME/MCOs for community-based mental health, developmental disabilities, and substance abuse services may be used to purchase additional local inpatient psychiatric beds or bed days. Funds designated in this subsection for the purchase of local inpatient psychiatric beds or bed days shall not be used to supplant other funds appropriated or otherwise available to the Department for the purchase of inpatient psychiatric services through contracts with local hospitals.

SECTION 12F.2.(b) Distribution and Management of Beds or Bed Days. – The Department shall work to ensure that any local inpatient psychiatric beds or bed days purchased in accordance with this section are distributed across the State in LME/MCO catchment areas and according to need as determined by the Department. The Department shall enter into contracts with LME/MCOs and local hospitals for the management of these beds or bed days. The Department shall work to ensure that these contracts are awarded equitably around all regions of the State. LME/MCOs shall manage and control these local inpatient psychiatric beds or bed days, including the determination of the specific local hospital or State psychiatric hospital to which an individual should be admitted pursuant to an involuntary commitment order.

SECTION 12F.2.(c) Funds to be Held in Statewide Reserve. – Funds appropriated to the Department for the purchase of local inpatient psychiatric beds or bed days shall not be allocated to LME/MCOs but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LME/MCOs and billed by the hospitals through the LME/MCOs. LME/MCOs shall remit claims for payment to the Department within 15 working days after receipt of a clean claim from the hospital and shall pay the hospital within 30 working days after receipt of payment from the Department.

SECTION 12F.2.(d) Ineffective LME/MCO Management of Beds or Bed Days. – If the Department determines that (i) an LME/MCO is not effectively managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in the local hospital not being utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME/MCO has failed to comply with the prompt payment provisions of subsection (c) of this section, the Department may contract with another LME/MCO to manage the beds or bed days or, notwithstanding any other provision of law to the contrary, may pay the hospital directly.

SECTION 12F.2.(e) Reporting by LME/MCOs. – The Department shall establish reporting requirements for LME/MCOs regarding the utilization of these beds or bed days.

SECTION 12F.2.(f) Reporting by Department. – By no later than March 1, 2014, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on all of the following:

- (1) A uniform system for beds or bed days purchased during the fiscal year ending June 30, 2013, from (i) funds appropriated in this act that are designated for this purpose in subsection (a) of this section, (ii) existing State appropriations, and (iii) local funds.
- (2) Other Department initiatives funded by State appropriations to reduce State psychiatric hospital use.

SECTION 12F.2.(g) Repeal of Hospital Utilization Pilot. – Sections 10.49(s1) through 10.49(s5) of S.L. 2007-323 are repealed.

FUNDS FOR THE NORTH CAROLINA CHILD TREATMENT PROGRAM

SECTION 12F.3.(a) Recurring funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2013-2015 fiscal biennium for the North Carolina Child Treatment Program (NC CTP) shall be used for the following purposes:

- (1) To provide clinical training and coaching to licensed Medicaid clinicians on an array of evidence-based treatments and to provide a statewide platform to assure accountability and outcomes.
- (2) To maintain and manage a public roster of program graduates, linking high-quality clinicians with children, families, and professionals.
- (3) To partner with State, LME/MCO, and private sector leadership to bring effective mental health treatment to children in juvenile justice and mental health facilities.

SECTION 12F.3.(b) Nonrecurring funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2013-2015 fiscal biennium for the North Carolina Child Treatment Program (NC CTP) shall be used to pay for the cost of developing a secure database for the NC CTP to track individual-level and aggregate-level data with interface capability to work with existing networks within State agencies. The database shall be the property of the State and shall be hosted on State infrastructure. Any data or product that is part of, or derived from, this database shall be and will remain the sole property of the State.

SINGLE STREAM FUNDING FOR MH/DD/SAS COMMUNITY SERVICES

SECTION 12F.4.(a) For the purpose of mitigating cash flow problems that many LME/MCOs experience at the beginning of each fiscal year relative to single stream funding, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall distribute not less than one-twelfth of each LME/MCO's continuation allocation at the beginning of the fiscal year and subtract the amount of that distribution from the LME/MCO's total reimbursements for the fiscal year.

SECTION 12F.4.(b) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall periodically review and, as deemed necessary by the Department, update the set of standardized covered benefits developed and implemented by the Department pursuant to Section 10.11(b) of S.L. 2011-145 for recipients of LME/MCO community service funds; provided, however, the Department shall not implement any updates that increase the overall cost of these standardized covered benefits.

MH/DD/SAS HEALTH CARE INFORMATION SYSTEM PROJECT

1 **SECTION 12F.5.** The Department of Health and Human Services shall not take
2 any further action or expend any funds appropriated or available to the Department to develop
3 and implement the health care information system for State facilities operated by the Division
4 of Mental Health, Developmental Disabilities, and Substance Abuse Services. By no later than
5 March 1, 2014, the Department shall submit a detailed plan of this system to the Joint
6 Legislative Oversight Committee on Health and Human Services, the Joint Legislative
7 Oversight Committee on Information Technology, and the Fiscal Research Division. The plan
8 shall include an explanation of at least all of the following:

- 9 (1) The process the Department used to select the Veterans Health Information
10 Systems and Technology Architecture (VisTA), whether or not the selection
11 process was competitive, and if not, why it was not.
- 12 (2) Requirements for vendor services to support system implementation and
13 operation and the costs associated with this support.
- 14 (3) Governance structure for the system.
- 15 (4) Modules to be implemented in each facility and the reason for each.
- 16 (5) Assignment of responsibility for system maintenance, codes fixes,
17 application upgrades, and hardware upgrades.
- 18 (6) Whether the application and database will be implemented at each facility or
19 centrally managed by the Department and the reasons for the decision.
- 20 (7) Identification of additional hardware that will be required to support a
21 statewide rollout and the location at which the Department plans to host it.
- 22 (8) Assignment of responsibility for backup and recovery.
- 23 (9) If there will be redundant failover between facilities.
- 24 (10) Plans, time lines, and costs for implementing any other modules currently
25 offered by the United State Department of Veterans Affairs.
- 26 (11) A process for ensuring that the system software is upgraded whenever the
27 United States Department of Veterans Affairs upgrades its system.
- 28 (12) Technology constraints for VisTA and State-supported facilities and how
29 they will be addressed, by facility.
- 30 (13) Facility on-boarding plan for the State psychiatric hospitals and other State
31 facilities operated by the Division.
- 32 (14) Costs and sources of funding for planning, development, and
33 implementation at each facility and five years of costs and sources of
34 funding for operations and maintenance at each facility.
- 35 (15) Any other costs associated with system planning, development,
36 implementation, operation, and maintenance.
- 37 (16) Any issues associated with the planning, development, and implementation,
38 identified by the Department, the Office of the State Chief Information
39 Officer, the Office of Information Technology Services, or the Office of
40 State Budget and Management, with a solution for each identified issue.

41
42 **LME/MCO FUNDS FOR SUBSTANCE ABUSE SERVICES**

43 **SECTION 12F.6.(a)** LME/MCOs shall use a portion of their allocated funds for
44 substance abuse treatment services to support prevention and education activities at a level at
45 least equivalent to the 2012-2013 fiscal year.

46 **SECTION 12F.6.(b)** In providing treatment and services for adult offenders and
47 increasing the number of Treatment Accountability for Safer Communities (TASC) case
48 managers, local management entities shall consult with TASC to improve offender access to
49 substance abuse treatment and match evidence-based interventions to individual needs at each
50 stage of substance abuse treatment. Special emphasis should be placed on intermediate

punishment offenders, community punishment offenders at risk for revocation, and Department of Correction releases who have completed substance abuse treatment while in custody.

The Department shall allocate up to three hundred thousand dollars (\$300,000) of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to provide substance abuse services for adult offenders and to increase the number of TASC case managers. These funds shall be allocated to TASC before funds are allocated to LMEs for mental health services, substance abuse services, and crisis services.

CLOSE STATE-OPERATED ALCOHOL & DRUG ABUSE TREATMENT CENTERS

SECTION 12F.7.(a) The Department of Health and Human Services shall not allow any new admissions or readmissions to State-operated alcohol and drug abuse treatment centers (ADATCs) after June 30, 2013.

SECTION 12F.7.(b) By no later than September 30, 2013, the Department shall permanently cease operations at all State-operated ADATCs and close these facilities.

SECTION 12F.7.(c) The sum of ten million dollars (\$10,000,000) appropriated in this act for the 2013-2014 fiscal year and the sum of twenty million dollars (\$20,000,000) appropriated in this act for the 2014-2015 fiscal year from the savings achieved as a result of closing the State-operated ADATCs shall be used to increase the allocations provided to the LME/MCOs. LME/MCOs shall use these funds to provide community-based and residential alcohol and substance abuse treatment services. LME/MCOs shall not use these funds to supplant other State, local, or block grant funds provided for this purpose.

SEVERANCE & RELOCATION FOR AREA DIRECTORS

SECTION 12F.8. G.S. 122C-121(a2) reads as rewritten:

"(a2) The area board shall not provide the director with any benefits that are not also provided by the area board to all permanent employees of the area ~~program-program~~, except that the area board may, in its discretion, offer severance benefits, relocation expenses, or both to an applicant for the position of director as an incentive for the applicant to accept an offer of employment. The director shall be reimbursed only for allowable employment-related expenses at the same rate and in the same manner as other employees of the area program."

SUBPART XII-G. DIVISION OF HEALTH SERVICE REGULATION

THREE-YEAR MORATORIUM ON SPECIAL CARE UNIT LICENSES

SECTION 12G.1. For the period beginning July 1, 2013, and ending July 1, 2016, the Department of Health and Human Services, Division of Health Service Regulation, shall not issue any licenses for special care units as defined in G.S. 131D-4.6 and G.S. 131E-114. This prohibition shall not restrict the Department from doing any of the following:

- (1) Issuing a license to a facility that is acquiring an existing special care unit.
- (2) Issuing a license for a special care unit in any area of the State upon a determination by the Secretary of the Department of Health and Human Services that increased access to this type of care is necessary in that area during the three-year moratorium imposed by this section.
- (3) Processing all completed applications for special care unit licenses received by the Division of Health Service Regulation along with the applicable license fee prior to June 1, 2013.

ELIMINATE COMPREHENSIVE REPORT ON MEDICATION-RELATED ERRORS IN NURSING HOMES

SECTION 12G.2.(a) G.S. 131E-128.1(e) reads as rewritten:

"(e) Confidentiality. – The meetings or proceedings of the advisory committee, the records and materials it produces, and the materials it considers, including analyses and reports pertaining to medication-related error reporting under G.S. 131E-128.2 ~~and G.S. 131E-128.5~~ and pharmacy reports on drug defects and adverse reactions under G.S. 131E-128.4, shall be confidential and not be considered public records within the meaning of G.S. 132-1. The meetings or proceedings and records and materials also shall not be subject to discovery or introduction into evidence in any civil action against a nursing home or a provider of professional health services resulting from matters that are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall testify in any civil action as to any evidence or other matters produced or presented during the meetings or proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. Notwithstanding the foregoing:

- (1) Information, documents, or records otherwise available, including any deficiencies found in the course of an inspection conducted under G.S. 131E-105, shall not be immune from discovery or use in a civil action merely because they were presented during meetings or proceedings of the advisory committee. A member of the advisory committee or a person who testifies before the committee may testify in a civil action but cannot be asked about that person's testimony before the committee or any opinion formed as a result of the committee meetings or proceedings.
- (2) Information that is confidential and not subject to discovery or use in civil actions under this subsection may be released to a professional standards review organization that performs any accreditation or certification function. Information released to the professional standards review organization shall be limited to information reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification. Information released to the standards review organization retains its confidentiality and is not subject to discovery or use in any civil action as provided under this subsection. The standards review organization shall keep the information confidential subject to this subsection.
- (3) Information that is confidential and not subject to discovery or use in civil actions under this subsection may be released to the Department of Health and Human Services pursuant to its investigative authority under G.S. 131E-105. Information released to the Department shall be limited to information reasonably necessary and relevant to the Department's investigation of compliance with Part 1 of Article 6 of this Chapter. Information released to the Department retains its confidentiality and is not subject to discovery or use in any civil action as provided in this subsection. The Department shall keep the information confidential subject to this subsection.
- (4) Information that is confidential and is not subject to discovery or use in civil actions under this subsection may be released to an occupational licensing board having jurisdiction over the license of an individual involved in an incident that is under review or investigation by the advisory committee. Information released to the occupational licensing board shall be limited to information reasonably necessary and relevant to an investigation being conducted by the licensing board pertaining to the individual's involvement in the incident under review by the advisory committee. Information released to an occupational licensing board retains its confidentiality and is not subject to discovery or use in any civil action as provided in this

subsection. The occupational licensing board shall keep the information confidential subject to this subsection."

SECTION 12G.2.(b) G.S. 131E-128.1(g) reads as rewritten:

"(g) Penalty. – The Department may take adverse action against the license of a nursing home upon a finding that the nursing home has failed to comply with this section, G.S. 131E-128.2, 131E-128.3, ~~131E-128.4, or 131E-128.5~~ or 131E-128.4."

SECTION 12G.2.(c) G.S. 131E-128.5 is repealed.

CERTIFICATE OF NEED EXEMPTION FOR REPLACEMENT EQUIPMENT & REPLACEMENT FACILITIES ON THE MAIN CAMPUS OF A CON-APPROVED HEALTH SERVICE FACILITY

SECTION 12G.3.(a) G.S. 131E-184 is amended by adding a new subsection to read:

"(f) The Department shall exempt from certificate of need review the purchase of any replacement equipment that exceeds the two million dollar (\$2,000,000) threshold set forth in G.S. 131E-176(22) and any capital expenditure that exceeds the two million dollar (\$2,000,000) threshold set forth in G.S. 131E-176(16)b. if all of the following conditions are met:

- (1) For replacement equipment, if the replacement equipment is to be used on the main campus of a licensed health service facility that has already obtained certificate of need approval.
- (2) For a capital expenditure, if the sole purpose of the capital expenditure is to replace an existing health service facility on the main campus of a licensed health service facility that has already obtained certificate of need approval and the capital expenditure does not result in (i) a change in bed capacity as defined in G.S. 131E-176(5) or (ii) the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.
- (3) The licensed health service facility proposing to purchase the replacement equipment or incur the capital expenditure shall provide prior written notice to the Department, along with supporting documentation to demonstrate that it meets the exemption criteria of this subsection."

SECTION 12G.3.(b) This section applies to replacement equipment purchased and capital expenditures incurred on or after July 1, 2013.

SUBPART XII-H. DIVISION OF MEDICAL ASSISTANCE (MEDICAID)

DETAILED MEDICAID REFORM PROPOSAL TO BE PREPARED BY DEPARTMENT OF HEALTH AND HUMAN SERVICES

SECTION 12H.1.(a) The Department of Health and Human Services, Division of Medical Assistance, (Department) shall create a detailed plan for, but not implement, significant reforms to the State's Medicaid Program that shall accomplish the following:

- (1) Create a predictable and sustainable Medicaid program for North Carolina taxpayers.
- (2) Increase administrative ease and efficiency for North Carolina Medicaid providers.
- (3) Provide care for the whole person by uniting physical and behavioral health care.

SECTION 12H.1.(b) The Department shall submit its detailed proposal of how to reform the State's Medicaid Program to the General Assembly. The report shall contain the following:

- (1) The details of the reform plan, including how the plan would accomplish the goals set out in subsection (a) of this section.
- (2) The Department's methodology for selecting the reform plan over alternatives.
- (3) Forecasts of the reform plan's potential to slow the growth of the costs of the Medicaid Program, including the assumptions and methodology used for the forecast, as well as an explanation of how the Department's forecast methodology has been improved to produce more accurate forecasting than in prior years.
- (4) The reform plan's impact, as compared to the existing Medicaid Program, on both providers and recipients in areas such as enrollment within the Medicaid system, access to services, quality of care, and payment methodologies, and any other areas of comparison to help the General Assembly evaluate the reform plan.
- (5) If regional demonstration projects, pilot projects, or similar projects will be used to test a proposal, how the Department will ensure that the test methodology is scientifically valid and consistent with social science research methods.
- (6) How financial risks will be allocated under the reform plan.
- (7) The mechanisms through which the Department and any contractors under the reform plan would be held accountable for the implementation and performance of the plan.
- (8) Short-term costs to implement the plan and expected long-term savings in future years from slowing the growth of costs.
- (9) A realistic time line for implementation.
- (10) Draft Medicaid State Plan Amendments, Medicaid waivers, amendments to State law, or other changes necessary to legally allow the Department to implement its reform plan.
- (11) Any other detailed information that would assist the General Assembly in evaluating the strength of the reform plan and the plan's ability to accomplish the goals set out in subsection (a) of this section.

SECTION 12H.1.(c) The Department is encouraged to and may submit draft Medicaid State Plan amendments, draft waiver applications, or other documents to the federal government to solicit feedback on the Department's proposal prior to reporting to the General Assembly. The Department shall not, however, submit any documents to the federal government to implement the reform plan without legislation authorizing the Department to implement the Department's reform plan.

SECTION 12H.1.(d) The Department shall submit its reform plan to the General Assembly no later than March 17, 2014, but is encouraged to submit its plan as early as it responsibly can.

CLARIFY STATE PLAN AMENDMENT PROCEDURES; REPEAL UNAUTHORIZED STATE PLAN AMENDMENT

SECTION 12H.2.(a) Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"§ 108A-54.1A. Amendments to Medicaid State Plan and Medicaid Waivers.

(a) No provision in the Medicaid State Plan or in a Medicaid Waiver may expand or otherwise alter the scope or purpose of the Medicaid program from that authorized by law enacted by the General Assembly. For purposes of this section, the term "amendments to the State Plan" includes State Plan amendments, Waivers, and Waiver amendments.

(b) The Department may submit amendments to the State Plan only as required under any of the following circumstances:

(1) A law enacted by the General Assembly directs the Department to submit an amendment to the State Plan.

(2) A law enacted by the General Assembly makes a change to the Medicaid Program that requires approval by the federal government.

(3) A change in federal law, including regulatory law, requires an amendment to the State Plan.

(4) A change made by the Department to the Medicaid Program requires an amendment to the State Plan, if the change was within the authority granted to the Department by State law.

(5) An amendment to the State Plan is required to ensure continued federal financial participation.

(c) Amendments to the State Plan submitted to the federal government for approval shall contain only those changes that are allowed by the authority for submitting an amendment to the State Plan in subsection (b) of this section.

(d) No fewer than 10 days prior to submitting an amendment to the State Plan to the federal government, the Department shall post the amendment on its Web site and notify the members of the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division, that the amendment has been posted. This requirement shall not apply to draft or proposed amendments submitted to the federal government for comments, but not submitted for approval. If the authority for submitting the amendment to the State Plan is pursuant to subdivision (3), (4), or (5) of subsection (b) of this section, then, prior to submitting an amendment to the federal government, the Department shall submit to the General Assembly members receiving notice under this subsection and to the Fiscal Research Division an explanation of the amendment, the need for the amendment, and the federal time limits required for implementation of the amendment.

(e) The Department shall submit an amendment to the State Plan to the federal government by a date sufficient to provide the federal government adequate time to review and approve the amendment so the amendment may be effective by the date required by the directing authority in subsection (b) of this section."

SECTION 12H.2.(b) G.S. 108A-70.25 reads as rewritten:

"§ 108A-70.25. State Plan for Health Insurance Program for Children.

~~The Department shall develop and submit a State Plan to implement "The Health Insurance Program for Children" authorized under this Part to the federal government as application for federal funds under Title XXI. The State Plan submitted under this Part shall be developed by the Department only as authorized by and in accordance with this Part. No provision in the State Plan submitted under this Part may expand or otherwise alter the scope or purpose of the Program from that authorized under this Part. The Department shall include in the State Plan submitted only those items required by this Part and required by the federal government to qualify for federal funds under Title XXI and necessary to secure the State's federal fund allotment for the applicable fiscal period. Except as otherwise provided in this section, the Department shall not amend the State Plan nor submit any amendments thereto to the federal government for review or approval without the specific approval of the General Assembly. In the event federal law requires that an amendment be made to the State Plan and further requires that the amendment be submitted or implemented within a time period when the General Assembly is not and will not be in session to approve the amendment, then the Department may submit the amendment to the federal government for review and approval without the approval of the General Assembly. Prior to submitting an amendment to the federal government without General Assembly approval as authorized in this section, the Department shall report the proposed amendment to the Joint Legislative Oversight Committee on Health and Human~~

~~Services and to members of the Joint Appropriations Subcommittee on Health and Human Services. The report shall include an explanation of the amendment, the necessity therefor, and the federal time limits required for implementation of the amendment.~~

(a) The NC Health Choice program shall be administered and operated in accordance with this Part and the NC Health Choice State Plan, as periodically amended by the Department of Health and Human Services and approved by the federal government.

(b) The requirements in G.S. 108A-54.1A shall apply to NC Health Choice State Plan amendments in the same manner in which they apply to Medicaid State Plan amendments."

SECTION 12H.2.(c) The Department of Health and Human Services shall take any and all action necessary to remove from the Medicaid State Plan the amendment that begins on Attachment 4.19-B, Section 5, Page 2, and pertains to supplemental payments that increase reimbursement to the average commercial rate for certain eligible medical professional providers.

CODIFY GENERAL POLICIES

SECTION 12H.3. G.S. 108A-54 reads as rewritten:

"§ 108A-54. Authorization of Medical Assistance Program.

(a) The Department is authorized to establish a Medicaid Program in accordance with Title XIX of the federal Social Security Act. The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. In addition, the State shall pay one hundred percent (100%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004, P.L. 108-173, as amended. A county is responsible for the county's cost of administering the Program in that county.

...

(c) The Medicaid Program shall be administered and operated in accordance with this Part and the North Carolina Medicaid State Plan and Waivers, as periodically amended by the Department of Health and Human Services in accordance with G.S. 108A-54.1A and approved by the federal government.

(d) The Department shall not take any actions that the Department determines would jeopardize the State's qualification to receive federal funds through the Medicaid Program."

CODIFY MEDICAID AS SECONDARY PAYOR

SECTION 12H.4. G.S. 108A-55 is amended by adding a new subsection to read as follows:

"§ 108A-55. Payments.

...

(e) Medicaid is a secondary payor of claims. The Department shall apply Medicaid medical policy to recipients who have primary insurance other than Medicare, Medicare Advantage, and Medicaid. For recipients who have primary insurance other than Medicare, Medicare Advantage, or Medicaid, the Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care."

CODIFY COUNTIES SHARING IN FRAUD RECOVERY

SECTION 12H.5. Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read as follows:

"§ 108A-64.1. Incentives to counties to recover fraudulent Medicaid expenditures.

The Department of Health and Human Services, Division of Medical Assistance, shall provide incentives to counties that successfully recover fraudulently spent Medicaid funds by

1 sharing State savings with counties responsible for the recovery of the fraudulently spent
2 funds."

4 **CODIFY CHANGES TO MEDICAL POLICY**

5 **SECTION 12H.6.(a)** G.S. 108A-54.2 reads as rewritten:

6 **"§ 108A-54.2. Procedures for changing medical policy.**

7 (a) The Department shall adopt rules to develop, amend, and adopt medical coverage
8 policy for Medicaid and NC Health Choice in accordance with this section.

9 (b) Medical coverage policy is defined as those policies, definitions, or guidelines
10 utilized to evaluate, treat, or support the health or developmental conditions of a recipient so as
11 to determine eligibility, authorization or continued authorization, medical necessity, course of
12 treatment and supports, clinical outcomes, and clinical supports treatment practices for a
13 covered procedure, product, or service. Medical coverage policy is subject to the following:

14 (1) During the development of new medical coverage policy or amendment to
15 existing medical coverage policy, the Department shall consult with and
16 seek the advice of the Physician Advisory Group and other organizations the
17 Secretary deems appropriate. The Secretary shall also consult with and seek
18 the advice of officials of the professional societies or associations
19 representing providers who are affected by the new medical coverage policy
20 or amendments to existing medical coverage policy.

21 (2) At least 45 days prior to the adoption of new or amended medical coverage
22 policy, the Department shall:

- 23 a. Publish the proposed new or amended medical coverage policy on
24 the Department's Web site;
25 b. Notify all Medicaid and NC Health Choice providers of the
26 proposed, new, or amended policy; and
27 c. Upon request, provide persons copies of the proposed medical
28 coverage policy.

29 (3) During the 45-day period immediately following publication of the proposed
30 new or amended medical coverage policy, the Department shall accept oral
31 and written comments on the proposed new or amended policy.

32 (4) If, following the comment period, the proposed new or amended medical
33 coverage policy is modified, then the Department shall, at least 15 days prior
34 to its adoption:

- 35 a. Notify all Medicaid and NC Health Choice providers of the proposed
36 policy;
37 b. Upon request, provide persons notice of amendments to the proposed
38 policy; and
39 c. Accept additional oral or written comments during this 15-day
40 period.

41 (c) If the adoption of new or amended medical coverage policies is necessitated by an
42 act of the General Assembly or a change in federal law, then the 45- and 15-day time periods
43 specified in subsection (b) of this section shall instead be 30- and 10-day time periods.

44 (d) Unless directed to do so by the General Assembly, the Department shall not change
45 medical policy affecting the amount, sufficiency, duration, and scope of health care services
46 and who may provide services until the Division of Medical Assistance has prepared a
47 five-year fiscal analysis documenting the increased cost of the proposed change in medical
48 policy and submitted it for departmental review. Changes to medical policy affecting the
49 amount, sufficiency, duration, and scope of health care services and who may provide services
50 are subject to the following:

(1) If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds five hundred thousand dollars (\$500,000) in total requirements for Medicaid or fifty thousand dollars (\$50,000) in total requirements for NC Health Choice for a given fiscal year, then the Department shall submit the proposed medical policy change to the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement the proposed medical policy change unless the source of State funding is identified and approved by the Office of State Budget and Management.

(2) If the medical policy change meets the requirement thresholds specified in subdivision (1) of this subsection but is required for compliance with federal law, then the Department shall submit the proposed medical policy or policy interpretation change with the five-year fiscal analysis to the Office of State Budget and Management prior to implementing the change.

The Department shall annually report, by November 1 of each year, all medical policy changes with total requirements of less than the amount specified in subdivision (1) of this subsection to the Office of State Budget and Management and the Fiscal Research Division of the Legislative Services Commission."

SECTION 12H.6.(b) G.S. 108A-54.3 is repealed.

CODIFY PREEXISTING PROVIDER APPLICATION FEE

SECTION 12H.7. G.S. 108C-9 is amended by adding a new subsection to read as follows:

"§ 108C-9. Provider enrollment criteria.

...

(e) The Department of Health and Human Services, Division of Medical Assistance, shall charge an application fee of one hundred dollars (\$100.00), and the amount federally required, to each provider enrolling in the Medicaid Program for the first time. The fee shall be charged to all providers at recredentialing every three years."

CODIFY ELECTRONIC TRANSACTION REQUIREMENTS FOR PROVIDERS

SECTION 12H.8. Chapter 108C of the General Statutes is amended by adding a new section to read as follows:

"§ 108C-13. Electronic transactions.

(a) Providers shall follow the Department's established procedures for securing electronic payments, and the Department shall not provide routine provider payments by check. Medicaid providers shall file claims electronically, except that nonelectronic claims submission may be required when it is in the best interest of the Department.

(b) Providers shall submit Preadmission Screening and Annual Resident Reviews (PASARR) through the Department's Web-based tool or through a vendor with interface capability to submit data into the Web-based PASARR.

(c) Providers shall submit requests for prior authorizations electronically via Web site. Providers shall access their authorizations via online portals rather than receiving hard copies by mail. Providers shall receive copies of adverse decisions electronically, although recipients shall receive adverse decisions via certified mail.

(d) Providers shall submit their provider enrollment applications online. The Department shall accept electronic signatures rather than require receipt of signed hard copies."

CODIFY RULE MAKING, TEMPORARY AND EXCEPTIONS

SECTION 12H.9.(a) G.S. 108A-54(b) is recodified as G.S. 108A-54.1B(a).

1 **SECTION 12H.9.(b)** G.S. 108A-54.1B, as created by subsection (a) of this
2 section, reads as rewritten:

3 **"§ 108A-54.1B. Adoption of rules; exceptions.**

4 (a) The Department is expressly authorized to adopt temporary and permanent rules to
5 implement or define the federal laws and regulations, the North Carolina State Plan of Medical
6 Assistance, and the North Carolina State Plan of the Health Insurance Program for Children,
7 the terms and conditions of eligibility for applicants and recipients of the Medical Assistance
8 Program and the Health Insurance Program for Children, audits and program integrity, the
9 services, goods, supplies, or merchandise made available to recipients of the Medical
10 Assistance Program and the Health Insurance Program for Children, and reimbursement for the
11 services, goods, supplies, or merchandise made available to recipients of the Medical
12 Assistance Program and the Health Insurance Program for Children.

13 (b) Prior to filing a temporary rule authorized under G.S. 150B-21.1(a)(17) with the
14 Rules Review Commission and the Office of Administrative Hearings, the Department shall
15 consult with the Office of State Budget and Management on the possible fiscal impact of the
16 temporary rule and its effect on State appropriations and local governments.

17 (c) Rule-making authority granted under this section for particular circumstances or
18 programs is in addition to any other rule-making authority granted to the Department under
19 Chapter 150B of the General Statutes.

20 (d) State Plans, State Plan Amendments, and Waivers approved by the Centers for
21 Medicare and Medicaid Services (CMS) for the North Carolina Medicaid Program and the NC
22 Health Choice program shall have the force and effect of rules adopted pursuant to Article 2A
23 of Chapter 150B of the General Statutes."

24 **SECTION 12H.9.(c)** G.S. 150B-1(d) is amended by adding a new subdivision
25 to read as follows:

26 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
27 following:

28 ...

29 (22) The Department of Health and Human Services with respect to the content
30 of State Plans, State Plan Amendments, and Waivers approved by the
31 Centers for Medicare and Medicaid Services (CMS) for the North Carolina
32 Medicaid Program and the NC Health Choice program."

33 **SECTION 12H.9.(d)** G.S. 150B-21.1(a) is amended by adding a new
34 subdivision to read as follows:

35 "(a) Adoption. – An agency may adopt a temporary rule when it finds that adherence to
36 the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest
37 and that the immediate adoption of the rule is required by one or more of the following:

38 ...

39 (17) To maximize receipt of federal funds for the Medicaid or NC Health Choice
40 programs within existing State appropriations, to reduce Medicaid or NC
41 Health Choice expenditures, and to reduce Medicaid and NC Health Choice
42 fraud and abuse."

43
44 **CODIFY ELIGIBILITY**

45 **SECTION 12H.10.(a)** Part 6 of Article 2 of Chapter 108A of the General Statutes
46 is amended by adding a new section to read as follows:

47 **"§ 108A-54.6. Eligibility.**

48 (a) Families and children who are categorically and medically needy are eligible for
49 Medicaid, subject to the following annual income levels:

	<u>Categorically</u>	<u>Medically</u>
<u>Family</u>	<u>Needy</u>	<u>Needy</u>

	<u>Size</u>	<u>Income Level</u>	<u>Income Level</u>
1	<u>1</u>	<u>\$ 4,344</u>	<u>\$ 2,900</u>
2	<u>2</u>	<u>5,664</u>	<u>3,800</u>
3	<u>3</u>	<u>6,528</u>	<u>4,400</u>
4	<u>4</u>	<u>7,128</u>	<u>4,800</u>
5	<u>5</u>	<u>7,776</u>	<u>5,200</u>
6	<u>6</u>	<u>8,376</u>	<u>5,600</u>
7	<u>7</u>	<u>8,952</u>	<u>6,000</u>
8	<u>8</u>	<u>9,256</u>	<u>6,300</u>

The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds under this subsection in accordance with federal rules and regulations. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

(b) Persons eligible for the following programs shall be eligible for Medicaid:

(1) Work First Family Assistance.

(2) Supplemental Social Security Income (SSI).

(3) State/County Special Assistance.

(c) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:

(1) All elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.

(2) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.

(3) Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

(4) Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

(5) Children aged six through 18 with family incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines and without regard to resources.

(6) Workers with disabilities described in G.S. 108A-66A with unearned income equal to or less than one hundred fifty percent (150%) of the federal poverty guidelines.

The Department of Health and Human Services, Division of Medical Assistance, shall also provide family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources.

(d) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to adoptive children with special or rehabilitative needs, regardless of the adoptive family's income.

(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents," ages 18, 19, and 20,

as defined in section 1905(w)(1) of the Social Security Act (42 U.S.C. § 1396d(w)(1)), without regard to the adolescent's assets, resources, or income levels.

(f) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to women who need treatment for breast or cervical cancer and who are defined in 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVIII)."

SECTION 12H.10.(b) G.S. 108A-54.1 is recodified as G.S. 108A-66.1. G.S. 108A-66.1(a), as recodified by this subsection, reads as rewritten:

"(a) Title. – This ~~act~~ section may be cited as the Health Coverage for Workers With Disabilities Act. The Department shall implement a Medicaid buy-in eligibility category as permitted under P.L. 106-170, Ticket to Work and Work Incentives Improvement Act of 1999. The Department shall establish rules, policies, and procedures to implement this act in accordance with this section."

SECTION 12H.10.(c) Effective January 1, 2014, G.S. 108A-54.6(c)(5), as enacted by this section, reads as rewritten:

"(5) Children aged six through 18 with family incomes equal to or less than ~~one hundred percent (100%)~~ one hundred thirty-three percent (133%) of the federal poverty guidelines and without regard to resources."

SECTION 12H.10.(d) Effective January 1, 2014, G.S. 108A-70.21(a)(1)d. reads as rewritten:

"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.

(a) Eligibility. – The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

(1) Children must:

- a. Be between the ages of 6 through 18;
- b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;
- c. Be uninsured;
- d. Be in a family whose family income is above ~~one hundred percent (100%)~~ one hundred thirty-three percent (133%) through two hundred percent (200%) of the federal poverty level;
- e. Be a resident of this State and eligible under federal law; and
- f. Have paid the Program enrollment fee required under this Part.

...."

NC HEALTH CHOICE TEMPORARY EXTENDED COVERAGE

SECTION 12H.11. An enrollee in the NC Health Choice program who loses eligibility due to reaching the age of 19 on or after June 1, 2013, may purchase at full premium cost continued coverage under the NC Health Choice program until the end of the month following the date on which the Secretary of the United States Department of Health and Human Services determines that the North Carolina federally facilitated Health Benefits Exchange is fully operational. The benefits, co-payments, and other conditions of enrollment under the NC Health Choice program applicable to extended coverage purchased in accordance with this section shall be the same as those applicable to an NC Health Choice enrollee who has not yet reached the age of 19.

INSURANCE PREMIUMS FOR PREGNANT WOMEN

SECTION 12H.12.(a) G.S. 108A-54.6(c)(2), as enacted by Section 12H.10 of this act, reads as rewritten:

"(2) Pregnant women with incomes equal to or less than ~~one hundred eighty-five percent (185%)~~ one hundred thirty-three percent (133%) of the federal

poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy."

SECTION 12H.12.(b) Article 2 of Chapter 108A of the General Statutes is amended by adding a new Part to read as follows:

"Part 10. Insurance Premiums for Pregnant Women.

"§ 108A-70.35. Definitions.

In this Part, the following definitions apply:

- (1) Federal poverty guidelines. – The federal poverty guidelines established by the United States Department of Health and Human Services, as periodically revised.
- (2) Household income. – As defined under 26 U.S.C. § 5000A(c)(4)(B).
- (3) Medicaid. – The State Medical Assistance Program established under Part 6 of this Article.
- (4) Minimum essential coverage. – As defined under 26 U.S.C. § 5000A(f)(1).
- (5) Program. – The Insurance Premiums for Pregnant Women program established in this Part.
- (6) Uninsured. – Without minimum essential coverage.

"§ 108A-70.36. Purpose; no entitlement.

The purpose of this Part is to help uninsured, lower-income pregnant women who are residents of this State acquire health insurance through premium assistance. Premium assistance shall be paid from State funds appropriated. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for this purpose or as entitling any person to receive premium assistance under this Part.

"§ 108A-70.37. Program established.

The Insurance Premiums for Pregnant Women program is established. The program shall be administered by the Department of Health and Human Services in accordance with this Part.

"§ 108A-70.38. Program eligibility.

In order to participate in the program, an individual must meet all of the following requirements:

- (1) Be a resident of the State.
- (2) Be lawfully present in the United States.
- (3) Not be on active punishment, as that term is defined under G.S. 15A-1340.11.
- (4) Have a medically verified pregnancy.
- (5) Not have minimum essential coverage, excluding coverage purchased using funding from the program.
- (6) Have household income of no more than one hundred eighty-five percent (185%) of the federal poverty guidelines.
- (7) Qualify for a premium assistance credit under 26 U.S.C. § 36B.

"§ 108A-70.39. Program benefits.

(a) An individual who qualifies under G.S. 108A-70.38 shall be eligible for premium assistance from the State to help the individual purchase coverage under a health benefit plan during the period of the pregnancy through the end of the second calendar month following the pregnancy.

(b) The amount of the premium assistance shall be the amount necessary to purchase insurance coverage up to the amount provided in 26 U.S.C. § 36B(b)(2)(B)(ii).

(c) The Department of Health and Human Services shall remit the amount of the premium assistance to a qualified individual's insurer on behalf of the qualified individual.

(d) A qualified individual who participates in the program shall remain responsible for the other costs of the health benefit plan in which they are enrolled, including any cost-sharing."

SECTION 12H.12.(c) This section becomes effective January 1, 2014, and applies to pregnancies medically verified on or after that date.

MODIFICATIONS TO EXISTING COVERED SERVICES AND PAYMENT FOR SERVICES

SECTION 12H.13.(a) Except as otherwise provided in this act, the allowable State plan services, co-pays, reimbursement rates, and fees shall remain the same as those effective June 30, 2013. Except as otherwise provided in this act and to the extent allowable under federal law, the adjustments made in this section apply to both the Medicaid Program and the NC Health Choice program.

SECTION 12H.13.(b) Effective July 1, 2013, any rates that contain an inflationary or increase factor shall not increase above the rate in effect on June 30, 2013, unless the rate is otherwise increased by the General Assembly. Hospital outpatient services' percentage of cost shall be adjusted to compensate for expected inflation that hospitals would be eligible for, and cost settlement will only be up to that percentage. Nursing direct care services shall not receive case mix index increases after June 30, 2013, until reinstated. The following rates are excluded from this subsection: Federally Qualified Health Centers, Rural Health Centers, State-Operated services, Hospice, Part B and D Premiums, third-party and HMO premiums, drugs, and MCO capitation payments.

SECTION 12H.13.(c) Effective November 1, 2013, nominal co-pays are increased to the maximum amount allowed by the Centers for Medicare and Medicaid Services (CMS). The Department of Health and Human Services, Division of Medical Assistance, shall monitor changes to federal law and increase the nominal co-pays whenever allowed under federal law.

SECTION 12H.13.(d) Effective January 1, 2014, the following changes are made to allowable State plan services:

- (1) Of the 22 visits allowed per recipient per fiscal year for professional services provided by physicians, nurse practitioners, nurse midwives, physician assistants, clinics, and health departments, prior authorization is required for visits in excess of 10 within a year. This limitation and prior authorization requirement does not apply to chronic conditions.
- (2) Adult private duty nursing (PDN) is limited to four hundred thirty-two dollars (\$432.00) per day.
- (3) Adult rehabilitation home visits for set-up and training are limited to three within a 12-month period.
- (4) Prior authorization is required for all mental health drugs. A 72-hour emergency supply may be provided if a beneficiary is waiting for acknowledgment of the prior authorization request.

SECTION 12H.13.(e) Effective January 1, 2014, the percentage of allowable costs for hospital outpatients is reduced from eighty percent (80%) to seventy percent (70%).

SECTION 12H.13.(f) Effective January 1, 2014, nonemergency services provided in an emergency room shall be reimbursed based on a single fee. The Department of Health and Human Services, Division of Medical Assistance, shall establish such a fee. This fee may not be cost-settled.

SECTION 12H.13.(g) Effective January 1, 2014, the following changes are made to drug reimbursements:

- (1) Reimbursement rates for prescribed drugs are based on an invoice cost that will be established through quarterly surveys to determine the actual cost of

- 1 drugs to pharmacies. The Department of Health and Human Services,
2 Division of Medical Assistance, shall conduct such quarterly surveys.
- 3 (2) Dispensing fees are to be increased to an average payment of nine dollars
4 and eighty-seven cents (\$9.87) for all drugs, with the incentive differential
5 for dispensing generic and preferred drugs remaining at two dollars (\$2.00).
6

7 **ADDITIONAL PERSONAL CARE SERVICES FOR QUALIFIED INDIVIDUALS**

8 **SECTION 12H.14.(a)** Section 10.9F(c) of S.L. 2012-142, as amended by Section
9 70 of S.L. 2012-194, reads as rewritten:

10 **"SECTION 10.9F.(c)** A Medicaid recipient who meets each of the following criteria is
11 eligible for up to 80 hours of personal care services:

- 12 (1) The recipient has a medical condition, disability, or cognitive impairment
13 and demonstrates unmet needs for, at a minimum, (i) three of the five
14 qualifying activities of daily living (ADLs) with limited hands-on assistance;
15 (ii) two ADLs, one of which requires extensive assistance; or (iii) two
16 ADLs, one of which requires assistance at the full dependence level.
- 17 (2) The recipient (i) resides in a private living arrangement, a residential facility
18 licensed by the State of North Carolina as an adult care home, or a
19 combination home as defined in G.S. 131E-101(1a); or (ii) resides in a group
20 home licensed under Chapter 122C or the General ~~Statutes~~ Statutes and under
21 10A NCAC 27G .5601 as a supervised living facility for two or more adults
22 whose primary diagnosis is mental illness, a developmental disability, or
23 substance abuse dependency, and is eligible to receive personal care services
24 under the Medicaid State Plan.

25 The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. For
26 Medicaid recipients meeting the criteria above, Personal ~~personal~~ care services shall be
27 available for up to 80 hours per month in accordance with an assessment conducted under
28 subsection (d) of this section and a plan of care developed by the service provider and approved
29 by the Department of Health and Human Services, Division of Medical Assistance, or its
30 designee.

- 31 (3) A Medicaid recipient who meets the eligibility criteria provided in
32 subdivisions (1) and (2) of this subsection and all of the criteria provided
33 below is eligible for up to 50 additional hours of Medicaid Personal Care
34 Services per month for a total of up to 130 hours per month in accordance
35 with an assessment and a plan of care.
- 36 a. The recipient requires an increased level of supervision.
37 b. The recipient requires caregivers with training or experience in
38 caring for individuals who have a degenerative disease characterized
39 by irreversible memory dysfunction that attacks the brain and results
40 in impaired memory, thinking, and behavior including gradual
41 memory loss, impaired judgment, disorientation, personality change,
42 difficulty in learning, and the loss of language skills.
43 c. Regardless of setting, the recipient requires a physical environment
44 that includes modifications and safety measures to safeguard the
45 recipient because of the recipient's gradual memory loss, impaired
46 judgment, disorientation, personality change, difficulty in learning,
47 and the loss of language skills.
48 d. The recipient exhibits safety concerns related to inappropriate
49 wandering, ingestion, aggressive behavior, and an increased
50 incidence of falls.

Physician attestation. – A recipient must have a physician's attestation that the recipient meets each of the criteria in sub-subdivisions a. through d. of subdivision (3) of this subsection. A recipient is not required to have a new attestation if he or she is identified by the Department of Health and Human Services, Division of Medical Assistance, as having on record a physician's attestation that meets the requirements of this subdivision. A recipient is required to have a new attestation if one cannot be identified by the Division of Medical Assistance or if the one identified does not meet the requirements of this subdivision.

Independent assessment. – Based on the physician's attestation, the Medicaid recipient must receive an independent assessment conducted by a trained professional who is qualified to assess and has experience assessing individuals with the needs for additional safeguards identified by this subdivision. The independent assessment shall be conducted in accordance with subsection (d) of this section and shall determine the number of hours of personal care services needed by the individual. In response to the assessment, a plan of care shall be developed by the service provider and approved by the Department of Health and Human Services, Division of Medical Assistance, or its designee.

Personal care services shall not include nonmedical transportation; financial management; non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting; and household chores not directly related to the qualifying ADLs."

SECTION 12H.14.(b) The Department shall reduce the rate for personal care services in order to fund the additional service hours authorized under this section within the budgeted amount of funds for personal care services.

SECTION 12H.14.(c) On or before August 1, 2013, and on or before November 1, 2013, the Department of Health and Human Services shall report on the implementation of this section to the Joint Legislative Oversight Committee on Health and Human Services.

MODIFY MEDICAID SUBROGATION STATUTE IN RESPONSE TO WOS V. E.M.A.

SECTION 12H.15.(a) G.S. 108A-57 reads as rewritten:

"§ 108A-57. Subrogation rights; withholding of information a misdemeanor.

(a) Notwithstanding any other provisions of the law, to the extent of payments under this Part, the State, or the county providing medical assistance benefits, State shall be subrogated to all rights of recovery, contractual or otherwise, of the beneficiary of this assistance, or of the beneficiary's personal representative, heirs, or the administrator or executor of the estate, against any person. ~~The county attorney, or an attorney retained by the county or the State or both, or an attorney retained by the beneficiary of the assistance if this attorney has actual notice of payments made under this Part shall enforce this section.~~ A personal injury or wrongful death claim brought by a medical assistance beneficiary against a third party shall include a claim for all medical assistance payments for health care items or services furnished to the medical assistance beneficiary as a result of the injury, hereinafter referred to as the "Medicaid claim." Any personal injury or wrongful death claim brought by a medical assistance beneficiary against a third party that does not state the Medicaid claim shall be deemed to include the Medicaid claim.

(a1) If the amount of the Medicaid claim does not exceed one-third of the medical assistance beneficiary's gross recovery, it is presumed that the gross recovery includes compensation for the full amount of the Medicaid claim. If the amount of the Medicaid claim exceeds one-third of the medical assistance beneficiary's gross recovery, it is presumed that one-third of the gross recovery represents compensation for the Medicaid claim.

(a2) A medical assistance beneficiary may dispute the presumptions established in subsection (a1) of this section by applying to the court in which the medical assistance beneficiary's claim against the third party is pending, or if there is none, then to a court of competent jurisdiction, for a determination of the portion of the beneficiary's gross recovery that represents compensation for the Medicaid claim. An application under this subsection shall be filed with the court and served on the Department pursuant to the Rules of Civil Procedure no later than 30 days after the date that the settlement agreement is executed by all parties and, if required, approved by the court, or in cases in which judgment has been entered, no later than 30 days after the date of entry of judgment. The court shall hold an evidentiary hearing no sooner than 30 days after the date the action was filed. All of the following shall apply to the court's determination under this subsection:

- (1) The medical assistance beneficiary has the burden of proving by clear and convincing evidence that the portion of the beneficiary's gross recovery that represents compensation for the Medicaid claim is less than the portion presumed under subsection (a1) of this section.
- (2) The presumption under subsection (a1) of this section is not rebutted solely by the fact that the medical assistance beneficiary was not able to recover the full amount of all claims.
- (3) The court may consider any factors the court deems just and reasonable in determining the portion of the recovery that represents compensation for the Medicaid claim.
- (4) The court may determine based upon a preponderance of the evidence that the portion of the recovery that represents compensation for the Medicaid claim is greater than the portion presumed under subsection (a1) of this section.

(a3) Any~~Any~~ Within 30 days of receipt of the proceeds of a settlement or judgment related to a claim described in subsection (a) of this section, the medical assistance beneficiary or any attorney retained by the beneficiary shall notify the Department of the receipt of the proceeds. The medical assistance beneficiary or any attorney retained by the beneficiary of the assistance shall, out of the proceeds obtained by or on behalf of the beneficiary by settlement with, judgment against, or otherwise from a third party by reason of injury or death, distribute to the Department the amount of assistance paid by the Department on behalf of or to the beneficiary, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, but the amount paid to the Department shall not exceed one-third of the gross amount obtained or recovered.~~the portion presumptively determined under subsection (a1) of this section or the portion judicially determined under subsection (a2) of this section. Unless an action has been commenced pursuant to subsection (a2) of this section, the amount shall be paid to the Department within 30 days of the beneficiary's receipt of the proceeds.~~

(a4) The United States and the State of North Carolina shall be entitled to shares in each net recovery by the Department under this section. Their shares shall be promptly paid under this section and their proportionate parts of such sum shall be determined in accordance with the matching formulas in use during the period for which assistance was paid to the recipient.

(b) It is a Class 1 misdemeanor for any person seeking or having obtained assistance under this Part for himself or another to willfully fail to disclose to the county department of social services or its attorney the identity of any person or organization against whom the recipient of assistance has a right of recovery, contractual or otherwise.

(c) This section applies to the administration of and claims payments made by the Department of Health and Human Services under the NC Health Choice Program established under Part 8 of this Article.

(d) As required to ensure compliance with this section, the Department may apply to the court in which the medical assistance beneficiary's claim against the third party is pending, or if there is none, then to a court of competent jurisdiction for enforcement of this section."

SECTION 12H.15.(b) This section is effective when it becomes law and applies to claims brought by a medical assistance beneficiary against a third party in which either a settlement agreement is executed by all parties or a judgment is entered against the third party on or after the effective date of this section. For claims in which the Medicaid claim has not been satisfied and as to which, prior to the effective date of this section, either (i) a settlement agreement has been executed by all parties or (ii) judgment has been entered against the third party, the medical assistance beneficiary shall have 90 days from the effective date of this section within which to apply to the court pursuant to G.S. 108A-57(c).

ADMINISTRATIVE HEARINGS FUNDING AND PROCEDURE MODIFICATION

SECTION 12H.16.(a) The Department of Health and Human Services (Department) shall transfer the sum of one million dollars (\$1,000,000) for the 2013-2014 fiscal year, and the sum of one million dollars (\$1,000,000) for the 2014-2015 fiscal year, to the Office of Administrative Hearings (OAH). These funds shall be allocated by the OAH for mediation services provided for Medicaid applicant and recipient appeals and to contract for other services necessary to conduct the appeals process. OAH shall continue the Memorandum of Agreement (MOA) with the Department for mediation services provided for Medicaid recipient appeals and contracted services necessary to conduct the appeals process. The MOA will facilitate the Department's ability to draw down federal Medicaid funds to support this administrative function. Upon receipt of invoices from OAH for covered services rendered in accordance with the MOA, the Department shall transfer the federal share of Medicaid funds drawn down for this purpose.

SECTION 12H.16.(b) G.S. 108C-12(d) is repealed.

SECTION 12H.16.(c) G.S. 108C-5 reads as rewritten:

"§ 108C-5. Payment suspension and audits utilizing extrapolation.

(a) The Department may suspend payments to a provider in accordance with the requirements and procedures set forth in 42 C.F.R. § 455.23.

(b) In addition to the procedures for suspending payment set forth at 42 C.F.R. § 455.23, the Department may also suspend payment to any provider that (i) owes a final overpayment, assessment, or fine to the Department and has not entered into an approved payment plan with the Department or (ii) has had its participation in the Medicaid or Health Choice programs suspended or terminated by the Department. For purposes of this section, a suspension or termination of participation does not become final until all administrative appeal rights have been exhausted and shall not include any agency decision that is being contested at the Department or the Office of Administrative Hearings or in Superior Court provided that the Superior Court has entered a stay pursuant to the provisions of G.S. 150B-48.

(b1) The Department shall withhold payment to any North Carolina Medicaid provider or Health Choice provider for whom the Division of Medical Assistance, or its vendor, has identified an overpayment in a written notice to the provider. Withholding shall begin on the 31st day after the day the notice of overpayment is mailed and shall continue during the pendency of any appeal until the overpayment becomes a final overpayment. For purposes of this subsection, withholding during any month shall not exceed the amount of any interest required by law plus nine percent (9%) of the sum of the total overpayment amount identified in the notice of overpayment and any penalty required by law. If the Department subsequently reduces the identified overpayment in writing, withholding during any subsequent month shall not exceed the amount of any interest required by law plus nine percent (9%) of the sum of the total reduced identified overpayment and any penalty required by law. Total withholdings shall not exceed the total amount of the overpayment plus any penalty and interest charges required

by law. If the total amount withheld exceeds the final overpayment plus interest and penalty required by law, the Department shall pay the provider the amount withheld in excess of the final overpayment plus penalty and interest. Upon request by the provider and for good cause shown, the Department is authorized to approve a payment plan for a provider to pay an overpayment, pursuant to subsection (g) of this section. Absent a showing of good cause for repayment to be made over a period of more than one year, the Department shall take all necessary and appropriate action to recover overpayments within 365 days of the date the notice of overpayment was mailed to the provider.

(c) For providers who owe a final overpayment, assessment, or fine to the Department, the payment suspension shall begin the thirty-first day after the overpayment, assessment, or fine becomes final. The payment suspension shall not exceed the amount owed to the Department, including any applicable penalty and interest charges.

(d) Providers whose participation in the Medicaid or Health Choice programs has been suspended or terminated shall have all payments suspended beginning on the thirty-first day after the suspension or termination becomes final.

(e) The Department shall consult with the N.C. Departments of Treasury and Revenue and other State departments and agencies to determine if a provider owes debts or fines to the State. The Department may collect any of these debts owed to the State subsequent to consideration by the Department of the financial impact upon the provider and the impact upon access to the services provided by the provider.

(f) When issuing payment suspensions and withholdings in accordance with this Chapter, the Department may suspend or withhold payment to all providers which share the same IRS Employee Identification Number or corporate parent as the provider or provider site location which owes the final overpayment, overpayment, assessment, or fine. The Department shall give 30 days advance written notice to all providers which share the same IRS Employee Identification Number or corporate parent as the provider or provider site location of the intention of the Department to implement a payment ~~suspension~~ suspension or withholding.

(g) The Department is authorized to approve a payment plan for a provider to pay a final overpayment, overpayment, assessment, or fine including interest and any penalty. The payment plan can include a term of up to 24 months. The Department shall establish in rule the conditions of such provider payment plans. Nothing in this subsection shall prevent the provider and the Department from mutually agreeing to modifications of a payment plan.

(h) All payments suspended or withheld in accordance with this Chapter shall be applied toward any final overpayment, assessment, or fine owed to the Department.

...."

SECTION 12H.16.(d) Chapter 108C of the General Statutes is amended by adding a new section to read as follows:

"§ 108C-5.1. Post-payment review and recovery audit contracts.

The Department shall not pay contingent fees pursuant to any contract with an entity conducting Medicaid post-payment reviews or Recovery Audit Contractor (RAC) audits before all appeal rights have been exhausted. Any contingent fee for Medicaid post-payment reviews or RAC audits shall be calculated as a percentage of the amount of the final overpayment, as defined in G.S. 108C-2(5). The State share of the contingent fee paid for Medicaid post-payment reviews or RAC audits shall not exceed the State share of the amount actually recovered by the Department and applied to the final overpayment."

SECTION 12H.16.(e) Subsection (d) of this section applies only to contracts entered into or amended on or after the effective date of subsection (d).

SECTION 12H.16.(f) G.S. 1A-1 is amended by adding a new Article to read as follows:

"Article 9.
"Extraordinary Writs.

"Rule 90. Certiorari.

(a) Scope of the Writ; Review of the Judgments, Decisions, and Orders of the Office of Administrative Hearings. – The writ of certiorari may be issued in appropriate circumstances by the Superior Court to permit review of the judgments, decisions, and orders of the Office of Administrative Hearings when no right of appeal from an interlocutory order exists.

(b) Petition for Writ; to Which Superior Court Addressed. – Application for the writ of certiorari shall be made by filing a petition therefor with the clerk of the superior court division to which appeal of right might lie from a final decision of the Office of Administrative Hearings in the contested case for which issuance of the writ is sought.

(c) Same; Filing and Service; Content. – The petition shall be filed without unreasonable delay and shall be accompanied by proof of service upon all other parties. The petition shall contain a statement of the facts necessary to an understanding of the issues presented by the application, a statement of the reasons why the writ should issue, and certified copies of the judgment, decision, order, or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition. The petition shall be verified by counsel or the petitioner. Upon receipt of the prescribed docket fee, the clerk will docket the petition.

(d) Response; Determination by Court. – Within 10 days after service of the petition any party may file a response thereto with supporting affidavits or certified portions of the record not filed with the petition. Filing shall be accompanied by proof of service upon all other parties. The court for good cause shown may shorten the time for filing a response. Determination will be made on the basis of the petition, the response, and any supporting papers. No briefs or oral argument will be received or allowed unless ordered by the court upon its own initiative.

"Rule 91. Mandamus and Prohibition.

(a) Petition for Writ; to Which Superior Court Addressed. – Applications for the writs of mandamus or prohibition directed to an administrative law judge shall be made by filing a petition therefor with the clerk of the superior court division to which appeal of right might lie from a final decision entered in the contested case for which issuance of the writ is sought.

(b) Same; Filing and Service; Content. – The petition shall be filed without unreasonable delay after the action by the Office of Administrative Hearings sought to be prohibited or compelled has been undertaken, or has occurred, or has been refused, and shall be accompanied by proof of service on the respondent administrative law judge or administrative law judges and on all other parties to the action. The petition shall contain a statement of the facts necessary to an understanding of the issues presented by the application, a statement of the issues presented and of the relief sought, a statement of the reasons why the writ should issue, and certified copies of any order or opinion or parts of the record that may be essential to an understanding of the matters set forth in the petition. The petition shall be verified by counsel or the petitioner. Upon receipt of the prescribed docket fee, the clerk shall docket the petition.

(c) Response; Determination by Court. – Within 10 days after service of the petition the respondent or any party may file a response thereto with supporting affidavits or certified portions of the record not filed with the petition. Filing shall be accompanied by proof of service upon all other parties. The court for good cause shown may shorten the time for filing a response. Determination will be made on the basis of the petition, the response, and any supporting papers. No briefs or oral argument will be received or allowed unless ordered by the court upon its own initiative.

"Rule 92. Supersedeas.

(a) Pending Review of Office of Administrative Hearings Judgments, Decisions, and Orders. – Application may be made to the appropriate superior court for a writ of supersedeas to stay the execution or enforcement of any judgment, decision, order, or other determination of

the Office of Administrative Hearings which is not automatically stayed by the taking of appeal when an appeal has been taken or a petition for mandamus, prohibition, or certiorari has been filed to obtain review of the judgment, decision, order, or other determination and (i) a stay order or entry has been sought by the applicant by deposit of security or by motion at the Office of Administrative Hearings and such order or entry has been denied or vacated by the trial tribunal or (ii) extraordinary circumstances make it impracticable to obtain a stay by deposit of security or by application to the Office of Administrative Hearings for a stay order.

(b) Petition; Filing and Service; Content. – The petition shall be filed with the clerk of the superior court division to which appeal of right might lie from a final decision of the Office of Administrative Hearings in the contested case for which issuance of the writ is sought. The petitions shall be accompanied by proof of service upon all other parties. The petition shall be verified by counsel or the petitioner. Upon receipt of the required docket fee, the clerk will docket the petition. For stays of the judgments of the Office of Administrative Hearings, the petition shall contain a statement that a stay has been sought in the Office of Administrative Hearings and denied or vacated or shall contain facts showing that it was impracticable there to seek a stay. For stays of any judgment, the petition shall contain (i) a statement of any facts necessary to an understanding of the basis upon which the writ is sought and (ii) a statement of reasons why the writ should issue in justice to the applicant. The petition may be accompanied by affidavits and by any certified portions of the record pertinent to its consideration. It may be included in a petition to the superior court for certiorari, mandamus, or prohibition.

(c) Response; Determination by Court. – Within 10 days after service of the petition, any party may file a response thereto with supporting affidavits or certified portions of the record not filed with the petition. Filing shall be accompanied by proof of service upon all other parties. The court for good cause shown may shorten the time for filing a response. Determination will be made on the basis of the petition, the response, and any supporting papers. No briefs or oral argument will be received or allowed unless ordered by the court upon its own initiative.

(d) Temporary Stay. – Upon the filing of a petition for supersedeas, the applicant may apply, either within the petition or by separate paper, for an order temporarily staying enforcement or execution of the judgment, decision, order, or other determination pending decision by the court upon the petition for supersedeas. If application is made by separate paper, it shall be filed and served in the manner provided for the petition for supersedeas in Rule 92(b). The court for good cause shown in such a petition for temporary stay may issue such an order ex parte."

SECTION 12H.16.(g) Article 4 of Chapter 150B of the General Statutes is amended by adding a new section to read:

"§ 150B-53. Writs.

Any party to a contested case may petition for writs of certiorari, mandamus, prohibition, or supersedeas in the manner prescribed in Rules 90, 91, and 92 of the North Carolina Rules of Civil Procedure."

CODIFY PROVIDER PERFORMANCE BONDS

SECTION 12H.17.(a) Chapter 108C of the General Statutes is amended by adding a new section to read as follows:

"§ 108C-14. Provider performance bonds.

(a) Subject to the provisions of this section, the Department may require Medicaid-enrolled providers to purchase a performance bond in an amount not to exceed one hundred thousand dollars (\$100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may require the

1 purchase of a performance bond or the submission of an executed letter of credit or financial
2 instrument as a condition of initial enrollment, reenrollment, recredentialing, or reinstatement if
3 any of the following are true:

- 4 (1) The provider fails to demonstrate financial viability.
- 5 (2) The Department determines there is significant potential for fraud and abuse.
- 6 (3) The Department otherwise finds it is in the best interest of the Medicaid
7 program to do so.

8 The Department shall specify the circumstances under which a performance bond or executed
9 letter of credit will be required.

10 (b) The Department may waive or limit the requirements of subsection (a) of this
11 section for individual Medicaid-enrolled providers or for one or more classes of
12 Medicaid-enrolled providers based on the following:

- 13 (1) The provider's or provider class's dollar amount of monthly billings to
14 Medicaid.
- 15 (2) The length of time an individual provider has been licensed, endorsed,
16 certified, or accredited in this State to provide services.
- 17 (3) The length of time an individual provider has been enrolled to provide
18 Medicaid services in this State.
- 19 (4) The provider's demonstrated ability to ensure adequate record keeping,
20 staffing, and services.
- 21 (5) The need to ensure adequate access to care.

22 In waiving or limiting requirements of this section, the Department shall take into consideration
23 the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The
24 Department shall provide to the affected provider written notice of the findings upon which its
25 action is based and shall include the performance bond requirements and the conditions under
26 which a waiver or limitation apply."

27 **SECTION 12H.17.(b)** The Department may adopt temporary rules in accordance
28 with G.S. 150B-21.1 as necessary to implement G.S. 108C-14, as enacted by this section.
29

30 **SHARED SAVINGS PLAN WITH PROVIDERS**

31 **SECTION 12H.18.(a)** The Department of Health and Human Services shall
32 consult with providers affected by subsection (b) of this section to develop a shared savings
33 plan that the Department shall implement by July 1, 2014, with provider payments beginning
34 January 1, 2015. The shared savings plan shall provide incentives to provide effective and
35 efficient care that results in positive outcomes for Medicaid recipients. Payments under the
36 shared savings plan shall be paid from funds withheld under subsection (b) of this section.

37 **SECTION 12H.18.(b)** During the 2013-2015 fiscal biennium, the Department of
38 Health and Human Services shall withhold four percent (4%) of payments for the following
39 services rendered on or after July 1, 2013:

- 40 (1) Inpatient hospital.
- 41 (2) Physician, excluding primary care until January 1, 2015.
- 42 (3) Dental.
- 43 (4) Optical services and supplies.
- 44 (5) Podiatry.
- 45 (6) Chiropractors.
- 46 (7) Hearing aids.
- 47 (8) Personal care services.
- 48 (9) Nursing homes.
- 49 (10) Adult care homes.
- 50 (11) Drugs.

Funds from payments withheld under this section that are budgeted to be shared with providers shall not revert to the General Fund.

SECTION 12H.18.(c) The Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Health and Human Services on the development of the shared savings program established by this section no later than March 1, 2014.

**MODIFY HOSPITAL PROVIDER ASSESSMENTS BY CHANGING AMOUNT
RETAINED BY STATE TO A PERCENTAGE**

SECTION 12H.19.(a) G.S. 108A-121(8) reads as rewritten:

"(8) State's annual Medicaid payment. – ~~Forty-three million dollars (\$43,000,000).~~ For an assessment collected under this Article, an amount equal to fifteen and six-tenths percent (15.6%) of the total amount collected under the assessment."

SECTION 12H.19.(b) G.S. 108A-124 reads as rewritten:

"§ 108A-124. Use of assessment proceeds.

(a) Use. – The proceeds of the assessments imposed under this Article and all corresponding matching federal funds must be used to make the State annual Medicaid payment to the State and the Medicaid equity payments and UPL payments to hospitals.

(b) Quarterly Payments. – Within seven business days ~~of following~~ the due date for each quarterly assessment imposed under G.S. 108A-123, the Secretary must do the following:

~~(1) Transfer to the State Controller twenty-five percent (25%) of the State's annual Medicaid payment amount.~~

~~(2)~~(1) Pay to each hospital that has paid its equity assessment for the respective quarter twenty-five percent (25%) of its Medicaid equity payment amount. A hospital's Medicaid equity payment amount is the sum of the hospital's Medicaid inpatient and outpatient deficits after calculating all other Medicaid payments, excluding disproportionate share hospital payments and the UPL payment remitted to the hospital under subdivision ~~(3)~~(2) of this subsection.

~~(3)~~(2) Pay to the primary affiliated teaching hospital for the East Carolina University Brody School of Medicine, to the critical access hospitals, and to each hospital that has paid its UPL assessment for the respective quarter twenty-five percent (25%) of its UPL payment amount, as determined under subsection (c) of this section.

...."

SECTION 12H.19.(c) Article 7 of Chapter 108A is amended by adding a new section to read as follows:

"§ 108A-128. Payment for providers formerly subject to this Article.

If a hospital provider (i) is exempt from both the equity and UPL assessments under this Article, (ii) makes an intergovernmental transfer (IGT) to the Department of Health and Human Services to be used to draw down matching federal funds, and (iii) has acquired, merged, leased, or managed another provider on or after March 25, 2011, then the hospital provider shall transfer to the State an additional amount, which shall be retained by the State. The additional amount shall be fifteen and six tenths percent (15.6%) of the amount of funds that (i) would be transferred to the State through such an IGT and (ii) are to be used to match additional federal funds that the hospital provider is able to receive because of the acquired, merged, leased, or managed provider."

**MODIFY MEDICAID RATE METHODOLOGIES FOR RECENTLY ACQUIRED
PROVIDERS; CREATE REGIONAL BASE RATES FOR HOSPITALS**

1 **SECTION 12H.20.(a)** The Department of Health and Human Services shall
2 modify Medicaid rate methodologies to ensure that rates paid to hospital or physician providers
3 that were acquired, merged, leased, or managed after December 31, 2011, do not exceed rates
4 that would have been paid if the provider had not been acquired, merged, leased, or managed.

5 **SECTION 12H.20.(b)** The Department of Health and Human Services, Division of
6 Medical Assistance, shall replace the existing base rates for individual hospitals with new
7 regional base rates for all hospitals within a given region. The Department shall consult with
8 hospitals to define the regions and to identify appropriate regional differences in order to
9 establish regional base rates. The new regional base rates shall do the following:

- 10 (1) Maintain the same statewide total for the base rates for all hospitals as before
11 the base rate revision, after first adjusting the statewide total based on the
12 changes to rates made by subsection (a) of this section.
- 13 (2) Ensure the sustainability of small rural hospitals, ensuring access to care.

14
15 **COMMUNITY CARE OF NORTH CAROLINA COST-EFFECTIVENESS AND**
16 **OUTCOMES STUDY; CONTINUED REPORTING**

17 **SECTION 12H.21.(a)** As recommended by the Office of the State Auditor in the
18 January 2013 performance audit of the Medicaid Program, the Department of Health and
19 Human Services shall engage medical researchers to perform a scientifically valid study based
20 upon actual data to determine whether the Community Care of North Carolina (CCNC) model
21 saves money and improves health outcomes. This study shall begin during fiscal year
22 2013-2014 and shall, if possible, be completed by the end of that fiscal year.

23 **SECTION 12H.21.(b)** During fiscal year 2014-2015, the Department of Health
24 and Human Services shall submit a report from a qualified entity with proven experience in
25 conducting actuarial and health care studies on the Medicaid cost-savings achieved by the
26 CCNC networks, which shall include children, adults, and the aged, blind, and disabled, to the
27 House of Representatives Appropriations Subcommittee on Health and Human Services, the
28 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research
29 Division.

30 **SECTION 12H.21.(c)** North Carolina Community Care Networks, Inc. (NCCCN),
31 shall report quarterly to the Department and to the Office of State Budget and Management
32 (OSBM) on the development of the statewide Enhanced Primary Care Case Management
33 System and its defined goals and deliverables as agreed upon in the contract. NCCCN shall
34 submit biannual reports to the Secretary of Health and Human Services, OSBM, the House of
35 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
36 Appropriations Committee on Health and Human Services, and the Fiscal Research Division on
37 the progress and results of implementing the quantitative, analytical, utilization, quality, cost
38 containment, and access goals and deliverables set out in the contract. NCCCN shall conduct its
39 own analysis of the CCNC system to identify any variations from the development plan for the
40 Enhanced Primary Care Case Management System and its defined goals and deliverables set
41 out in the contract between the Department of Health and Human Services, Division of Medical
42 Assistance (DMA), and NCCCN. Upon identifying any variations, NCCCN shall develop and
43 implement a plan to address the variations. NCCCN shall report the plan to DMA within 30
44 days after taking any action to implement the plan.

45
46 **COMMUNITY CARE OF NORTH CAROLINA TO SET AND PAY PER MEMBER**
47 **PER MONTH PAYMENTS ON PERFORMANCE BASIS TO ENCOURAGE**
48 **BETTER CARE MANAGEMENT**

49 **SECTION 12H.22.(a)** The Department of Health and Human Services shall
50 contract with Community Care Networks, Inc. (NCCCN), to administer and distribute the funds
51 currently allocated to per member per month (PMPM) payments for Community Care of North

Carolina (CCNC) primary care providers. NCCCN shall distribute one hundred percent (100%) of the funds allocated to PMPM payments to primary care providers on a care management performance basis using criteria developed by NCCCN. In developing its pay for performance model, NCCCN shall (i) ensure an adequate statewide network of participating CCNC primary care providers and (ii) adopt a payment level of zero dollars (\$0.00) for providers who do not satisfactorily participate in CCNC care management initiatives. Performance-based payments shall begin on July 1, 2014.

SECTION 12H.22.(b) PMPM payments from the Department to CCNC primary care providers shall continue until the implementation of the performance-based payment system.

SECTION 12H.22.(c) The Department shall consult with the Joint Legislative Oversight Committee on Health and Human Services on the performance-based payment proposal from NCCCN to incentivize better care management from primary care providers. If the Department submits a report and requests a meeting for the consultation, but the Oversight Committee does not hear the consultation within 90 days of the request, then the consultation requirement shall be deemed waived by the Oversight Committee. The report submitted for consultation shall include the following:

- (1) Measureable elements that will be used to differentiate care management performance-based payments from the existing PMPM payments.
- (2) A comparison of the performance plan to other measures such as the Healthcare Effectiveness Data and Information Set (HEDIS) or other national performance or quality measures.
- (3) The specific structure of when payments would be made.
- (4) An impact calculation of prospective payments under the performance-based payment plan and the current PMPM rates.

SECTION 12H.22.(d) Subsection (a) of this section is contingent upon both of the following:

- (1) The Department's successful renegotiation of and modification to the existing contract or entering into a new contract with NCCCN to administer and distribute performance-based payments, as provided in subsection (a) of this section.
- (2) The consultation required under subsection (c) of this section or an implied waiver of the consultation requirement, as provided in subsection (c) of this section.

GOVERNANCE OF ENTITIES TO MANAGE CARE AND CONTROL COSTS STATEWIDE

SECTION 12H.23.(a) The General Assembly finds that the internal governance of entities contracting with the State to provide centralized care coordination, cost containment, or management of care on a Statewide basis for the Medicaid program is of significant importance to the State, its taxpayers, and its Medicaid recipients, especially given the considerable amount of public funds expended on such contracts. The General Assembly further finds that the public has a profound interest in ensuring the quality of the entities' internal governance and, therefore, it is appropriate that the public should have an influence in the entities' internal governance.

SECTION 12H.23.(b) Based on the legislative findings of subsection (a) of this section, the Department of Health and Human Services shall not enter into a new contract with an entity to provide cost containment or management of care on a statewide basis for the Medicaid program unless the entity adheres to the following governance provisions related to the entity's governing board:

- (1) The board shall contain individuals with experience in health care, including the following:
 - a. A health actuary.
 - b. Someone with expertise in health information technology, informatics, or provider performance measurement.
 - c. Two representatives of the provider community.
 - d. A representative of the health insurance industry.
- (2) The board shall provide for public voting members to be appointed as follows:
 - a. Two persons appointed by the General Assembly on the recommendation of the President Pro Tempore of the Senate.
 - b. Two persons appointed by the General Assembly on the recommendation of the Speaker of the House of Representatives.
 - c. Two persons appointed by the Governor.
- (3) No more than two members on the board may directly benefit from any per member per month (PMPM) payments or incentive payments that are distributed or administered by the entity.
- (4) No more than twenty-five percent (25%) of the members of the board may be providers or come from the provider community.
- (5) No member of the board, or immediate family of a member of the board, may be a registered lobbyist or be employed by an entity that lobbies on behalf of a health care provider association.
- (6) The board size may not exceed twice the number of persons to be appointed under subdivision (2) of this section plus one.

SECTION 12H.23.(c) Subsection (b) of this section shall not apply to existing contracts or renewals under existing contracts when the renewal is at the option of one party.

ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE

SECTION 12H.24.(a) Receivables reserved at the end of the 2013-2014 and 2014-2015 fiscal years shall, when received, be accounted for as nontax revenue for each of those fiscal years.

SECTION 12H.24.(b) For the 2013-2014 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred ten million dollars (\$110,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. For the 2014-2015 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred nine million dollars (\$109,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. These deposits shall represent the return of General Fund appropriations, nonfederal revenue, fund balances, or other resources from State-owned and State-operated hospitals which are used to provide indigent and non-indigent care services. The return from State-owned and State-operated hospitals to DHHS will be made from nonfederal resources in an amount equal to the amount of the payments from the Division of Medical Assistance for uncompensated care. The treatment of any revenue derived from federal programs shall be in accordance with the requirements specified in the Code of Federal Regulations, Title 2, Part 225.

MEDICAID SPECIAL FUND TRANSFER

SECTION 12H.25. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three million dollars (\$43,000,000) for the 2013-2014 fiscal year and the sum of forty-three million dollars (\$43,000,000) for the 2014-2015 fiscal year. These funds shall be

allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

MEDICAID COST CONTAINMENT ACTIVITIES

SECTION 12H.26.(a) The Department of Health and Human Services may use up to five million dollars (\$5,000,000) in the 2013-2014 fiscal year and up to five million dollars (\$5,000,000) in the 2014-2015 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services, hiring additional staff, funding pilot programs, Health Information Exchange and Health Information Technology (HIE/HIT) administrative activities, or providing grants through the Office of Rural Health and Community Care to plan, develop, and implement cost containment programs.

Medicaid cost containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, plastic magnetic-stripped Medicaid identification cards for issuance to Medicaid enrollees, fraud detection software or other fraud detection activities, technology that improves clinical decision making, credit balance recovery and data mining services, and other cost containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost containment activity and documentation of the amount of savings expected to be realized from the cost containment activity.

SECTION 12H.26.(b) The Department shall report annually on the expenditures under this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The report shall include the methods used to achieve savings and the amount saved by these methods. The report is due to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than December 1 of each year for the activities of the previous State fiscal year.

MISCELLANEOUS MEDICAID PROVISIONS

SECTION 12H.27.(a) Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

SECTION 12H.27.(b) Cost Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

SECTION 12H.27.(c) Posting of Notices on Web Site. – For any public notice of change required pursuant to the provisions of 42 C.F.R. § 447.205, the Department shall, no later than seven business days after the date of publication, publish the same notice on its Web site on the same Web page as it publishes State Plan amendments, and the notice shall remain on the Web site continuously for 90 days.

SECTION 12H.27.(d) Medicaid Identification Cards. – The Department shall issue Medicaid identification cards to recipients on an annual basis with updates as needed.

SUBPART XII-I. MISCELLANEOUS

SPECIFY BOARD SELECTION FOR THE NORTH CAROLINA INSTITUTE OF MEDICINE

SECTION 12I.1.(a) G.S. 90-470 reads as rewritten:

"§ 90-470. Institute of Medicine.

(a) The persons appointed under the provisions of this section are declared to be a body politic and corporate under the name and style of the North Carolina Institute of Medicine, and by that name may sue and be sued, make and use a corporate seal and alter the same at pleasure, contract and be contracted with, and shall have and enjoy all the rights and privileges necessary for the purposes of this section. The corporation shall have perpetual succession.

(b) The purposes for which the corporation is organized are to:

- (1) Be concerned with the health of the people of North Carolina;
- (2) Monitor and study health matters;
- (3) Respond authoritatively when found advisable;
- (4) Respond to requests from outside sources for analysis and advice when this will aid in forming a basis for health policy decisions.

~~The 18 initial members of the North Carolina Institute of Medicine shall be appointed by the Governor.~~

(c) The North Carolina Institute of Medicine shall be governed by a Board of Directors. The initial members are authorized, prior to expanding the membership, Board of Directors is authorized to establish and amend bylaws, to procure facilities, employ a director and staff, to solicit, receive and administer funds in the name of the North Carolina Institute of Medicine, and carry out other activities necessary to fulfill the purposes of this section.

(d) ~~The members~~ Board of Directors shall select ~~with the approval of the Governor~~ additional ~~members;~~ members of the North Carolina Institute of Medicine, so that the total membership will not exceed a number determined by the Board of Directors in its bylaws. The membership should be distinguished and influential leaders from the major health professions, the hospital industry, the health insurance industry, State and county government and other political units, education, business and industry, the universities, and the university medical centers.

(e) The North Carolina Institute of Medicine may receive and administer funds from private sources, foundations, State and county governments, federal agencies, and professional organizations.

(f) The director and staff of the North Carolina Institute of Medicine should be chosen from those well established in the field of health promotion and medical care.

~~For the purposes of Chapter 55A of the General Statutes, the members appointed under this section shall be considered the initial board of directors.~~

(g) The North Carolina Institute of Medicine is declared to be under the patronage and control of the State.

(h) The General Assembly reserves the right to alter, amend, or repeal this ~~section.~~ Article."

SECTION 12I.1.(b) Article 31 of Chapter 90 is amended by adding a new section to read as follows:

"§ 90-471. Board of Directors of the Institute of Medicine.

(a) The Board of Directors of the North Carolina Institute of Medicine shall be appointed as follows:

- (1) Seven individuals appointed by the General Assembly on the recommendation of the Speaker of the House of Representatives.

(2) Seven individuals appointed by the General Assembly on the recommendation of the President Pro Tempore of the Senate.

(3) Seven individuals appointed by the Governor.

(b) The members of the Board of Directors should be distinguished and influential leaders from the major health professions, the hospital industry, the health insurance industry, State and county government and other political units, education, business and industry, the universities, and the university medical centers.

(c) Terms on the Board of Directors shall be for four years, and no individual may serve more than two consecutive terms."

SECTION 12I.1.(c) For the appointments under G.S. 90-471, as enacted by this section, with terms to begin on January 1, 2014, the appointing authorities shall designate certain appointees to serve initial two-year terms as follows:

(1) Of those appointments on the recommendation of the Speaker of the House of Representatives, three shall be designated for two-year terms.

(2) Of those appointments on the recommendation of the President Pro Tempore of the Senate, three shall be designated for two-year terms.

(3) Of those appointments by the Governor, four shall be designated for two-year terms.

A two-year term under this subsection shall count as a term for purposes of the two consecutive term limit provided in G.S. 90-471(c), as enacted by this section.

SECTION 12I.1.(d) The members of the Board of Directors serving as of the effective date of this act may continue to serve until January 1, 2014.

SECTION 12I.1.(e) Subsections (a) and (b) of this section become effective January 1, 2014.

SUBPART XII-J. DHHS BLOCK GRANTS

DHHS BLOCK GRANTS

SECTION 12J.1.(a) Except as otherwise provided, appropriations from federal block grant funds are made for each year of the fiscal biennium ending June 30, 2015, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS

Local Program Expenditures

Division of Social Services

01.	Work First Family Assistance	\$ 60,285,413
02.	Work First County Block Grants	82,485,495
03.	Work First Electing Counties	2,352,521
04.	Adoption Services – Special Children's Adoption Fund	2,026,877
05.	Child Protective Services – Child Welfare Workers for Local DSS	9,412,391
06.	Child Welfare Collaborative	632,416

1	Division of Child Development	
2		
3	07. Subsidized Child Care Program	52,060,846
4		
5	08. Swap Child Care Subsidy	6,352,644
6		
7	Division of Public Health	
8		
9	09. Teen Pregnancy Initiatives	2,500,000
10		
11	DHHS Administration	
12		
13	10. Division of Social Services	2,482,260
14		
15	11. Office of the Secretary	34,042
16		
17	Transfers to Other Block Grants	
18		
19	Division of Child Development	
20		
21	12. Transfer to the Child Care and Development Fund	71,773,001
22		
23	13. Transfer to Social Services Block Grant for Child	
24	Protective Services – Child Welfare Training in	
25	Counties	1,300,000
26		
27	14. Transfer to Social Services Block Grant for Child	
28	Protective Services	5,040,000
29		
30	15. Transfer to Social Services Block Grant for County	
31	Departments of Social Services for Children's Services	4,148,001
32		
33	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
34	(TANF) FUNDS	\$ 302,885,907
35		
36	TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
37	EMERGENCY CONTINGENCY FUNDS	
38		
39	Local Program Expenditures	
40		
41	Division of Social Services	
42		
43	01. Work First County Block Grants	\$ 5,580,925
44		
45	02. Work First Electing Counties	25,692
46		
47	03. Subsidized Child Care	6,549,469
48		
49	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
50	EMERGENCY CONTINGENCY FUNDS	\$ 12,156,086
51		

SOCIAL SERVICES BLOCK GRANT

Local Program Expenditures

Divisions of Social Services and Aging and Adult Services

01.	County Departments of Social Services (Transfer from TANF \$4,148,001)	\$ 29,422,137
02.	Child Protective Services (Transfer from TANF)	5,040,000
03.	State In-Home Services Fund	1,943,950
04.	Adult Protective Services	1,245,363
05.	State Adult Day Care Fund	1,994,084
06.	Child Protective Services/CPS Investigative Services – Child Medical Evaluation Program (Carousel Center for Abused Children \$134,592)	563,868
07.	Special Children Adoption Incentive Fund	462,600
08.	Child Protective Services – Child Welfare Training for Counties (Transfer from TANF)	1,300,000
09.	Home and Community Care Block Grant (HCCBG)	1,696,888
10.	Child Advocacy Centers	375,000
11.	Guardianship	3,978,360
12.	UNC Cares Contract	229,376
13.	Foster Care Services	1,385,152

Division of Central Management and Support

14.	DHHS Competitive Block Grants for Nonprofits (2013-2014 Fiscal Year Only)	3,852,500
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Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

15.	Mental Health Services – Adult and Child/Developmental Disabilities Program/Substance Abuse Services – Adult	4,030,730
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DHHS Program Expenditures

Division of Services for the Blind

16.	Independent Living Program	3,361,323
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1		
2	Division of Health Service Regulation	
3		
4	17. Adult Care Licensure Program	381,087
5		
6	18. Mental Health Licensure and Certification Program	190,284
7		
8	DHHS Administration	
9		
10	19. Division of Aging and Adult Services	577,745
11		
12	20. Division of Social Services	559,109
13		
14	21. Office of the Secretary/Controller's Office	127,731
15		
16	22. Division of Child Development	13,878
17		
18	23. Division of Mental Health, Developmental	
19	Disabilities, and Substance Abuse Services	27,446
20		
21	24. Division of Health Service Regulation	118,946
22		
23	TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 62,877,557
24		
25	LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT	
26		
27	Local Program Expenditures	
28		
29	Division of Social Services	
30		
31	01. Low-Income Energy Assistance Program (LIEAP)	\$ 50,799,293
32		
33	02. Crisis Intervention Program (CIP)	33,866,195
34		
35	Local Administration	
36		
37	Division of Social Services	
38		
39	03. County DSS Administration	6,757,731
40		
41	DHHS Administration	
42		
43	04. Office of the Secretary/DIRM	412,488
44		
45	05. Office of the Secretary/Controller's Office	18,378
46		
47	Transfers to Other State Agencies	
48		
49	Department of Commerce	
50		
51	06. Weatherization Program	15,024,936

07.	Heating Air Repair and Replacement Program (HARRP)	7,193,873
08.	Local Residential Energy Efficiency Service Providers – Weatherization	37,257
09.	Local Residential Energy Efficiency Service Providers – HARRP	338,352
10.	Department of Commerce Administration – Weatherization	37,257
11.	Department of Commerce Administration – HARRP	338,352
	Department of Administration	
12.	N.C. Commission on Indian Affairs	87,736

**TOTAL LOW-INCOME HOME ENERGY ASSISTANCE
BLOCK GRANT**

\$ 114,911,848

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

Local Program Expenditures

Division of Child Development

01.	Child Care Services (Smart Start \$7,000,000)	\$ 158,328,747
02.	Electronic Tracking System	3,000,000
03.	Transfer from TANF Block Grant for Child Care Subsidies	71,773,001
04.	Quality and Availability Initiatives (TEACH Program \$3,800,000)	22,500,000

DHHS Administration

Division of Child Development

05.	DCDEE Administrative Expenses	6,000,000
06.	Local Subsidized Child Care Services Support	13,274,413

Division of Central Administration

07.	DHHS Central Administration – DIRM	
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1	Technical Services	775,000
2		
3	TOTAL CHILD CARE AND DEVELOPMENT FUND	
4	BLOCK GRANT	\$ 275,651,161
5		
6	MENTAL HEALTH SERVICES BLOCK GRANT	
7		
8	Local Program Expenditures	
9		
10	01. Mental Health Services – Adult	\$ 10,717,607
11		
12	02. Mental Health Services – Child	5,121,991
13		
14	03. Administration	200,000
15		
16	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 16,039,598
17		
18	SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	
19		
20	Local Program Expenditures	
21		
22	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
23		
24	01. Substance Abuse Services – Adult	\$ 14,960,371
25		
26	02. Substance Abuse Treatment Alternative for Women	6,050,300
27		
28	03. Substance Abuse – HIV and IV Drug	3,919,723
29		
30	04. Substance Abuse Prevention – Child	7,186,857
31		
32	05. Substance Abuse Services – Child	4,190,500
33		
34	06. Administration	454,000
35		
36	Division of Public Health	
37		
38	07. Risk Reduction Projects	575,654
39		
40	08. Aid-to-Counties	190,295
41		
42	TOTAL SUBSTANCE ABUSE PREVENTION	
43	AND TREATMENT BLOCK GRANT	\$ 37,527,700
44		
45	MATERNAL AND CHILD HEALTH BLOCK GRANT	
46		
47	Local Program Expenditures	
48		
49	Division of Public Health	
50		
51	01. Children's Health Services	\$ 8,042,531

02.	Women's Health (March of Dimes \$350,000; Teen Pregnancy Prevention Initiatives \$650,000; Perinatal Quality Collaborative \$350,000; 17P Project \$47,000; Maternity Homes \$925,085; Carolina Pregnancy Care Fellowship \$250,000)	8,532,935
03.	Local Health Departments/Oral Health Services	44,901
	Division of Central Management and Support	
04.	DHHS Competitive Block Grants for Nonprofits (2013-2014 Fiscal Year Only)	89,374
	DHHS Program Expenditures	
	Division of Public Health	
05.	Children's Health Services	1,301,504
06.	Women's Health – Maternal Health	105,419
07.	State Center for Health Statistics	164,487
	DHHS Administration	
	Division of Public Health	
08.	Division of Public Health Administration	573,108
	TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	\$ 18,854,259
	PREVENTIVE HEALTH SERVICES BLOCK GRANT	
	Local Program Expenditures	
01.	DHHS Competitive Block Grants for Nonprofits (2013-2014 Fiscal Year Only)	1,331,961
02.	Injury and Violence Prevention (Services to Rape Victims – Set-Aside)	169,730
	DHHS Program Expenditures	
	Division of Public Health	
03.	HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819

04.	Oral Health Preventive Services	46,302
05.	Laboratory Services – Testing, Training, and Consultation	10,980
06.	Injury and Violence Prevention (Services to Rape Victims – Set-Aside)	199,634
07.	Heart Disease and Stroke Prevention	162,249
08.	Performance Improvement and Accountability	213,971
09.	Physical Activity and Nutrition	38,000
10.	State Center for Health Statistics	61,406
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$ 2,380,052

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity

01.	Community Action Agencies	\$ 22,402,724
02.	Limited Purpose Agencies	1,244,596

DHHS Administration

03.	Office of Economic Opportunity	1,244,596
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TOTAL COMMUNITY SERVICES BLOCK GRANT \$ 24,891,916

GENERAL PROVISIONS

SECTION 12J.1.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

- (1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.
- (2) A delineation of the proposed State and local administrative expenditures.
- (3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.
- (4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.
- (5) A projection of current year expenditures by program or activity.
- (6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

SECTION 12J.1.(c) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department

shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

If the Congress of the United States decreases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall develop a plan to adjust the block grants based on reduced federal funding.

Notwithstanding the provisions of this subsection, for fiscal years 2013-2014 and 2014-2015, increases in the federal fund availability for the Temporary Assistance to Needy Families (TANF) Block Grant shall be used for the North Carolina Child Care Subsidy program to pay for child care in four- or five-star rated facilities for four-year-old children.

Prior to allocating the change in federal fund availability, the proposed allocation must be approved by the Office of State Budget and Management. If the Department adjusts the allocation of any Block Grant due to changes in federal fund availability, then a report shall be made to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division.

SECTION 12J.1.(d) Except as otherwise provided, appropriations from federal Block Grant funds are made for each year of the fiscal biennium ending June 30, 2015, according to the schedule enacted for State fiscal years 2013-2014 and 2014-2015 or until a new schedule is enacted by the General Assembly.

SECTION 12J.1.(e) All changes to the budgeted allocations to the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. The report shall include an itemized listing of affected programs, including associated changes in budgeted allocations. All changes to the budgeted allocations to the Block Grants shall be reported immediately to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS

SECTION 12J.1.(f) The sum of eighty-two million four hundred eighty-five thousand four hundred ninety-five dollars (\$82,485,495) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used for Work First County Block Grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

SECTION 12J.1.(g) The sum of two million four hundred eighty-two thousand two hundred sixty dollars (\$2,482,260) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used to support administration of TANF-funded programs.

SECTION 12J.1.(h) The sum of nine million four hundred twelve thousand three hundred ninety-one dollars (\$9,412,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for each year of the 2013-2015 fiscal biennium for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services

in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

Counties shall maintain their level of expenditures in local funds for Child Protective Services' workers. Of the block grant funds appropriated for Child Protective Services' workers, the total expenditures from State and local funds for fiscal years 2013-2014 and 2014-2015 shall not be less than the total expended from State and local funds for the 2012-2013 fiscal year.

SECTION 12J.1.(i) The sum of two million twenty-six thousand eight hundred seventy-seven dollars (\$2,026,877) appropriated in this section in TANF funds to the Department of Health and Human Services, Special Children Adoption Fund, for each year of the 2013-2015 fiscal biennium shall be used in accordance with G.S. 108A-50.2. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 12J.1.(j) The sum of six hundred thirty-two thousand four hundred sixteen dollars (\$632,416) appropriated in this section to the Department of Health and Human Services in TANF funds for each year of the 2013-2015 fiscal biennium shall be used to continue support for the Child Welfare Collaborative.

SECTION 12J.1.(k) The Department of Health and Human Services, Division of Social Services, shall use funds appropriated in the Temporary Assistance to Needy Families (TANF) Block Grant and allocated for Work First Family Assistance for each year of the 2013-2015 fiscal biennium to implement Section 12C.6 of this act.

SOCIAL SERVICES BLOCK GRANT

SECTION 12J.1.(l) The sum of twenty-nine million four hundred twenty-two thousand one hundred thirty-seven dollars (\$29,422,137) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used for County Block Grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

SECTION 12J.1.(m) The sum of one million three hundred thousand dollars (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for each year of the 2013-2015 fiscal biennium shall be used to support various child welfare training projects as follows:

- (1) Provide a regional training center in southeastern North Carolina.
- (2) Provide training for residential child caring facilities.
- (3) Provide for various other child welfare training initiatives.

SECTION 12J.1.(n) The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

SECTION 12J.1.(o) Social Services Block Grant funds appropriated for the Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

SECTION 12J.1.(p) The sum of five million forty thousand dollars (\$5,040,000) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015

fiscal biennium shall be allocated to the Department of Health and Human Services, Division of Social Services. The Division shall allocate these funds to local departments of social services to replace the loss of Child Protective Services State funds that are currently used by county government to pay for Child Protective Services staff at the local level. These funds shall be used to maintain the number of Child Protective Services workers throughout the State. These Social Services Block Grant funds shall be used to pay for salaries and related expenses only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent (25%).

SECTION 12J.1.(q) The sum of three million eight hundred fifty-two thousand five hundred dollars (\$3,852,500) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Central Management and Support, shall be used for DHHS competitive block grants pursuant to Section 12A.2 of this act for the 2013-2014 fiscal year only. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 12J.1.(r) The sum of three hundred seventy-five thousand dollars (\$375,000) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Division of Social Services, shall be used to continue support for the Child Advocacy Centers and are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 12J.1.(s) Social Services Block Grant funds allocated each year of the 2013-2015 fiscal biennium for child medical evaluations and the Carousel Center for Abused Children are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 12J.1.(t) The sum of three million nine hundred seventy-eight thousand three hundred sixty dollars (\$3,978,360) appropriated in this section in the Social Services Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Divisions of Social Services and Aging and Adult Services, shall be used for guardianship services pursuant to Chapter 35A of the General Statutes. The Department may expend funds appropriated in this section to support (i) existing corporate guardianship contracts during the 2013-2014 and 2014-2015 fiscal years and (ii) guardianship contracts transferred to the State from local management entities or managed care organizations during the 2013-2014 and 2014-2015 fiscal years.

LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT

SECTION 12J.1.(u) Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

SECTION 12J.1.(v) The sum of fifty million seven hundred ninety-nine thousand two hundred ninety-three dollars (\$50,799,293) appropriated in this section in the Low-Income Home Energy Assistance Block Grant for each year of the 2013-2015 fiscal biennium to the Department of Health and Human Services, Division of Social Services, shall be used for energy assistance payments for the households of (i) elderly persons age 60 and above with income up to one hundred thirty percent (130%) of the federal poverty level and (ii) disabled persons eligible for services funded through the Division of Aging and Adult Services. County departments of social services shall submit to the Division of Social Services an outreach plan for targeting households with 60-year-old household members no later than August 1 of each year.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 12J.1.(w) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 12J.1.(x) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 12J.1.(y) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2013-2014 fiscal year or the 2014-2015 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an abstinence until marriage education program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 12J.1.(z) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

SECTION 12J.1.(aa) The sum of eighty-nine thousand three hundred seventy-four dollars (\$89,374) appropriated in this section in the Maternal and Child Health Block Grant to the Department of Health and Human Services, Division of Central Management and Support, shall be used for DHHS competitive block grants pursuant to Section 12A.2 of this act for the 2013-2014 fiscal year only.

PREVENTIVE HEALTH SERVICES BLOCK GRANT

SECTION 12J.1.(bb) The sum of one million three hundred thirty-one thousand nine hundred sixty-one dollars (\$1,331,961) appropriated in this section in the Preventive Health Services Block Grant to the Department of Health and Human Services, Division of Central Management and Support, shall be used for DHHS competitive block grants pursuant to Section 12A.2 of this act for the 2013-2014 fiscal year only.

PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**INCREASE CERTAIN AGRONOMIC TESTING FEES**

SECTION 13.1.(a) G.S. 106-22 reads as rewritten:

"§ 106-22. Joint duties of Commissioner and Board.

The Commissioner of Agriculture, by and with the consent and advice of the Board of Agriculture shall:

...

- (17) Agronomic Testing. – Provide agronomic testing services and charge reasonable fees for plant analysis, nematode testing, in-State soil testing during peak season, out-of-state soil testing, and expedited soil testing. The Board shall charge at least four dollars (\$4.00) for plant analysis, at least two dollars (\$2.00) for nematode testing, at least four dollars (\$4.00) for in-State soil testing during peak season, at least five dollars (\$5.00) for out-of-state soil testing, and at least ~~one hundred dollars (\$100.00)~~ two hundred dollars

1 (\$200.00) for expedited soil testing. As used in this subdivision, "peak
2 season" includes at a minimum the four-month period beginning no later
3 than December 1 of any year and extending until at least March 31 of the
4 following year. The Board may modify the meaning of peak season by
5 starting a peak season earlier in any year or ending it later the following year
6 or both.

7 "

8 **SECTION 13.1.(b)** It is the intent of the General Assembly that receipts generated
9 from the new fee for in-State soil testing during peak season under G.S. 106-22(17), as
10 amended by this section, are to be used to alleviate testing delays in the peak testing season.
11 Any receipts generated as a result of the new fee for in-State soil testing during peak season are
12 appropriated to the Department of Agriculture and Consumer Services for the 2013-2014 fiscal
13 year and for the 2014-2015 fiscal year and shall be available to the Department in addition to
14 any other existing funding sources.

15 **SECTION 13.1.(c)** This section becomes effective July 1, 2013, and applies to
16 submissions received by the Department for testing or analysis on or after that date.

17
18 **UNENCUMBERED AGRICULTURAL WATER RESOURCES ASSISTANCE**
19 **PROGRAM FUNDS**

20 **SECTION 13.2.(a)** Up to twenty percent (20%) of the funds appropriated to the
21 Department of Agriculture and Consumer Services for the Agricultural Water Resources
22 Assistance Program under Article 5 of Chapter 139 of the General Statutes for the 2013-2014
23 fiscal year that are unexpended and unencumbered at the end of the 2013-2014 fiscal year shall
24 not revert but shall remain available for expenditure for that purpose through the 2014-2015
25 fiscal year. The remaining funds appropriated to the Department of Agriculture and Consumer
26 Services for the Agricultural Water Resources Assistance Program for the 2013-2014 fiscal
27 year that are unexpended and unencumbered at the end of the 2013-2014 fiscal year shall revert
28 to the General Fund.

29 **SECTION 13.2.(b)** Up to twenty percent (20%) of the funds appropriated to the
30 Department of Agriculture and Consumer Services for the Agricultural Water Resources
31 Assistance Program under Article 5 of Chapter 139 of the General Statutes for the 2014-2015
32 fiscal year that are unexpended and unencumbered at the end of the 2014-2015 fiscal year shall
33 not revert but shall remain available for expenditure for that purpose through the 2015-2016
34 fiscal year. The remaining funds appropriated to the Department of Agriculture and Consumer
35 Services for the Agricultural Water Resources Assistance Program for the 2014-2015 fiscal
36 year that are unexpended and unencumbered at the end of the 2014-2015 fiscal year shall revert
37 to the General Fund.

38
39 **TVA SETTLEMENT FUNDS**

40 **SECTION 13.3.(a)** The General Assembly encourages the Department of
41 Agriculture and Consumer Services, when the Department awards grants from funds received
42 by the State pursuant to the provisions of the Consent Decree entered into by the State in *State*
43 *of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in the United
44 States District Court for the Eastern District of Tennessee and allocated to the Department of
45 Agriculture and Consumer Services for "Environmental Mitigation Projects" of the types
46 specified in paragraph 128 of the Consent Decree, to use its best efforts to identify projects that
47 are located in TVA's power service area or the Tennessee River watershed and to give
48 preference to such projects over projects outside these areas. However, any project funding
49 requested that is within the categories identified in paragraph 128 of the Consent Decree shall
50 be funded by TVA in accordance with this paragraph regardless of where in the State the funds
51 will be utilized. TVA shall not have approval rights over the projects.

SECTION 13.3.(b) In fiscal year 2013-2014, The Department of Environment and Natural Resources, State Energy Office, shall apply for two million two hundred forty thousand dollars (\$2,240,000) from the Tennessee Valley Authority Settlement Agreement in compliance with the requirements of paragraphs 122 through 128 of the Consent Decree entered into by the State in *State of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in the United States District Court for the Eastern District of Tennessee, and Appendix C to the Compliance Agreement. The funds received by the State shall be allocated as follows:

- (1) One million dollars (\$1,000,000) to North Carolina Agricultural Water Resources Assistance Program (AgWRAP).
- (2) One million dollars (\$1,000,000) to North Carolina Agricultural Development and Farmland Preservation Trust Fund.
- (3) Two hundred forty thousand dollars (\$240,000) to Appalachian Energy Center at Appalachian State University.

SUSTAINABLE LOCAL FOOD ADVISORY COUNCIL SUNSET

SECTION 13.4. Section 1 of S.L. 2012-75 reads as rewritten:

"SECTION 1. Section 4 of S.L. 2009-530 reads as rewritten:

"SECTION 4. This act is effective when it becomes law and shall expire on ~~July 31, 2015~~ June 30, 2013."

TOBACCO TRUST FUND

SECTION 13.5. Notwithstanding any other provisions of G.S. 143-720 or the provisions of G.S. 143-721, the funds appropriated from the General Fund to the Tobacco Trust Fund for the 2013-2014 fiscal year and for the 2014-2015 fiscal year shall be used as follows:

- (1) Up to three hundred fifty thousand dollars (\$350,000) may be used for administrative expenses each fiscal year.
- (2) All remaining funds shall be used each fiscal year to provide direct financial assistance to tobacco producers as permitted under G.S. 143-720.

BOB MARTIN EASTERN AGRICULTURAL CENTER AND SOUTHEASTERN AGRICULTURE CENTER FUNDS

SECTION 13.6.(a) If the Senator Bob Martin Eastern Agricultural Center is not at least fifty percent (50%) receipt supported by the end of the 2014-2015 fiscal year, no additional appropriations from the General Fund shall be provided to the Senator Bob Martin Eastern Agricultural Center, and no funds shall be included for this purpose in the continuation budget of the Department of Agriculture and Consumer Services.

SECTION 13.6.(b) If the Southeastern Agriculture Center is not at least fifty percent (50%) receipt supported by the end of the 2014-2015 fiscal year, no additional appropriations from the General Fund shall be provided to the Southeastern Agriculture Center, and no funds shall be included for this purpose in the continuation budget of the Department of Agriculture and Consumer Services.

FUTURE FARMERS OF AMERICA PROGRAM FUNDS/REPORTING REQUIREMENTS/USE OF STATE FUNDS

SECTION 13.7.(a) Of the funds available to the Department of Agriculture and Consumer Services for administration of the Department, up to fifty thousand dollars (\$50,000) for the 2013-2014 fiscal year and up to fifty thousand dollars (\$50,000) for the 2014-2015 fiscal year may be used as a grant-in-aid to the North Carolina Agricultural Foundation, Inc., for the Future Farmers of America program.

SECTION 13.7.(b) North Carolina Agricultural Foundation–FFA Foundation (hereinafter "FFA Foundation") shall do the following if the Department of Agriculture and Consumer Services allocates funds to the entity:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.7.(c) No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of FFA Foundation. For purposes of this subsection, the term "State funds" means funds allocated to FFA Foundation and interest earned on those funds.

SECTION 13.7.(d) No State funds shall be used by FFA Foundation (i) to hire or facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist, without regard to the person's title or (ii) to facilitate any lobbying efforts.

PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

DEVELOP PLAN FOR AQUARIUMS TO RAISE PRIVATE FUNDS FOR SUPPORT ASSISTANCE

SECTION 14.1. No later than April 1, 2014, the Division of North Carolina Aquariums of the Department of Environment and Natural Resources shall develop a plan for the North Carolina Aquariums established under Article 5C of Chapter 143B of the General Statutes to increase the amount of private funds raised through the direct efforts of each North Carolina Aquarium in order to make the North Carolina Aquariums become more financially self-sustaining. No later than April 1, 2014, the Division of North Carolina Aquariums of the Department of Environment and Natural Resources shall report its plan under this section to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division.

EARLY SUNSET FOR NC SUSTAINABLE COMMUNITIES TASK FORCE

SECTION 14.2. Section 13.5(e) of S.L. 2010-31 reads as rewritten:

"**SECTION 13.5.(e)** Sunset. – This section expires June 30, ~~2016~~2013."

WATER AND LAND CONSERVATION FUND/GRANT PROGRAM CREATED; CWMTF AND NHTF REPEALED

SECTION 14.3.(a) All staff that are supported by the Clean Water Management Trust Fund and employed by the Clean Water Management Trust Fund Board of Trustees are transferred to the Department of Environment and Natural Resources and shall be supported by the Water and Land Conservation Fund, established in G.S. 113A-262, as enacted by subsection (b) of this section, and shall be employed by the Department of Environment and Natural Resources.

SECTION 14.3.(b) Chapter 113A of the General Statutes is amended by adding a new Article to read:

"Article 19.

"Water and Land Conservation Grant Program.

"§ 113A-260. Purpose.

The General Assembly recognizes that a critical need exists in this State to clean up pollution in the State's surface waters and to protect, preserve, and conserve those waters that are not yet polluted. The General Assembly recognizes that a critical need exists in this State to protect, preserve, and conserve the lands in our State that have natural or cultural significance. The task of cleaning up polluted waters and protecting and enhancing the State's water resources is multifaceted and requires different approaches, including innovative pilot projects that take into account the problems, the type of pollution, the geographical area, and the recognition that the hydrological and ecological values of each resource sought to be upgraded, conserved, and protected are unique.

It is the intent of the General Assembly that grants under this Article shall be used to help finance projects that specifically address water pollution problems and focus on upgrading surface waters, eliminating pollution, and protecting, preserving, and conserving unpolluted surface waters, including enhancement or development of drinking water supplies. It is the further intent of the General Assembly that grants under this Article also be used to build a network of riparian buffers and greenways for environmental, educational, and recreational benefits. Lastly, it is the intent of the General Assembly that moneys from the Fund also be used to preserve lands that could be used for water supply reservoirs or that are part of the State's natural heritage. While the purpose of this Article is to focus on the cleanup and prevention of pollution of the State's surface waters and on the preservation of its natural heritage areas, the General Assembly believes that the results of these efforts will also be beneficial to wildlife and marine fisheries habitats, wildlife resources, and marine fisheries resources.

"§ 113A-261. Definitions.

The following definitions apply in this Article:

- (1) Appraised value. – The price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the uses to which the property is adapted and for which it is capable of being used.
- (2) Authority. – The Water and Land Conservation Authority created under G.S. 113A-266.
- (3) Land. – Real property and any interest in, easement in, or restriction on real property.
- (4) Local government unit. – Defined in G.S. 159G-20.

"§ 113A-262. Water and Land Conservation Fund.

(a) Fund Established. – The Water and Land Conservation Fund is established as a special revenue fund within the Department of Environment and Natural Resources to be administered by the Department of Environment and Natural Resources. The Fund receives revenue from the following sources and may receive revenue from other sources:

- (1) Annual appropriations.
- (2) Scenic River special registration plates under G.S. 20-81.12.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Authority.

(c) Fund Purposes. – Moneys from the Fund are appropriated annually to provide water conservation grants under subsection (b) of G.S. 113A-263 or to provide land conservation grants under subsection (c) of G.S. 113A-263.

(d) Limit on Operating and Administrative Expenses. – No more than one million two hundred fifty thousand dollars (\$1,250,000) may be used each fiscal year for the total administrative and operating costs of all of the following:

(1) The administrative and operating costs of the program under this Article.

(2) The administrative and operating expenses of the Authority under G.S. 113A-266 and its executive director under G.S. 113A-270.

"§ 113A-263. Water and Land Conservation Grant Program.

(a) Program Established. – The Water and Land Conservation Program is established within the Department of Environment and Natural Resources.

(b) Water Conservation Grants. – Grants under this subsection may be used for any of the following purposes:

(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and enhancing drinking water supplies, including the development of water supply reservoirs.

(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.

(4) To restore previously degraded lands to reestablish their ability to protect water quality.

(5) To provide buffers around military bases or for State matching funds for the Readiness and Environmental Protection Initiative, a federal funding initiative that provides funds for military buffers.

(6) To facilitate planning that targets reductions in surface water pollution.

(7) To finance innovative efforts, including pilot projects, to reduce pollutants entering the State's waterways, to improve water quality, and to research alternative solutions to the State's water quality problems.

(c) Land Conservation Grants. – Grants under this subsection may be used for any of the following purposes:

(1) To acquire land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes.

(2) To acquire land as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the public.

(3) To acquire land that contributes to the development of a balanced State program of historic properties.

(4) To pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes.

(5) To pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.

"§ 113A-264. Water conservation grants; requirements.

(a) Eligible Applicants. – Any of the following are eligible to apply for a water conservation grant under this Article for the purpose of protecting and enhancing water quality:

(1) A State agency.

(2) A local government unit.

(3) A nonprofit corporation whose primary purpose is the conservation, preservation, and restoration of our State's environmental and natural resources.

(b) Matching Requirement. – The Authority shall establish matching requirements for water conservation grants awarded under this section. This requirement may be satisfied by the donation of land to a public or private nonprofit conservation organization as approved by the Authority. The Authority may also waive the requirement to match a water conservation grant pursuant to guidelines adopted by the Authority.

(c) Restriction. – No water conservation grant shall be awarded under this section to satisfy compensatory mitigation requirements under 33 U.S.C. § 1344 or G.S. 143-214.11.

(d) Withdrawal. – An award of a grant under this Article is withdrawn if the grant recipient fails to enter into a construction contract for the project within one year after the date of the award, unless the Authority finds that the applicant has good cause for the failure. If the Authority finds good cause for a recipient's failure, the Authority must set a date by which the recipient must take action or forfeit the grant.

"§ 113A-265. Land conservation grants; information regarding land acquisition; priorities.

(a) Eligible Applicants. – Any of the following are eligible to apply for a land conservation grant under this Article for the purpose of protecting land with outstanding natural or cultural heritage value:

(1) The following State agencies: the Department of Environment and Natural Resources, the Department of Agriculture and Consumer Services, the Department of Cultural Resources, and the Wildlife Resources Commission.

(2) A nonprofit corporation whose primary purpose is the conservation, preservation, and restoration of our State's environmental and natural resources.

(b) Proposals. – From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources may propose to the Water and Land Conservation Authority lands to be acquired by land conservation grants under subsection (c) of G.S. 113A-262. For each tract or interest proposed, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the Authority with the following information:

(1) The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes and its consistency with the plan developed pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives.

(2) Any rare or endangered species on or near the land.

(3) Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon.

(4) Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine or aquatic site, or important geologic feature.

(5) The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.

(6) Other sources of funds that may be available to assist in acquiring the land.

(7) The State department or division that will be responsible for managing the land.

(8) What assurances exist that the land will not be used for purposes other than those for which it is being acquired.

(9) Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(c) Information Requests by Authority. – The Authority may request any applicant that is eligible under subdivision (2) of subsection (a) of this section to submit to the Authority any of the information under subdivisions (1) through (9) of subsection (b) of this section.

(d) Priorities. – When considering authorizing land conservation grants to acquire land under subsection (c) of G.S. 113A-263, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The Authority shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their proposals made under subsection (a) of this section.

(e) Local Reimbursement. – In any county in which real property was purchased with a land conservation grant as an addition to the fish and wildlife management areas and where less than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that county and any other local taxing unit shall be annually reimbursed, for a period of 20 years, from funds available to the Wildlife Resources Commission in an amount equal to the amount of ad valorem taxes that would have been paid to the taxing unit if the property had remained subject to taxation.

"§ 113A-266. Water and Land Conservation Authority established; membership qualifications; vacancies; meetings and meeting facilities.

(a) Authority Established. – The Water and Land Conservation Authority is created within the Department of Environment and Natural Resources.

(b) Membership. – The Water and Land Conservation Authority shall be composed of nine members appointed to three-year terms as follows:

(1) One member appointed by the Governor to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(2) One member appointed by the Governor to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(3) One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.

(4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that are evenly divisible by three.

(7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.

(c) Geographic Distribution of Members; Qualifications. – The appointment of a member of the Authority may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. When appointing members of the Authority, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall give consideration to adequate representation from the various regions of the State and shall give consideration to the appointment of members who are knowledgeable in any of the following areas:

(1) Acquisition and management of natural areas.

(2) Conservation and restoration of water quality.

(3) Wildlife and fisheries habitats and resources.

(d) Limitation on Length of Service. – No member of the Authority shall serve more than two consecutive four-year terms or a total of 10 years.

(e) Chair. – The Governor shall appoint one member to serve as Chair of the Authority.

(f) Vacancies. – An appointment to fill a vacancy on the Authority created by the resignation, removal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.

(g) Frequency of Meetings. – The Authority shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.

(h) Quorum. – A majority of the membership of the Authority constitutes a quorum for the transaction of business.

(i) Per Diem and Expenses. – Each member of the Authority shall receive no salary as a result of serving on the Authority but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

(j) Meeting Facilities. – The Secretary of Environment and Natural Resources shall provide meeting facilities for the Authority and its staff as requested by the Chair.

"§ 113A-267. Water and Land Conservation Authority; powers and duties.

(a) Award Grants. – The Authority may award a grant only for a project or activity or for the acquisition of land that satisfies the criteria and furthers the purposes of this Article.

(b) Develop Grant Criteria. – The Authority shall develop criteria for awarding grants under this Article. The criteria developed shall include consideration of the following:

(1) The significant enhancement and conservation of water quality in the State.

(2) The objectives of the basinwide management plans for the State's river basins and watersheds.

(3) The promotion of regional integrated ecological networks insofar as they affect water quality.

(4) The specific areas targeted as being environmentally sensitive.

(5) The geographic distribution of funds as appropriate.

(6) The preservation of water resources with significant recreational or economic value and uses.

(7) The development of a network of riparian buffer-greenways bordering and connecting the State's waterways that will serve environmental, educational, and recreational uses.

(8) Water supply availability and the public's need for resources adequate to meet demand for essential water uses. Criteria developed pursuant to this subdivision may include consideration of the likelihood of a proposed water supply project ultimately being permitted and built.

(9) The preservation of natural heritage resources with significant recreational or economic value and uses.

(c) Develop Additional Guidelines. – The Authority may develop guidelines in addition to the grant criteria consistent with and as necessary to implement this Article.

(d) Acquisition of Land. – The Authority may acquire land by purchase, negotiation, gift, or devise. Any acquisition of land by the Authority must be reviewed and approved by the Council of State and the deed for the land subject to approval of the Attorney General before the acquisition can become effective. In determining whether to acquire land as permitted by this Article, the Authority shall consider whether the acquisition furthers the purposes of this Article and may also consider recommendations from the Council. Nothing in this section shall allow the Authority to acquire land under the right of eminent domain.

(e) Exchange of Land. – The Authority may exchange any land it acquires in carrying out the powers conferred on the Authority by this Article and for purposes consistent with the provisions of this Article.

(f) Land Management. – The Authority may designate managers or managing agencies of the lands acquired under this Article.

(g) Tax Credit Certification. – The Authority shall develop guidelines to determine whether land donated for a tax credit under G.S. 105-130.34 or G.S. 105-151.12 is suitable for one of the purposes under this Article and may be certified for a tax credit.

(h) Rule-Making Authority. – The Authority may adopt rules to implement this Article. Chapter 150B of the General Statutes applies to the adoption of rules by the Authority.

"§ 113A-268. North Carolina Conservation Easement Endowment Fund.

(a) The North Carolina Conservation Easement Endowment Fund is established as a special fund in the Office of the State Treasurer. The principal of the Endowment Fund shall consist of a portion of grant funds transferred by the Authority to the Endowment Fund for stewardship activities related to projects for conservation easements funded from grants awarded under this Article. The principal of the Endowment Fund may also consist of any proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Endowment Fund and any investment income that is not used in accordance with subsection (b) of this section. The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of the Chair of the Authority. No expenditure or disbursement shall be made from the principal of the Endowment Fund.

(b) The Authority may authorize the disbursement of the endowment investment income only for activities related to stewardship of conservation easements owned by the State.

"§ 113A-269. Water and Land Conservation Authority; reporting requirement.

The Chair of the Authority shall report each year by December 1 to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly regarding the implementation of this Article. The report shall include:

(1) A list of water conservation grants awarded under G.S. 113A-263 for the previous 12-month period. The list shall include for each grant a description

of the project, the amount of the grant awarded for the project, and the total cost of the project.

(2) A list of land conservation grants awarded under G.S. 113A-263 for the previous 12-month period. The list shall include for each grant the acreage of each tract, the county in which the tract is located, the amount awarded as a grant to acquire the tract, and the State department or division responsible for managing the tract.

"§ 113A-270. Water and Land Conservation Authority; Executive Director; staff.

(a) The Secretary shall select and appoint a competent person in accordance with this section as Executive Director of the Authority. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Authority and shall serve as the chief administrative officer of the Authority. The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources and natural heritage resources.

(b) The Secretary shall provide staff to support the Water and Land Conservation Grant Program under this Article.

"§ 113A-271. Construction of Article.

No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article."

SECTION 14.3.(c) Article 5A of Chapter 113 of the General Statutes and Article 18 of Chapter 113A of the General Statutes are repealed.

SECTION 14.3.(d) G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the ~~Natural Heritage Trust Fund (NHTF)~~, Water and Land Conservation Fund (WLCF), which is established under ~~G.S. 113-77.7~~, G.S. 113A-262, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	NHTF	<u>WLCF</u>	<u>PRTF</u>
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SECTION 14.3.(e) G.S. 20-81.12(b2)(5) reads as rewritten:

"(5) North Carolina State Parks. – One-half of the revenue derived from the special plate shall be transferred quarterly to ~~Natural Heritage Trust Fund established under G.S. 113-77.7~~, the Water and Land Conservation Fund established under G.S. 113A-262, and the remaining revenue shall be transferred quarterly to the Parks and Recreation Trust Fund established under G.S. 113-44.15."

SECTION 14.3.(f) G.S. 20-81.12(b7) reads as rewritten:

"(b7) Scenic Rivers Plates. – The Division must receive 300 or more applications for a Scenic Rivers plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Scenic Rivers plates to the ~~Clean Water Management Trust Fund established in G.S. 113A-253~~, Water and Land Conservation Fund established under G.S. 113A-262."

SECTION 14.3.(g) G.S. 126-5(c1)(21) is repealed.

SECTION 14.3.(h) G.S. 143-214.14(c) reads as rewritten:

"(c) Legislative Goals and Policies. – It is the goal of the General Assembly that, to the extent practicable, the State shall adopt water quality protection plans that are developed and implemented in cooperation and coordination with local governments and that the State shall adopt water quality protection requirements that are proportional to the relative contributions of pollution from all sources in terms of both the loading and proximity of those sources.

Furthermore, it is the goal of the General Assembly to encourage and support State-local partnerships for improved water quality protection through the provision of technical and financial assistance available through ~~the Clean Water Management Trust Fund, the Water and Land Conservation Fund~~ established under G.S. 113A-262, the Ecosystem Enhancement Program, the Ecosystem Restoration Fund, water quality planning and project grant programs, the State's revolving loan and grant programs for water and wastewater facilities, other funding sources, and future appropriations. The Commission shall implement these goals in accordance with the standards, procedures, and requirements set out in this section."

SECTION 14.3.(i) G.S. 143B-344.38(a)(8)a. and G.S. 143B-344.38(a)(8)d. are repealed.

SECTION 14.3.(j) G.S. 106-887(a) reads as rewritten:

"(a) DuPont State Forest is designated as a State Recreational Forest. The Department shall manage DuPont State Recreational Forest: (i) primarily for natural resource preservation, scenic enjoyment and recreational purposes, including horseback riding, hiking, bicycling, hunting, and fishing; (ii) so as to provide an exemplary model of scientifically sound, ecologically based natural resource management for the social and economic benefit of the forest's diverse community of users; and (iii) consistent with the grant agreement ~~between the Natural Heritage Trust Fund and the Division of Forest Resources, which grant~~ that designates a portion of the forest as a North Carolina Nature Preserve. In addition, the Department may use the forest for the demonstration of different forest management and resource protection techniques for local landowners, natural resource professionals, students, and other forest visitors."

SECTION 14.3.(k) G.S. 120-123 reads as rewritten:

"§ 120-123. Service by members of the General Assembly on certain boards and commissions.

No member of the General Assembly may serve on any of the following boards or commissions:

(1) The Board of Agriculture, as established by G.S. 106-2.

...

~~(67) The Board of Trustees of the Natural Heritage Trust Fund, as established by G.S. 113-77.8.~~

~~(67a) The Water and Land Conservation Authority established by G.S. 113A-262.~~

...."

SECTION 14.3.(l) G.S. 143B-279.3(b)(18) is repealed.

SECTION 14.3.(m) The Natural Heritage Trust Fund and the Clean Water Management Trust Fund shall be closed and the remaining fund balances in each fund shall be transferred to the Water and Land Conservation Fund established in G.S. 113A-262, as enacted by subsection (b) of this section, as provided in this subsection. It is the intent of the General Assembly to honor the obligations from the Natural Heritage Trust Fund and the Clean Water Management Trust Fund that were authorized prior to the effective date of this section and to ensure that any tax proceeds credited to the Natural Heritage Trust Fund are used for the purposes for which they were collected. The unencumbered funds transferred from the Natural Heritage Trust Fund to the Water and Land Conservation Fund and any funds from the Natural Heritage Trust Fund that were encumbered but become unencumbered after the effective date of this section shall be used for land conservation grants under G.S. 113A-263(c), as enacted by subsection (b) of this section. Any encumbered funds transferred from the Natural Heritage Trust Fund to the Water and Land Conservation Fund shall be used for the purpose for which the grant was awarded. The unencumbered funds transferred from the Clean Water Management Trust Fund to the Water and Land Conservation Fund and any funds from the Clean Water Management Trust Fund that were encumbered but become unencumbered after the effective date of this section shall be used for water conservation grants under

G.S. 113A-263(b), as enacted by subsection (b) of this section. Any encumbered funds transferred from the Clean Water Management Trust Fund to the Water and Land Conservation Fund shall be used for the purpose for which the grant was awarded.

SECTION 14.3.(n) The terms for the initial appointments to the Water and Land Conservation Authority established by G.S. 113A-266, as enacted by subsection (b) of this section, shall commence July 1, 2013. Notwithstanding the provisions of G.S. 113A-266, as enacted by subsection (b) of this section, in order to establish staggered terms, the terms for the initial appointments to the Water and Land Conservation Authority made under G.S. 113A-266(b)(1), (4), and (7) shall expire July 1, 2015; the terms for the initial appointments to the Water and Land Conservation Authority made under G.S. 113A-266(b)(3), (6), and (9) shall expire July 1, 2016; and the terms for the initial appointments to the Water and Land Conservation Authority made under G.S. 113A-266(b)(2), (5), and (8) shall expire July 1, 2017.

SECTION 14.3.(o) The Codifier of Statutes shall make any conforming changes in Chapter 159I of the General Statutes or any other sections of the General Statutes necessary to implement this section.

DEED STAMP TAX PROCEEDS CREDITED TO GENERAL FUND

SECTION 14.4.(a) G.S. 105-228.30(b) reads as rewritten:

"(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit one-half of the proceeds to the county's general fund and remit the remaining one-half of the proceeds, less taxes refunded and the county's allowance for administrative expenses, to the Department of Revenue on a monthly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. ~~Of the funds remitted to it pursuant to this section, the Department of Revenue must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7.~~ The Department of Revenue shall credit the funds remitted to the Department of Revenue under this subsection to the General Fund."

SECTION 14.4.(b) G.S. 113-44.15(a) reads as rewritten:

"(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a ~~nonreverting~~ special revenue fund consisting of gifts and grants to the Trust Fund, ~~monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), Fund~~ and other monies appropriated to the Trust Fund by the General Assembly. Investment earnings credited to the assets of the Fund shall become part of the Fund."

PARKS AND RECREATION AUTHORITY

SECTION 14.5.(a) G.S. 143B-313.2 reads as rewritten:

"§ 143B-313.2. North Carolina Parks and Recreation Authority; members; selection; compensation; meetings.

(a) Membership. – The North Carolina Parks and Recreation Authority shall consist of ~~15~~nine members. The members shall include persons who are knowledgeable about park and recreation issues in North Carolina or with expertise in finance. In making appointments, each appointing authority shall specify under which subdivision of this subsection the person is appointed. Members shall be appointed as follows:

- (1) One member appointed by the Governor.
- (2) One member appointed by the Governor.
- (3) One member appointed by the Governor.

- 1 ~~(3a) One member appointed by the Governor.~~
2 ~~(3b) One member appointed by the Governor.~~
3 (4) One member appointed by the General Assembly upon the recommendation
4 of the Speaker of the House of Representatives, as provided in G.S. 120-121.
5 (5) One member appointed by the General Assembly upon the recommendation
6 of the Speaker of the House of Representatives, as provided in G.S. 120-121.
7 (6) One member appointed by the General Assembly upon the recommendation
8 of the Speaker of the House of Representatives, as provided in G.S. 120-121.
9 ~~(7) One member appointed by the General Assembly upon the recommendation~~
10 ~~of the Speaker of the House of Representatives, as provided in G.S. 120-121.~~
11 ~~(7a) One member appointed by the General Assembly upon the recommendation~~
12 ~~of the Speaker of the House of Representatives, as provided in G.S. 120-121.~~
13 (8) One member appointed by the General Assembly upon the recommendation
14 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
15 (9) One member appointed by the General Assembly upon the recommendation
16 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
17 (10) One member appointed by the General Assembly upon the recommendation
18 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
19 ~~(11) One member appointed by the General Assembly upon the recommendation~~
20 ~~of the President Pro Tempore of the Senate, as provided in G.S. 120-121.~~
21 ~~(12) One member appointed by the General Assembly upon the recommendation~~
22 ~~of the President Pro Tempore of the Senate, as provided in G.S. 120-121.~~
23 (b) Terms. – Members shall serve staggered terms of office of three years. Members
24 shall serve no more than two consecutive three-year terms. After serving two consecutive
25 three-year terms, a member is not eligible for appointment to the Authority for at least one year
26 after the expiration date of that member's most recent term. Upon the expiration of a three-year
27 term, a member may continue to serve until a successor is appointed and duly qualified as
28 provided by G.S. 128-7. The terms of members appointed under subdivision (1), ~~(3a)~~, (5), ~~(7)~~,
29 or (9) of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by
30 three. The terms of members appointed under subdivision (2), ~~(3b)~~, (4), ~~(8)~~, or ~~(11)~~ or (8) of
31 subsection (a) of this section shall expire on July 1 of years that follow by one year those years
32 that are evenly divisible by three. The terms of members appointed under subdivision (3), (6),
33 ~~(7a)~~, ~~(10)~~, or ~~(12)~~ or (10) of subsection (a) of this section shall expire on July 1 of years that
34 precede by one year those years that are evenly divisible by three.
35 (c) Chair. – The Governor shall appoint one member of the North Carolina Parks and
36 Recreation Authority to serve as Chair.
37 (d) Vacancies. – A vacancy on the North Carolina Parks and Recreation Authority shall
38 be filled by the appointing authority responsible for making the appointment to that position as
39 provided in subsection (a) of this section. An appointment to fill a vacancy shall be for the
40 unexpired balance of the term.
41 (e) Removal. – The Governor may remove, as provided in Article 10 of Chapter 143C
42 of the General Statutes any member of the North Carolina Parks and Recreation Authority
43 appointed by the Governor for misfeasance, malfeasance, or nonfeasance. The General
44 Assembly may remove any member of the North Carolina Parks and Recreation Authority
45 appointed by the General Assembly for misfeasance, malfeasance, or nonfeasance.
46 (f) Compensation. – The members of the North Carolina Parks and Recreation
47 Authority shall receive per diem and necessary travel and subsistence expenses according to the
48 provisions of G.S. 138-5.
49 (g) Meetings. – The North Carolina Parks and Recreation Authority shall meet at least
50 quarterly at a time and place designated by the Chair.

(h) Quorum. – A majority of the North Carolina Parks and Recreation Authority shall constitute a quorum for the transaction of business.

(i) Staff. – All clerical and other services required by the North Carolina Parks and Recreation Authority shall be provided by the Secretary of Environment and Natural Resources."

SECTION 14.5.(b) The terms of all members of the North Carolina Parks and Recreation Authority shall expire on June 30, 2013. A new Authority consisting of nine members shall be appointed as provided in G.S. 143B-313.2, as amended by subsection (a) of this section. This subsection becomes effective on June 30, 2013.

LAKE WACCAMAW HYDRILLA ERADICATION PROJECT FUNDS

SECTION 14.6. Of the funds appropriated to the Department of Environment and Natural Resources for the Parks and Recreation Trust Fund for the 2013-2014 fiscal year, the sum of two hundred fifty thousand dollars (\$250,000) shall be reallocated to the Division of Water Resources of the Department of Environment and Natural Resources to be used to provide the State portion of the nonfederal funds needed for the Lake Waccamaw Hydrilla Eradication Project. This project shall be subject to the same requirements as other water resources development projects under this act.

FISHERY RESOURCE GRANT PROGRAM REPEAL

SECTION 14.7.(a) G.S. 113-200 is repealed.

SECTION 14.7.(b) G.S. 143B-289.54(c) reads as rewritten:

"(c) Additional Considerations. – In making appointments to the Commission, the Governor shall provide for appropriate representation of women and minorities on the Commission. ~~The Governor shall make appointments to the Commission consistent with the restrictions of G.S. 113-200(g).~~"

MARINE FISHERIES LICENSE AND PERMIT FEES; LICENSE AND PERMIT REQUIREMENTS; FEE INCREASES FUND DMF AT-SEA OBSERVER PROGRAM

SECTION 14.8.(a) G.S. 113-168.1(h) reads as rewritten:

"(h) Replacement Licenses and Endorsements. – The Division shall issue a replacement license, including any endorsements, to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed ~~ten dollars (\$10.00), twelve dollars and fifty cents (\$12.50),~~ that compensates the Division for the administrative costs associated with issuing the replacement license."

SECTION 14.8.(b) G.S. 113-168.2 reads as rewritten:

"§ 113-168.2. Standard Commercial Fishing License.

(a) Requirement. – Except as otherwise provided in this Article, it is unlawful for any person to engage in a commercial fishing operation in the coastal fishing waters without holding a SCFL issued by the Division. A person who works as a member of the crew of a vessel engaged in a commercial fishing operation under the direction of a person who holds a valid SCFL is not required to hold a SCFL. A person who holds a SCFL is not authorized to take shellfish unless the SCFL is endorsed as provided in ~~G.S. 113-168.5(d) or the person holds a shellfish license issued pursuant to G.S. 113-169.2.~~ G.S. 113-168.5.

(a1) Use of Vessels. – The holder of a SCFL is authorized to use only one vessel in a commercial fishing operation at any given time. The Commission may adopt a rule to exempt from this requirement a person in command of a vessel that is auxiliary to a vessel engaged in a pound net operation, long-haul operation, beach seine operation, or menhaden operation. A person who works as a member of the crew of a vessel engaged in a mechanical shellfish operation under the direction of a person who holds a valid SCFL with a shellfish endorsement is not required to hold a shellfish license.

(b) through (d) Repealed by Session Laws 1998-225, s. 4.11.

(e) Fees. – The annual SCFL fee for a resident of this State shall be ~~two hundred dollars (\$200.00)~~ two hundred fifty dollars (\$250.00). The annual SCFL fee for a person who is not a resident of this State shall be ~~eight hundred dollars (\$800.00)~~ or the amount charged to a resident of this State in the nonresident's state, whichever is less. In no event, however, may the fee be less than ~~two hundred dollars (\$200.00)~~ two hundred fifty dollars (\$250.00). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:

(1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State income tax return as a resident of North Carolina for the previous calendar or tax year, or

(2) G.S. 113-130(4)e.

(f) Assignment. – The holder of a SCFL may assign the SCFL to any individual who is eligible to hold a SCFL under this Article. It is unlawful for the holder of a SCFL to assign a shellfish endorsement of a SCFL to any individual who is not a resident of this State. The assignment shall be in writing on a form provided by the Division and shall include the name of the licensee, the license number, any endorsements, the assignee's name, mailing address, physical or residence address, and the duration of the assignment. If a notarized copy of an assignment is not filed with the Morehead City office of the Division within five days of the date of the assignment, the assignment shall expire. It is unlawful for the assignee of a SCFL to assign the SCFL. The assignment shall terminate:

(1) Upon written notification by the assignor to the assignee and the Division that the assignment has been terminated.

(2) Upon written notification by the estate of the assignor to the assignee and the Division that the assignment has been terminated.

(3) If the Division determines that the assignee is operating in violation of the terms and conditions applicable to the assignment.

(4) If the assignee becomes ineligible to hold a license under this Article.

(5) Upon the death of the assignee.

(6) If the Division suspends or revokes the assigned SCFL.

(7) At the end of the license year.

(g) Transfer. – A SCFL may be transferred only by the Division. A SCFL may be transferred pursuant to rules adopted by the Commission or upon the request of:

(1) A licensee, from the licensee to a member of the licensee's immediate family who is eligible to hold a SCFL under this Article.

(2) The administrator or executor of the estate of a deceased licensee, to the administrator or executor of the estate if a surviving member of the deceased licensee's immediate family is eligible to hold a SCFL under this Article. The administrator or executor must request a transfer under this subdivision within six months after the administrator or executor qualifies under Chapter 28A of the General Statutes. An administrator or executor who holds a SCFL under this subdivision may, for the benefit of the estate of the deceased licensee:

- a. Engage in a commercial fishing operation under the SCFL if the administrator or executor is eligible to hold a SCFL under this Article.
 - b. Assign the SCFL as provided in subsection (f) of this section.
 - c. Renew the SCFL as provided in G.S. 113-168.1.
- (3) An administrator or executor to whom a SCFL was transferred pursuant to subdivision (2) of this subsection, to a surviving member of the deceased licensee's immediate family who is eligible to hold a SCFL under this Article.
 - (4) The surviving member of the deceased licensee's immediate family to whom a SCFL was transferred pursuant to subdivision (3) of this subsection, to a third-party purchaser of the deceased licensee's fishing vessel.
 - (5) A licensee who is retiring from commercial fishing, to a third-party purchaser of the licensee's fishing vessel.

(h) Identification as Commercial Fisherman. – The receipt of a current and valid SCFL or shellfish license issued by the Division shall serve as proper identification of the licensee as a commercial fisherman.

(i) Record-Keeping Requirements. – The fish dealer shall record each transaction at the time and place of landing on a form provided by the Division. The transaction form shall include the information on the SCFL or shellfish license, the quantity of the fish, the identity of the fish dealer, and other information as the Division deems necessary to accomplish the purposes of this Subchapter. The person who records the transaction shall provide a completed copy of the transaction form to the Division and to the other party of the transaction. The Division's copy of each transaction form shall be transmitted to the Division by the fish dealer on or before the tenth day of the month following the transaction."

SECTION 14.8.(c) G.S. 113-168.3(b) reads as rewritten:

"(b) Eligibility; Fees. – Any individual who is 65 years of age or older and who is eligible for a SCFL under G.S. 113-168.2 may apply for either a SCFL or RSCFL. An applicant for a RSCFL shall provide proof of age at the time the application is made. The annual fee for a RSCFL for a resident of this State shall be ~~one hundred dollars (\$100.00)~~ one hundred twenty-five dollars (\$125.00). The annual fee for a RSCFL for a person who is not a resident of this State shall be ~~eight hundred dollars (\$800.00) or the amount charged to a resident of this State in the nonresident's state, whichever is less. In no event, however, shall the fee be less than one hundred dollars (\$100.00)~~ one hundred sixty-two dollars and fifty cents (\$162.50). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:

- (1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State income tax return as a resident of North Carolina for the previous calendar or tax year, or
- (2) G.S. 113-130(4)e."

SECTION 14.8.(d) G.S. 113-168.4(c) reads as rewritten:

"(c) A person who organizes a recreational fishing tournament may sell fish taken in connection with the tournament pursuant to a recreational fishing tournament license to sell fish. A person who organizes a recreational fishing tournament may obtain a recreational fishing tournament license to sell fish upon application to the Division and payment of a fee of ~~one hundred dollars (\$100.00)~~ one hundred twenty-five dollars (\$125.00). It is unlawful for any person licensed under this subsection to sell fish to any person other than a fish dealer licensed under G.S. 113-169.3 unless the seller is also a licensed fish dealer. A recreational fishing tournament is an organized fishing competition occurring within a specified time period not to exceed one week and that is not a commercial fishing operation. Gross proceeds from the sale

of fish may be used only for charitable, religious, educational, civic, or conservation purposes and shall not be used to pay tournament expenses."

SECTION 14.8.(e) G.S. 113-168.6 reads as rewritten:

"§ 113-168.6. Commercial fishing vessel registration.

(a) As used in this subsection, a North Carolina vessel is a vessel that has its primary situs in the State. A vessel has its primary situs in the State if:

- (1) A certificate of number has been issued for the vessel under Article 1 of Chapter 75A of the General Statutes;
- (2) A certificate of title has been issued for the vessel under Article 4 of Chapter 75A of the General Statutes; or
- (3) A certification of documentation has been issued for the vessel that lists a home port in the State under 46 U.S.C. § 12101, et seq., as amended.

(b) The owner of a vessel used in a commercial fishing operation in the coastal fishing waters of the State or a North Carolina vessel used to land or sell fish in the State shall register the vessel with the Division. It is unlawful to use a vessel that is not registered with the Division in a commercial fishing operation or a for-hire operation in the coastal fishing waters of the State. It is unlawful to use a North Carolina vessel that is not registered with the Division to land or sell fish in the State. No registration is required for a vessel of any length that does not have a motor if the vessel is used only in connection with another vessel that is properly registered.

(b1) The vessel owner at the time of application for registration under subsection (b) of this section shall obtain either a commercial vessel endorsement if the vessel is intended to be used primarily for the harvest of fish for sale, a for-hire endorsement if the vessel is intended to be used primarily for for-hire activities, or both endorsements if the vessel is intended to be engaged in both activities. The owner of a vessel applying for a commercial fishing vessel registration with a for-hire endorsement must affirm liability coverage and knowledge of applicable United States Coast Guard safety requirements.

(b2) Every owner who obtains a commercial fishing vessel registration with a for-hire endorsement shall submit to the Division logbooks summarizing catch and effort statistical data to the Division. The Commission may adopt rules that determine means and methods to satisfy the requirements of this subsection.

(c) The annual fee for a commercial fishing vessel registration shall be determined by the length of the vessel and shall be in addition to the fee for other licenses issued under this Article. The length of a vessel shall be determined by measuring the distance between the ends of the vessel along the deck and through the cabin, excluding the sheer. The annual fee for a commercial fishing vessel registration is:

- (1) ~~One dollar (\$1.00)~~ One dollar and twenty-five cents (\$1.25) per foot for a vessel not over 18 feet in length.
- (2) ~~One dollar and fifty cents (\$1.50)~~ One dollar and ninety cents (\$1.90) per foot for a vessel over 18 feet but not over 38 feet in length.
- (3) ~~Three dollars (\$3.00)~~ Three dollars and seventy-five cents (\$3.75) per foot for a vessel over 38 feet but not over 50 feet in length.
- (4) ~~Six dollars (\$6.00)~~ Seven dollars and fifty cents (\$7.50) per foot for a vessel over 50 feet in length.

(d) A vessel may be registered at any office of the Division. A commercial fishing vessel registration expires on the last day of the license year.

(e) Within 30 days of the date on which the owner of a registered vessel transfers ownership of the vessel, the new owner of the vessel shall notify the Division of the change in ownership and apply for a replacement commercial fishing vessel registration. An application for a replacement commercial fishing vessel registration shall be accompanied by proof of the

transfer of the vessel. The provisions of G.S. 113-168.1(h) apply to a replacement commercial fishing vessel registration."

SECTION 14.8.(f) G.S. 113-169.1 reads as rewritten:

"§ 113-169.1. Permits for gear, equipment, and other specialized activities authorized.

(a) The Commission may adopt rules to establish permits for gear, equipment, and specialized activities, including commercial fishing operations that do not involve the use of a vessel and transplanting oysters or clams. The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed one hundred dollars (\$100.00) per permit.

(b) The Commission may adopt rules to establish gear specific permits to take striped bass from the Atlantic Ocean and to limit the number and type of these permits that may be issued to a person. The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed ~~ten dollars (\$10.00)~~ thirty dollars (\$30.00) per permit.

(c) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

SECTION 14.8.(g) G.S. 113-169.2 reads as rewritten:

"§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.

(a) License or Endorsement Necessary to Take or Sell ~~Shellfish~~. Shellfish Taken by Hand Methods. – It is unlawful for an individual to take shellfish from the public or private grounds of the State ~~by mechanical means~~ or as part of a commercial fishing operation by ~~any means~~ hand methods without holding either a shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks only to take shellfish by hand methods and sell such shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

(a1) License Necessary to Take or Sell Shellfish Taken by Mechanical Means. – Subject to subsection (i) of this section, an individual who takes shellfish from the public or private grounds of the State by mechanical means must obtain a SCFL under the provisions of G.S. 113-168.2.

(b) Repealed by Session Laws 1998-225, s. 4.17, effective July 1, 1999.

(c) Fees. – Shellfish licenses issued under this section shall be issued annually upon payment of a fee of ~~twenty-five dollars (\$25.00)~~ thirty-one dollars and twenty-five cents (\$31.25) upon proof that the license applicant is a North Carolina resident.

(d) License Available for Inspection. – It is unlawful for any individual to take shellfish as part of a commercial fishing operation from the public or private grounds of the State without having ready at hand for inspection a current and valid shellfish license issued to the licensee personally and bearing the licensee's correct name and address. It is unlawful for any individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's license upon the request of an officer authorized to enforce the fishing laws.

(e) Repealed by Session Laws 1998-225, s. 4.17, effective July 1, 1999.

(f) Name or Address Change. – In the event of a change in name or address or upon receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a replacement shellfish license bearing the correct name and address. Upon a showing by the individual that the name or address change occurred within the past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to this subsection.

(g) Transfer Prohibited. – It is unlawful for an individual issued a shellfish license to transfer or offer to transfer the license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish license from a source not authorized by the Commission.

(h) Exemption. – Persons under 16 years of age are exempt from the license requirements of this section if accompanied by a parent, grandparent, or guardian who is in compliance with the requirements of this section or if in possession of a parent's, grandparent's or guardian's shellfish license.

(i) Taking Shellfish Without a License for Personal Use. – Shellfish may be taken without a license for personal use in quantities established by rules of the Marine Fisheries Commission."

SECTION 14.8.(h) G.S. 113-169.3(e) reads as rewritten:

"(e) Application Fee for New Fish Dealers. – An applicant for a new fish dealer license shall pay a nonrefundable application fee of fifty dollars (\$50.00) sixty-two dollars and fifty cents (\$62.50) in addition to the license category fees set forth in this section."

SECTION 14.8.(i) G.S. 113-169.3(f) reads as rewritten:

"(f) License Category Fees. – Every fish dealer subject to licensing requirements shall secure an annual license at each established location for each of the following activities transacted there, upon payment of the fee set out:

(1) Dealing in oysters: \$50.00; \$62.50.

(2) Dealing in scallops: \$50.00; \$62.50.

(3) Dealing in clams: \$50.00; \$62.50.

(4) Dealing in hard or soft crabs: \$50.00; \$62.50.

(5) Dealing in shrimp, including bait: \$50.00; \$62.50.

(6) Dealing in finfish, including bait: \$50.00; \$62.50.

(7) Operating menhaden or other fish-dehydrating or oil-extracting processing plants: \$50.00; or \$62.50.

(8) Consolidated license (all categories): \$300.00; \$375.00."

SECTION 14.8.(j) G.S. 113-169.4 reads as rewritten:

"§ 113-169.4. Licensing of ocean fishing piers; fees.

(a) The owner or operator of an ocean fishing pier within the coastal fishing waters who charges the public a fee to fish in any manner from the pier shall secure a current and valid pier license from the Division. An application for a pier license shall disclose the names of all parties involved in the pier operations, including the owner of the property, owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier.

(b) Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-168.1(h).

(c) Pier licenses are issued upon payment of fifty cents (50¢) four dollars and fifty cents (\$4.50) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier.

(d) The manager who secures the pier license shall be the individual with the duty of executive-level supervision of pier operations.

(e) The pier license issued under this section authorizes any individual who does not hold a Coastal Recreational Fishing License under Article 14B or Article 25A of this Chapter to engage in recreational fishing while on the pier."

SECTION 14.8.(k) G.S. 113-169.5 reads as rewritten:

"(b) The fee for a land or sell license for a vessel not having its primary situs in North Carolina is two hundred dollars (\$200.00); two hundred fifty dollars (\$250.00), or an amount

equal to the nonresident fee charged by the nonresident's state, whichever is greater. Persons aboard vessels having a primary situs in a jurisdiction that would allow North Carolina vessels without restriction to land or sell their catch, taken outside the jurisdiction, may land or sell their catch in the State without complying with this section if the persons are in possession of a valid license from their state of residence."

SECTION 14.8.(l) G.S. 113-171.1(b) reads as rewritten:

"(b) License. – Before an aircraft is used as a spotter plane in a commercial fishing operation, the owner or operator of the aircraft must obtain a license for the aircraft from the Division. The fee for a license for a spotter plane is ~~one hundred dollars (\$100.00)~~ one hundred twenty-five dollars (\$125.00). An applicant for a license for a spotter plane shall include in the application the identity, either by boat or by company, of the specific commercial fishing operations in which the spotter plane will be used during the license year. If, during the course of the license year, the aircraft is used as a spotter plane in a commercial fishing operation that is not identified in the original license application, the owner or operator of the aircraft shall amend the license application to add the identity of the additional commercial fishing operation."

SECTION 14.8.(m) G.S. 113-173(f) reads as rewritten:

"(f) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be ~~thirty-five dollars (\$35.00)~~ forty-three dollars and seventy-five cents (\$43.75). The fee for a RCGL for an individual who is not a North Carolina resident shall be ~~two hundred fifty dollars (\$250.00)~~ three hundred twelve dollars and fifty cents (\$312.50)."

SECTION 14.8.(n) G.S. 113–174.3 reads as rewritten:

"§ 113-174.3. ~~For Hire Blanket CRFL.~~ For Hire Boat Licenses.

(a) License. — ~~A person who operates a for hire boat may purchase a For Hire Blanket CRFL issued by the Division for the for hire boat. A For Hire Blanket CRFL authorizes all individuals on the for hire boat who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. A For Hire Blanket CRFL does not authorize individuals to engage in recreational fishing in joint fishing waters or inland fishing waters. A For Hire Blanket CRFL is valid for a period of one year from the date of issuance. The fee for a For Hire Blanket CRFL is:~~

(1) ~~Two hundred fifty dollars (\$250.00) for a vessel that will carry six or fewer passengers.~~

(2) ~~Three hundred fifty dollars (\$350.00) for a vessel that will carry greater than six passengers.~~

(b) Implementation. — ~~Except as provided in this section and G.S. 113-174.2(d), each individual on board a for hire boat engaged in recreational fishing, other than crew members who do not engage in recreational fishing, must hold a license issued under this Article or Article 25A of this Chapter. An owner, operator, or crew member of a for hire boat is not responsible for the licensure of a customer fishing from the boat.~~

(c) License. – It is unlawful for a person to engage in a for-hire operation without having obtained one of the following licenses issued by the Division:

(1) Blanket For-Hire Captain's CRFL. – This license allows individuals properly licensed by the United States Coast Guard to carry passengers on any vessel with a commercial vessel registration with a for-hire endorsement. A Blanket For-Hire Captains CRFL authorizes all individuals on the for-hire boat who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. The resident fees for a Blanket For-Hire Captain's CRFL are two hundred fifty dollars (\$250.00) for a boat carrying

six or fewer passengers and three hundred fifty dollars (\$350.00) for a boat carrying more than six passengers. The nonresident fees for a Blanket For-Hire Captain's CRFL are three hundred twelve dollars and fifty cents (\$312.50) for a boat carrying six or fewer passengers and four hundred thirty-seven dollars and fifty cents (\$437.50) for a boat carrying more than six passengers. Any boat whose operator is licensed under this subdivision and that is engaged in for-hire fishing must obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

(2) Blanket For-Hire Boat CRFL. – This license allows any United States Coast Guard licensed operator to carry passengers aboard the licensed vessel. A Blanket For-Hire Boat CRFL authorizes all individuals on the for-hire boat who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. The resident fees for a Blanket For-Hire Captain's CRFL are two hundred fifty dollars (\$250.00) for a boat carrying six or fewer passengers and three hundred fifty dollars (\$350.00) for a boat carrying more than six passengers. The nonresident fees for a Blanket For-Hire Captain's CRFL are three hundred twelve dollars and fifty cents (\$312.50) for a boat carrying six or fewer passengers and four hundred thirty-seven dollars and fifty cents (\$437.50) for a boat carrying more than six passengers. Any boat whose operator is licensed under this subdivision and that is engaged in for-hire fishing is not required to obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

(3) Non-Blanket For-Hire Boat License. – This license allows any United States Coast Guard licensed operator to carry passengers aboard the licensed boat. This license does not authorize individuals aboard the boat to engage in recreational fishing unless they hold an individual CRFL issued under this Article or Article 25A of this Chapter. The fee for the Non-Blanket For-Hire Boat License is twenty-five dollars (\$25.00) for a boat operated by a resident operator and thirty-seven dollars and fifty cents (\$37.50) for a boat operated by a nonresident operator. Any boat whose operator is licensed under this subdivision and that is engaged in for-hire fishing is not required to obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

(d) A license issued under this section does not authorize individuals to engage in recreational fishing in joint fishing waters or inland fishing waters. All for-hire licenses expire on the last day of the license year."

SECTION 14.8.(o) G.S. 113-174.4 is repealed.

SECTION 14.8.(p) G.S. 113–182.1(b) reads as rewritten:

"(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

...

(5) Specify a time period, not to exceed two years from the date of the adoption of the plan, for ending to end overfishing. This subdivision shall only apply to a plan for a fishery that is not producing a sustainable harvest. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.

...."

1 **SECTION 14.8.(q)** G.S. 113-203 is amended by adding two new subsections to
2 read:

3 "(f) The Commission may establish a fee for each permit established pursuant to this
4 subsection in an amount that compensates the Division for the administrative costs associated
5 with the permit but that does not exceed one hundred dollars (\$100.00) per permit.

6 "(g) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from
7 one permit year to the next, the Division may issue a permit prior to July 1 of the permit year
8 for which the permit is valid. Revenue that the Division receives for the issuance of a permit
9 prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the
10 revenue is received and shall be credited and available to the Division for the permit year in
11 which the permit is valid."

12 **SECTION 14.8.(r)** G.S. 113–210 is amended by adding two new subsections to
13 read:

14 "(l) Fees. – Under the Dock Oyster Culture Permit shall be issued annually upon
15 payment of a fee of one hundred dollars (\$100.00).

16 "(m) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from
17 one permit year to the next, the Division may issue a permit prior to July 1 of the permit year
18 for which the permit is valid. Revenue that the Division receives for the issuance of a permit
19 prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the
20 revenue is received and shall be credited and available to the Division for the permit year in
21 which the permit is valid."

22 **SECTION 14.8.(s)** G.S. 113–221.2 reads as rewritten:

23 **"§ 113-221.2. Additional rules to establish sanitation requirements for scallops, shellfish,**
24 **and ~~crustacea~~ crustacea; permits and permit fees authorized.**

25 "(a) Authority to Adopt Certain Rules and Establish Permits. – For the protection of the
26 public health, the Marine Fisheries Commission shall adopt rules establishing sanitation
27 requirements for the harvesting, processing and handling of scallops, shellfish, and crustacea of
28 in-State origin. The rules of the Marine Fisheries Commission may also regulate scallops,
29 shellfish, and crustacea shipped into North Carolina. The Department is authorized to enforce
30 the rules and may issue and revoke permits according to the rules. The Department is
31 authorized to establish a fee for each permit not to exceed one hundred dollars (\$100.00).

32 "(b) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from
33 one permit year to the next, the Division may issue a permit prior to July 1 of the permit year
34 for which the permit is valid. Revenue that the Division receives for the issuance of a permit
35 prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the
36 revenue is received and shall be credited and available to the Division for the permit year in
37 which the permit is valid."

38 **SECTION 14.8.(t)** G.S. 143B-289.52(d1) reads as rewritten:

39 "(d1) The Commission may regulate participation in a fishery that is subject to a federal
40 fishery management plan if that plan imposes a quota on the State for the harvest or landing of
41 fish in the fishery. ~~If the Commission regulates participation in a fishery under this subsection,~~
42 ~~the Division may issue a license to participate in the fishery to a person who:~~

43 (1) ~~Held a valid license issued by the Division to harvest, land, or sell fish~~
44 ~~during at least two of the three license years immediately preceding the date~~
45 ~~adopted by the Commission to determine participation in the fishery; and~~

46 (2) ~~Participated in the fishery during at least two of those license years by~~
47 ~~landing in the State at least the minimum number of pounds of fish adopted~~
48 ~~by the Commission to determine participation in the fishery. The~~
49 ~~Commission may use any additional criteria aside from holding a Standard~~
50 ~~Commercial Fishing License to develop limited entry fisheries. The~~
51 ~~Commission may establish a fee for each license established pursuant to this~~

subsection in an amount that does not exceed five hundred dollars
(\$500.00)."

SECTION 14.8.(u) G.S. 143B-289.52 is amended by adding a new subsection to read:

"(d2) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

SECTION 14.8.(v) The Division of Marine Fisheries of the Department of Environment and Natural Resources shall seek the involvement of the commercial fishing industry in North Carolina in the Division's development of a plan to determine a source of funding necessary to support the Marine Fisheries At-Sea Observer Program that is in addition to the fee increases under this section. As part of this effort, the Division of Marine Fisheries shall conduct at least three public hearings in different coastal county locations to seek the input of, and receive comments of potential additional recurring funding sources from, the individuals involved in the commercial fishing industry. The Division shall receive written comments at the public hearings and take minutes of the public hearings. The minutes shall be made available to the public on the Department's Internet Web site.

SECTION 14.8.(w) Following the public hearings under subsection (v) of this section and the Division's consideration of written and oral comments resulting from the public hearings, the Division of Marine Fisheries shall submit its plan for an additional recurring funding source to support the Marine Fisheries At-Sea Observer Program to the Marine Fisheries Commission. The Marine Fisheries Commission shall vote on whether it endorses the plan.

SECTION 14.8.(x) No later than March 1, 2014, the Marine Fisheries Commission shall submit a report to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division. This report shall include the results of the Commission's vote under subsection (w) of this section and its findings and recommendations for an additional source of funding necessary to support the Marine Fisheries At-Sea Observer Program in the event the Commission votes against endorsing the plan.

SECTION 14.8.(y) The Division of Marine Fisheries shall use the proceeds it receives as a result of the fee increases under this section to provide support for the 2014-2015 fiscal year for the Marine Fisheries At-Sea Observer Program. In addition, the Division of Marine Fisheries shall provide available funds for the 2014-2015 fiscal year to provide any additional support that is needed to continue the Marine Fisheries At-Sea Observer Program.

MARINE RESOURCES FUND AND MARINE RESOURCES ENDOWMENT FUND DISBURSEMENTS

SECTION 14.9.(a) G.S. 113-175.1(b) reads as rewritten:

"(b) The State Treasurer shall hold the Marine Resources Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Marine Resources Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3, and all marine resources investment income shall be deposited to the credit of the Marine Resources Fund. The State Treasurer shall disburse the principal of the Marine Resources Fund and marine resources investment income only upon the written direction of ~~both the Marine Fisheries Commission and the Wildlife Resources Commission~~ Commission."

SECTION 14.9.(b) G.S. 113-175.1(c) reads as rewritten:

"(c) The Marine Fisheries Commission ~~and the Wildlife Resources Commission~~ may authorize the disbursement of the principal of the Marine Resources Fund and marine resources

investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Marine Fisheries Commission~~and the Wildlife Resources Commission~~ is encouraged to consider supporting the Oyster Sanctuary Program managed by the Division of Marine Fisheries. The Marine Fisheries Commission~~and the Wildlife Resources Commission~~ may not authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income to establish positions without specific authorization from the General Assembly. All proposals to the Marine Fisheries Commission~~and the Wildlife Resources Commission~~ for the disbursement of funds from the Marine Resources Fund shall be made by and through the Fisheries Director. Prior to authorizing disbursements from the Marine Resources Fund, the Marine Fisheries Commission shall consult with the Wildlife Resources Commission about these proposals. Expenditure of the assets of the Marine Resources Fund shall be made through the State budget accounts of the Division of Marine Fisheries in accordance with the provisions of the Executive Budget Act. The Marine Resources Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

SECTION 14.9.(c) G.S. 113-175.5(b) reads as rewritten:

"(b) The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of both the Marine Fisheries Commission~~and the Wildlife Resources Commission~~.Commission."

SECTION 14.9.(d) G.S. 113-175.5(c) reads as rewritten:

"(c) Subject to the limitations set out in subsection (d) of this section, the Marine Fisheries Commission~~and the Wildlife Resources Commission~~ may authorize the disbursement of endowment investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Marine Fisheries Commission~~and the Wildlife Resources Commission~~ may not authorize the disbursement of endowment investment income to establish positions without specific authorization from the General Assembly. All proposals to the Marine Fisheries Commission~~and the Wildlife Resources Commission~~ for the disbursement of funds from the Endowment Fund shall be made by and through the Fisheries Director. Prior to authorizing disbursements from the Marine Resources Endowment Fund, the Marine Fisheries Commission shall consult with the Wildlife Resources Commission about these proposals."

MARINE FISHERIES ENDOWMENT FUND REPEALED

SECTION 14.10. G.S. 143B-289.58 is repealed.

BOATING SAFETY ENFORCEMENT AGREEMENT

SECTION 14.11.(a) The Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources and the Director of the Wildlife Resources Commission shall develop and implement an agreement that includes at least all of the following provisions:

- (1) Provisions to authorize the Division of Marine Fisheries marine patrol to perform any needed boating safety inspection.
- (2) To avoid the duplication of enforcement activities by the Division of Marine Fisheries marine patrol and the Wildlife Resources Commission law enforcement officers, a schedule for high-volume areas that is developed to take into account that the Division of Marine Fisheries marine patrol must confine their enforcement activities to the coastal waters.

- (3) To further encourage more efficient management of the State's resources, a protocol that sets forth appropriate circumstances when the Division of Marine Fisheries marine patrol is authorized or required to investigate boating accidents in coastal waters and within the joint jurisdiction of the Division of Marine Fisheries and the Wildlife Resources Commission.
- (4) A provision to prohibit, except in the instances of investigations of boating accidents, the Division of Marine Fisheries from receiving any federal boating safety funds.
- (5) A provision to provide mutual aid that authorizes the Division of Marine Fisheries marine patrol to enter into inland waters in winter to conduct a normal investigation of suspected illegal netting activity.

SECTION 14.11.(b) No later than April 1, 2014, the Division of Marine Fisheries of the Department of Environment and Natural Resources and the Wildlife Resources Commission shall submit a joint report to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include any findings and recommendations, including any legislative proposals. The report shall include findings regarding at least the following issues:

- (1) Whether the agreement developed pursuant to subsection (a) of this section has been successful from the perspective of the Division of Marine Fisheries, the Wildlife Resources Commission and the public in clarifying enforcement activities and reducing the duplication of enforcement activities by the Division of Marine Fisheries marine patrol and the Wildlife Resources Commission law enforcement officers.
- (2) As an alternative to the agreement developed under the provisions of subsection (a) of this section, whether it would be preferable to confer law enforcement powers upon the Division of Marine Fisheries marine patrol to authorize the Division of Marine Fisheries marine patrol to engage in enforcement activity related to only fisheries under the jurisdiction of the Division of Marine Fisheries or subject to the management of the Division of Marine Fisheries.
- (3) Any other issue the Division of Marine Fisheries or the Wildlife Resources Commission deems pertinent to include in the report.

GRASSROOTS SCIENCE PROGRAM

SECTION 14.12.(a) The Grassroots Science Program within the Department of Commerce is transferred to the Department of Environment and Natural Resources.

SECTION 14.12.(b) Of the funds appropriated in this act to the Department of Environment and Natural Resources, the sum of two million two hundred eighty-nine thousand seven hundred eighty-two dollars (\$2,289,782) for the 2013-2014 fiscal year and the sum of two million two hundred eighty-six thousand forty-three dollars (\$2,286,043) for the 2014-2015 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2013-2014	2014-2015
Aurora Fossil Museum	\$61,821	\$61,801
Cape Fear Museum	\$85,248	\$85,108
Carolina Raptor Center	\$74,916	\$74,828
Catawba Science Center	\$93,041	\$92,860
Colburn Earth Science Museum, Inc.	\$62,547	\$62,524
Core Sound Waterfowl Museum	\$67,395	\$67,347
Discovery Place	\$261,617	\$260,565
Eastern NC Regional Science Center	\$59,587	\$59,579

1	Fascinate-U	\$65,616	\$65,577
2	Granville County Museum Commission,		
3	Inc.—Harris Gallery	\$60,651	\$60,638
4	Greensboro Children's Museum	\$83,575	\$83,443
5	The Health Adventure Museum of Pack		
6	Place Education, Arts and		
7	Science Center, Inc.	\$73,352	\$73,273
8	Highlands Nature Center	\$62,816	\$62,791
9	Imagination Station	\$67,588	\$67,538
10	The Iredell Museums, Inc.	\$61,013	\$60,998
11	Kidsenses	\$65,233	\$65,196
12	Museum of Coastal Carolina	\$65,454	\$65,415
13	The Natural Science Center		
14	of Greensboro, Inc.	\$116,532	\$116,230
15	North Carolina Museum of Life		
16	and Science	\$203,545	\$202,793
17	Pisgah Astronomical Research Institute	\$74,925	\$74,837
18	Port Discover: Northeastern		
19	North Carolina's Center for		
20	Hands-On Science, Inc.	\$60,610	\$60,597
21	Rocky Mount Children's Museum	\$66,463	\$66,419
22	Schiele Museum of Natural History		
23	and Planetarium, Inc.	\$100,990	\$100,768
24	Sci Works Science Center and		
25	Environmental Park of Forsyth County	\$83,725	\$83,592
26	Sylvan Heights Waterfowl Park		
27	and Eco-Center	\$69,864	\$69,803
28	Western North Carolina Nature Center	\$74,973	\$74,885
29	Wilmington Children's Museum	\$66,684	\$66,639
30	Total	\$2,289,782	\$2,286,043

31 **SECTION 14.12.(c)** No later than March 1, 2014, the Department of Environment
32 and Natural Resources shall report to the Fiscal Research Division all of the following
33 information for each museum that receives funds under this section:

- 34 (1) The actual operating budget for the 2012-2013 fiscal year.
- 35 (2) The proposed operating budget for the 2013-2014 fiscal year.
- 36 (3) The total attendance at the museum during the 2013 calendar year.

37 **SECTION 14.12.(d)** No later than March 1, 2015, the Department of Environment
38 and Natural Resources shall report to the Fiscal Research Division all of the following
39 information for each museum that receives funds under this section:

- 40 (1) The actual operating budget for the 2013-2014 fiscal year.
- 41 (2) The proposed operating budget for the 2014-2015 fiscal year.
- 42 (3) The total attendance at the museum during the 2014 calendar year.

43 **SECTION 14.12.(e)** As a condition for qualifying to receive funding under this
44 section, all of the following documentation shall, no later than November 1 of each year of the
45 2013-2015 fiscal biennium, be submitted for each museum under this section to the Department
46 of Environment and Natural Resources for the fiscal year that most recently ended, and only
47 those costs that are properly documented under this subsection are allowed by the Department
48 in calculating the distribution of funds under this section:

- 49 (1) Each museum under this section shall submit its IRS (Internal Revenue
50 Service) Form 990 to show its annual operating expenses, its annual report,

- 1 and a reconciliation that explains any differences between expenses as
2 shown on the IRS Form 990 and the annual report.
- 3 (2) Each friends association of a museum under this section shall submit its IRS
4 Form 990 to show its reported expenses for the museum, its annual report,
5 and a reconciliation that explains any differences between expenses as
6 shown on the IRS Form 990 and the annual report, unless the association
7 does not have both an IRS Form 990 and an annual report available, in
8 which case, it shall submit either an IRS Form 990 or an annual report.
- 9 (3) The chief financial officer of each county or municipal government that
10 provides funds for the benefit of the museum shall submit a detailed signed
11 statement of documented costs spent for the benefit of the museum that
12 includes documentation of the name, address, title, and telephone number of
13 the person making the assertion that the museum receives funds from the
14 county or municipality for the benefit of the museum.
- 15 (4) The chief financial officer of each county or municipal government or each
16 friends association that provides indirect or allocable costs that are not
17 directly charged to a museum under this section but that benefit the museum
18 shall submit in the form of a detailed statement enumerating each cost by
19 type and amount that is verified by the financial officer responsible for the
20 completion of the documentation and that includes the name, address, title,
21 and telephone number of the person making the assertion that the county,
22 municipality, or association provides indirect or allocable costs to the
23 museum.

24 **SECTION 14.12.(f)** As used in subsection (e) of this section, "friends association"
25 means a nonprofit corporation established for the purpose of supporting and assisting a
26 museum that receives funding under this section.

27 **SECTION 14.12.(g)** No more than one hundred twenty thousand dollars
28 (\$120,000) in State funds shall be used for the annual salary of any one employee of a museum
29 named in subsection (b) of this section. For purposes of this subsection, the term "State funds"
30 means funds allocated to a museum listed in subsection (b) of this section and interest earned
31 on those funds.

32 **SECTION 14.12.(h)** Each museum listed in subsection (b) of this section shall do
33 the following:

- 34 (1) By September 1 of each year, and more frequently as requested, report to the
35 Joint Legislative Commission on Governmental Operations and the Fiscal
36 Research Division on prior State fiscal year program activities, objectives,
37 and accomplishments and prior State fiscal year itemized expenditures and
38 fund sources.
- 39 (2) Provide to the Fiscal Research Division a copy of the organization's annual
40 audited financial statement within 30 days of issuance of the statement.

41 **SECTION 14.12.(i)** No State funds shall be used by any museum listed in
42 subsection (b) of this section (i) to hire or facilitate the hiring of a lobbyist or any person
43 performing the duties or activities of a lobbyist, without regard to the person's title or (ii) to
44 facilitate any lobbying efforts.

45 **MUSEUM OF FORESTRY**

46 **SECTION 14.13.(a)** No later than October 1, 2013, the State of North Carolina
47 shall convey to the City of Whiteville for consideration of one dollar (\$1.00), all its right, title,
48 and interest in the property used for the Museum of Forestry currently allocated to the
49 Department of Environment and Natural Resources.
50

1 **SECTION 14.13.(b)** The State of North Carolina shall convey the real property
2 described in subsection (a) of this section without warranty. The State makes no representations
3 or warranties concerning the title to the property, the boundaries of the property, the uses to
4 which the property may be put, zoning, local ordinances or any physical, environmental, health,
5 and safety conditions relating to the property. All costs associated with the conveyance of the
6 property shall be borne by the City of Whiteville.

7 **SECTION 14.13.(c)** The conveyance of the State's right, title, and interest in the
8 Museum of Forestry shall be exempt from the provisions of Article 7 of Chapter 146 of the
9 General Statutes. The conveyance shall comply with the provisions of Article 16 of Chapter
10 146 of the General Statutes; provided that the provisions of G.S. 146-74 shall not apply. The
11 transaction shall be reported to the Fiscal Research Division within 30 days of the transaction
12 being finalized.

13 **SECTION 14.13.(d)** If the governing board of the City of Whiteville resolves to
14 accept ownership of the property used for the Museum of Forestry under this section and the
15 conveyance occurs under this section, the Department of Environment and Natural Resources
16 shall provide the sum of fifty-eight thousand dollars (\$58,000) for the 2013-2014 fiscal year to
17 the City of Whiteville to be used to support the ongoing operations of the Museum of Forestry.

18 **SECTION 14.13.(e)** If the governing board of the City of Whiteville resolves to
19 not accept ownership of the property used for the Museum of Forestry under this section and
20 the conveyance does not occur by October 1, 2013, the Department of Environment and
21 Natural Resources shall close the Museum of Forestry no later than October 1, 2013, and shall
22 eliminate all positions for the Museum no later than November 1, 2013. The Department of
23 Environment and Natural Resources may use any funds available to the Department during the
24 2013-2014 fiscal year for any costs associated with operating and then closing the Museum and
25 for supporting positions for the Museum until the Museum is sold, closed, or November 1,
26 2013, whichever occurs earliest.

27 28 **BERNARD ALLEN MEMORIAL EMERGENCY DRINKING WATER FUND**

29 **SECTION 14.14.** G.S. 87-98 reads as rewritten:

30 **"§ 87-98. Bernard Allen Memorial Emergency Drinking Water Fund.**

31 (a) The Bernard Allen Memorial Emergency Drinking Water Fund is established under
32 the control and direction of the Department. The Fund shall be a nonreverting, interest-bearing
33 fund consisting of monies appropriated by the General Assembly or made available to the Fund
34 from any other source and investment interest credited to the Fund.

35 (b) The Fund may be used to pay ~~for notification, for:~~

- 36 (1) Notification, to the extent practicable, of persons aged 18 and older who
37 reside in any dwelling unit, and the senior official in charge of any business,
38 at which drinking water is supplied from a private drinking water well or
39 improved spring that is located within 1,500 feet of, and at risk from, known
40 groundwater contamination. The senior official in charge of the business
41 shall take reasonable measures to notify all employees of the business of the
42 groundwater contamination, including posting a notice of the contamination
43 in a form and at a location that is readily accessible to the employees of the
44 business. ~~The Fund may also be used by the Department to pay the~~
45 (2) The costs of testing of private drinking water wells and improved springs for
46 suspected contamination up to once every three years upon request by a
47 person who uses the well and for the well, or more frequent testing if the
48 concentration of one or more contaminants in a private drinking water well
49 is increasing over time and there is a significant risk that the concentration of
50 a contaminant will exceed the drinking water action levels set forth in
51 subsection (c) of this section within a three-year period.

(3) Additional testing to confirm the results of a previous test.

(4) The temporary or permanent provision of alternative drinking water supplies to persons whose drinking water well or improved spring is contaminated. Under this subsection, section, an alternative drinking water supply includes the repair, such as use of a filtration system, or replacement of a contaminated well or the connection to a public water supply.

(5) Monitoring of filtration systems used in connection with temporary or permanent alternative drinking water supplies provided pursuant to this section.

(c) The Department shall disburse monies from the Fund based on financial need and on the risk to public health posed by groundwater contamination and shall give priority to the provision of services under this section to instances when an alternative source of funds is not available. The Fund shall not be used to provide alternative water supply to households with incomes greater than three hundred percent (300%) of the current federal poverty level. The Fund may be used to provide alternative drinking water supplies if the Department determines that the concentration of one or more contaminants in the private drinking water well or improved spring exceeds the federal maximum contaminant level, or the federal drinking water action level as defined in 40 Code of Federal Regulations § 141.1 through § 141.571 (1 July 2007) and 40 Code of Federal Regulations § 143.3 (1 July 2007). For a contaminant for which a federal maximum contaminant level or drinking water action level has not been established, the State groundwater standard established by the Environmental Management Commission for the concentration of that contaminant shall be used to determine whether the Fund may be used to provide alternative drinking water supplies. The Fund may also be used to provide alternative drinking water supplies as provided in this section if the Department determines that the concentration of one or more contaminants in a private drinking water well is increasing over time and that there is a significant risk that the concentration of a contaminant will exceed the federal maximum contaminant level or drinking water action level, or the State groundwater standard. A determination of the concentration of a contaminant shall be based on a sample of water collected from the private drinking water well within the past 12 months.

(c1) In disbursing monies from the Fund, the Department shall give preference to provision of permanent replacement water supplies by connection to public water supplies and repair or replacement of contaminated wells over the provision of temporary water supplies. In providing alternative drinking water supplies, the Department shall give preference to connection to a public water supply system or to construction of a new private drinking water well over the use of a filtration system if the Department determines that the costs of periodic required maintenance of the filtration system would be cost-prohibitive for users of the alternative drinking water supply.

(c2) If the Department provides an alternative drinking water supply by extension of a waterline, the Department may disburse from the Fund no more than ~~ten-fifty~~ thousand dollars ~~(\$10,000)~~ (\$50,000) per household or other service connection. For projects where more than 10 residences are eligible for alternative water supplies under this section, no ~~No~~ more than one-third of the total cost of the project may be paid from the Fund. The Department may combine monies from the Fund with monies from other sources in order to pay the total cost of the project.

(c3) The Fund shall be used to provide alternative drinking water supplies only if the Department determines that the person or persons who are responsible for the contamination of the private drinking water well is or are not financially viable or cannot be identified or located and if the Department determines that one of the following applies:

(1) The contamination of the private drinking water well is naturally occurring.

- (2) The owner of the property on which the private drinking water well is located did not cause or contribute to the contamination or control the source of the contamination.
- (3) The source of the contamination is the application or disposal of a hazardous substance or pesticide that occurred without the consent of the owner of the property on which the private drinking water well is located.
- (c4) The Department may use up to one hundred thousand dollars (\$100,000) annually of the monies in the Fund to pay the personnel and other direct costs associated with the implementation of this section.
- (c5) The Fund shall not be used for remediation of groundwater contamination.
- (c6) Nothing in this section expands, contracts, or modifies the obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or soil contamination.
- (c7) In disbursing monies from the Fund for replacement water supplies, the Department shall give priority to circumstances in which a well is contaminated as the result of nonnaturally occurring groundwater contamination in the area over circumstances in which a well has naturally occurring contamination.
- (d) The Department shall establish criteria by which the Department is to evaluate applications and disburse monies from this Fund and may adopt any rules necessary to implement this section.
- (e) The Department, in consultation with the Commission for Public Health and local health departments, shall report no later than ~~1 October~~ October 1 of each year to the Environmental Review Commission, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division on the implementation of this section. The report shall include the purpose and amount of all expenditures from the Fund during the prior fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may also include recommendations for any legislative action."

NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND; DENR STUDY

SECTION 14.15.(a) G.S. 143-215.94D(b1) reads as rewritten:

"(b1) The Noncommercial Fund shall be used for the payment of the costs of:

- (1) The cleanup of environmental damage as required by ~~G.S. 143-215.94E(a)~~ G.S. 143-215.94E(a) in excess of one thousand dollars (\$1,000) per occurrence, plus a co-pay equal to ten percent (10%) of the costs of the cleanup of environmental damage not to exceed two thousand dollars (\$2,000) per occurrence.
- (2) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars (\$100,000) per occurrence.
- (3) Reimbursing the State for damages or other costs incurred as a result of a loan from the Loan Fund. The per occurrence limit does not apply to reimbursements to the State under this subdivision.
- (4) Recordation of residual petroleum as required by G.S. 143B-279.11 if the Noncommercial Fund is responsible for the payment of costs under subdivisions (1) through (3) of this subsection and subsection (b) of this section."

SECTION 14.15.(b) The Department of Environment and Natural Resources (Department) shall study the costs and benefits of the noncommercial underground storage tank program and explore options for continued use of the Noncommercial Leaking Petroleum

Underground Storage Tank Cleanup Fund (Fund) and ways to improve the solvency of the Fund. The study shall consider all of the following:

- (1) The usual, average, historic costs of various phases of assessment and cleanup of noncommercial UST releases in order to determine areas of potential costs savings.
- (2) The feasibility of determining levels of soil and groundwater contamination at noncommercial UST releases earlier in the assessment and cleanup process in order to identify lower risks sites and limit reimbursement of costs of initial abatement actions.
- (3) The feasibility of assigning risk to noncommercial UST releases earlier in the assessment and cleanup process in order to limit reimbursement of costs of initial abatement actions.
- (4) The feasibility of partial cleanup at lower priority noncommercial UST releases.
- (5) The feasibility of issuing notices similar to the Notices of No Further Action for partially cleaned up, stabilized, lower priority noncommercial UST sites in order to facilitate property transfers.
- (6) Methods to strengthen liability protections for buyers and lenders of residential properties that have known noncommercial UST releases in order to facilitate property transfers.
- (7) Methods to employ land use restrictions on residential properties where petroleum contamination remains at lower risk sites in order to limit cleanup at these sites, while still informing the public of risk, and facilitating property transfers.
- (8) Methods to increase the participation of noncommercial UST owners in the costs of assessments and cleanups.
- (9) Any other matter the Department deems relevant to improve the solvency of the Fund.

SECTION 14.15.(c) The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division no later than April 1, 2014.

PORTION OF SCRAP TIRE DISPOSAL TAX CREDITED TO GENERAL FUND; REPEAL SCRAP TIRE DISPOSAL ACCOUNT

SECTION 14.16.(a) G.S. 105-187.19(b) reads as rewritten:

"(b) Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund, seventeen percent (17%) of the net tax proceeds to the Scrap Tire Disposal Account, two and one-half percent (2.5%) of the net tax proceeds to the Inactive Hazardous Sites Cleanup Fund, and two and one-half percent (2.5%) of the net tax proceeds to the Bernard Allen Memorial Emergency Drinking Water Fund.~~ thirty percent (30%) of the net tax proceeds to the General Fund. The Secretary shall distribute the remaining seventy percent (70%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer."

SECTION 14.16.(b) G.S. 130A-309.63 is repealed.

SECTION 14.16.(c) Part 2B of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-309.64. Scrap Tire Disposal Program; other Department activities related to scrap tires.

(a) The Department may make grants to units of local government to assist them in disposing of scrap tires. To administer the grants, the Department shall establish procedures for applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit of local government to provide for scrap tire disposal, the severity of a unit of local government's scrap tire disposal problem, the effort made by a unit of local government to ensure that only tires generated in the normal course of business in this State are provided free disposal, and the effort made by a unit of local government to provide for scrap tire disposal within the resources available to it.

(b) A unit of local government is not eligible for a grant under subsection (a) of this section unless its costs for disposing of scrap tires for the six-month period preceding the date the unit of local government files an application for a grant exceeded the amount the unit of local government received during that period from the proceeds of the scrap tire tax under G.S. 105-187.19. A grant to a unit of local government for scrap tire disposal may not exceed the unit of local government's unreimbursed cost for the six-month period.

(c) The Department may support a position to provide local governments with assistance in developing and implementing scrap tire management programs designed to complete the cleanup of nuisance tire collection sites and prevent scrap tires generated from outside of the State from being presented for free disposal in the State.

(d) The Department may clean up scrap tire collection sites that the Department has determined are a nuisance. The Department may use funds to clean up a nuisance tire collection site only if no other funds are available for that purpose.

(e) The Department shall include in the report to be delivered to the Environmental Review Commission on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act under this Part for the fiscal year ending the preceding June 30. The description of the implementation of the North Carolina Scrap Tire Disposal Act shall include a list of the recipients of grants under subsection (a) of this section and the amount of each grant for the previous 12-month period. The report also shall include the amount of funds used to clean up nuisance sites under subsection (d) of this section.

(f) The Department may adopt any rules necessary to implement this section."

SECTION 14.16.(d) G.S. 130A-309.06(c) reads as rewritten:

"(c) The Department shall report to the Environmental Review Commission on or before 15 January of each year on the status of solid waste management efforts in the State. The report shall include:

...

(10) A description of the implementation of the North Carolina Scrap Tire Disposal Act that includes ~~the beginning and ending balances in the Scrap Tire Disposal Account for the reporting period, the amount credited to the Scrap Tire Disposal Account during the reporting period, and the amount of revenue used for grants and to clean up nuisance tire collection sites, as required by G.S. 130A-309.63(e), under the provisions of G.S. 130A-309.64.~~

...."

SECTION 14.16.(e) G.S. 130A-309.09C(g) reads as rewritten:

"(g) In addition to any other penalties provided by law, a unit of local government that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust Fund, ~~the Scrap Tire Disposal Account Fund~~ or the White Goods Management Account and shall not receive the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local government would otherwise be entitled. The Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit

1 of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and
2 G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this
3 subsection shall be credited to the ~~Scrap Tire Disposal Account~~ General Fund and may be used
4 as provided in ~~G.S. 130A-309.63~~ G.S. 130A-309.64. Proceeds of the white goods disposal tax
5 that are withheld pursuant to this subsection shall be credited to the White Goods Management
6 Account and may be used as provided in G.S. 130A-309.83."

7 **SECTION 14.16.(f)** The funds appropriated to the Department of Environment and
8 Natural Resources for the 2013-2015 biennium for the Scrap Tire Disposal Program established
9 under G.S. 130A-309.64, as enacted by subsection (b) of this section, shall be allocated as
10 follows:

- 11 (1) Up to eighty thousand dollars (\$80,000) shall be used by the Department of
12 Environment and Natural Resources to support a position in the same
13 manner as revenue in the Scrap Tire Disposal Account may be used under
14 G.S. 130A-309.63(b)(3), and
- 15 (2) Four hundred twenty thousand dollars (\$420,000) shall be used by the
16 Department of Environment and Natural Resources in the same manner as
17 revenue in the Scrap Tire Disposal Account may be used under
18 G.S. 130A-309.63, as amended by this section.

19 **SECTION 14.16.(g)** Any tax proceeds remaining in the Scrap Tire Disposal
20 Account, repealed under subsection (b) of this section, as of the effective date of this section
21 shall continue to be used for the same purposes and in the same manner as the Scrap Tire
22 Disposal Account, except the funds in the Scrap Tire Disposal Account shall not be used for
23 grants to encourage the use of processed scrap tire materials.

24 **PORTION OF WHITE GOODS DISPOSAL TAX CREDITED TO GENERAL FUND**

25 **SECTION 14.17.(a)** G.S. 105-187.24 reads as rewritten:

26 **"§ 105-187.24. Use of tax proceeds.**

27 The Secretary shall distribute the taxes collected under this Article, less the Department of
28 Revenue's allowance for administrative expenses, in accordance with this section. The
29 Secretary may retain the Department's cost of collection, not to exceed four hundred
30 twenty-five thousand dollars (\$425,000) a year, as reimbursement to the Department.

31 Each quarter, the Secretary shall credit ~~eight percent (8%) of the net tax proceeds to the~~
32 ~~Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax~~
33 ~~proceeds to the White Goods Management Account. twenty-eight percent (28%) of the net tax~~
34 ~~proceeds to the General Fund.~~ The Secretary shall distribute the remaining seventy-two percent
35 (72%) of the net tax proceeds among the counties on a per capita basis according to the most
36 recent annual population estimates certified to the Secretary by the State Budget Officer. The
37 Department shall not distribute the tax proceeds to a county when notified not to do so by the
38 Department of Environment and Natural Resources under G.S. 130A-309.87. If a county is not
39 entitled to a distribution, the proceeds allocated for that county will be credited to the White
40 Goods Management Account.

41 A county may use funds distributed to it under this section only as provided in
42 G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal
43 agreement with another unit of local government under which the other unit provides for the
44 disposal of solid waste for the county must transfer the amount received under this section to
45 that other unit. A unit to which funds are transferred is subject to the same restrictions on use of
46 the funds as the county."

47 **SECTION 14.17.(b)** G.S. 130A-309.83(a) reads as rewritten:

48 "(a) The White Goods Management Account is established within the Department. ~~The~~
49 ~~Account consists of revenue credited to the Account from the proceeds of the white goods~~
50 ~~disposal tax imposed by Article 5C of Chapter 105 of the General Statutes."~~

1 **SECTION 14.17.(c)** G.S. 130A-309.87(a) reads as rewritten:

2 "(a) Receipt of Funds. – A county may not receive a quarterly distribution of the white
3 goods disposal tax proceeds under G.S. 105-187.24 unless the undesignated balance in the
4 county's white goods account at the end of its fiscal year is less than the threshold amount.
5 Based upon the information in a county's Annual Financial Information Report, the Department
6 must notify the Department of Revenue by March 1 of each year which counties may not
7 receive a distribution of the white goods disposal tax for the current calendar year. The
8 Department of Revenue will credit the undistributed tax proceeds to the ~~White Goods~~
9 ~~Management Account~~ General Fund."

10 **SECTION 14.17.(d)** G.S. 130A-309.09C(g) reads as rewritten:

11 "(g) In addition to any other penalties provided by law, a unit of local government that
12 does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a)
13 shall not be eligible for grants from the Solid Waste Management Trust Fund, the Scrap Tire
14 Disposal Account, or the White Goods Management Account and shall not receive the proceeds
15 of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes or
16 the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the
17 General Statutes to which the unit of local government would otherwise be entitled. The
18 Secretary shall notify the Secretary of Revenue to withhold payment of these funds to any unit
19 of local government that fails to comply with the requirements of G.S. 130A-309.09A(b) and
20 G.S. 130A-309.09B(a). Proceeds of the scrap tire disposal tax that are withheld pursuant to this
21 subsection shall be credited to the Scrap Tire Disposal Account and may be used as provided in
22 G.S. 130A-309.63. Proceeds of the white goods disposal tax that are withheld pursuant to this
23 subsection shall be credited to the ~~White Goods Management Account~~ General Fund and may
24 be used as provided in G.S. 130A-309.83."

25 **SECTION 14.17.(e)** G.S. 130A-309.83 is repealed.

26 **SECTION 14.17.(f)** G.S. 130A-309.85(3) is repealed.

27 **SECTION 14.17.(g)** G.S. 130A-309.87, as amended by subsection (c) of this
28 section, reads as rewritten:

29 "**§ 130A-309.87. Eligibility for disposal tax proceeds.**

30 ...

31 (b) Annual Financial Information Report. – On or before November 1 of each year, a
32 county must submit a copy of its Annual Financial Information Report, prepared in accordance
33 with G.S. 159-33.1, to the Department. The Secretary of the Local Government Commission
34 must require the following information in that report:

35 ...

36 (2) The amount of revenue credited to its white goods account. This revenue
37 should include all receipts derived from the white goods disposal tax, and
38 the sale of white goods scrap metals and ~~freon, and a grant from the White~~
39 ~~Goods Management Account~~ freon.

40 "

41 **SECTION 14.17.(h)** Subsection (e) through subsection (g) of this section become
42 effective June 30, 2017.

43
44 **PORTION OF SOLID WASTE DISPOSAL TAX CREDITED TO GENERAL FUND;
45 REPEAL SOLID WASTE MANAGEMENT TRUST FUND**

46 **SECTION 14.18.(a)** G.S. 105-187.63 reads as rewritten:

47 "**§ 105-187.63. Use of tax proceeds.**

48 From the taxes received pursuant to this Article, the Secretary may retain the costs of
49 collection, not to exceed two hundred twenty-five thousand dollars (\$225,000) a year, as
50 reimbursement to the Department. The Secretary must credit or distribute taxes received
51 pursuant to this Article, less the cost of collection, on a quarterly basis as follows:

- (1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.
- (2) Thirty-seven and one-half percent (37.5%) to cities and counties in the State on a per capita basis, using the most recent annual estimate of population certified by the State Budget Officer. One-half of this amount must be distributed to cities, and one-half of this amount must be distributed to counties. For purposes of this distribution, the population of a county does not include the population of a city located in the county.

A city or county is excluded from the distribution under this subdivision if it does not provide solid waste management programs and services and is not responsible by contract for payment for these programs and services. The Department of Environment and Natural Resources must provide the Secretary with a list of the cities and counties that are excluded under this subdivision. The list must be provided by May 15 of each year and applies to distributions made in the fiscal year that begins on July 1 of that year.

Funds distributed under this subdivision must be used by a city or county solely for solid waste management programs and services.

- (3) Twelve and one-half percent (12.5%) to the ~~Solid Waste Management Trust Fund established by G.S. 130A-309.12.~~ General Fund."

SECTION 14.18.(b) G.S. 130A-309.12 is repealed.

SECTION 14.18.(c) Part 2A of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-309.13. Solid Waste Management Outreach Program.

(a) The Department shall develop an outreach program to promote waste reduction and recycling. From funds available to the Department for this program, the Department may engage in any of the following outreach activities:

- (1) Provide public education regarding waste reduction and recycling.
- (2) Provide technical assistance regarding waste reduction and recycling to units of local government.
- (3) Conduct research on the solid waste stream in North Carolina.
- (4) Develop secondary materials markets by providing technical and financial support, including providing technical and financial support to private recycling businesses, including use of processed scrap tire materials.
- (5) Provide funding for the activities of the Division of Environmental Assistance and Outreach.

(b) The Department shall include in the report required by G.S. 130A-309.06(c) a description of the outreach program under this section. This report shall specify the type of outreach activity under each of subdivisions (1) through (5) under subsection (a) of this section and the amount of program funds the Department expended for each activity during the previous year."

SECTION 14.18.(d) Of the funds appropriated to the Department of Environment and Natural Resources for the 2013-2015 fiscal biennium for the Solid Waste Management Outreach Program, established under G.S. 130A-309.13, as enacted by subsection (c) of this section, up to one million one hundred thousand dollars (\$1,100,000) may be used by the Department of Environment and Natural Resources for recycling grants.

SECTION 14.18.(e) Any tax proceeds remaining in the Solid Waste Management Trust Fund, repealed under subsection (b) of this section, as of the effective date of this section, shall be used only for one or more of the following purposes:

- (1) Funding activities of the Department to promote waste reduction and recycling, including, but not limited to, public education programs and technical assistance to units of local government.

- (2) Funding research on the solid waste stream in North Carolina.
- (3) Funding activities related to the development of secondary materials markets.
- (4) Providing funding for demonstration projects as provided by this Part.
- (5) Providing funding for research by The University of North Carolina and independent nonprofit colleges and universities within the State which are accredited by the Southern Association of Colleges and Schools as provided by this Part.
- (6) Providing funding for the activities of the Division of Environmental Assistance and Outreach.

REQUIRE DENR TO USE DWQ'S GROUNDWATER INVESTIGATION UNIT'S WELL-DRILLING SERVICES IN OTHER DENR DIVISIONS

SECTION 14.19.(a) The purposes of this section are (i) to assure that the well-drilling staff of the Groundwater Investigation Unit of the Division of Water Quality of the Department of Environment and Natural Resources are fully utilized by establishing a procedure whereby the Groundwater Investigation Unit may bid to contract to provide well-drilling services to other divisions of the Department of Environment and Natural Resources and by providing funding support by these divisions for the Unit's costs and travel expenses and (ii) to reduce the need for the Department of Environment and Natural Resources to enter into contracts with private well-drilling companies.

SECTION 14.19.(b) During the 2013-2014 fiscal year and the 2014-2015 fiscal year, the Groundwater Investigation Unit of the Division of Water Quality of the Department of Environment and Natural Resources shall bid on contracts to perform well-drilling services for any division within the Department of Environment and Natural Resources that needs to have wells drilled to monitor groundwater, as part of remediating a contaminated site, or as part of any other division or program responsibility, except for a particular instance when this would be impracticable. The provisions of Article 3 of Chapter 143 of the General Statutes apply to any contract entered into under this section.

SECTION 14.19.(c) The terms of any contract entered into under this section may include a provision whereby the division within the Department of Environment and Natural Resources that contracts for the well-drilling services of the Groundwater Investigation Unit may use available receipts for the 2013-2014 fiscal year and for the 2014-2015 fiscal year, as applicable, for the costs of the Groundwater Investigation Unit well-drilling staff that are incurred to perform the well-drilling services under the contract.

SECTION 14.19.(d) Other departments within State government that have well-drilling needs are encouraged to use the well-drilling services of the Groundwater Investigation Unit of the Division of Water Quality of the Department of Environment and Natural Resources when it is practicable and financially feasible to do so.

DRINKING WATER STATE REVOLVING FUND

SECTION 14.20. Notwithstanding G.S. 159G-22, the Department of Environment and Natural Resources may transfer State funds from the Drinking Water Reserve to the Drinking Water State Revolving Fund for the 2013-2014 fiscal year and shall use any such funds to match maximum available federal grant monies authorized by section 1453 of the federal Safe Drinking Water Act of 1996, 42 U.S.C. § 300j-12, as amended.

CREATE NEW DIVISION OF WATER INFRASTRUCTURE IN DENR; NEW STATE WATER INFRASTRUCTURE AUTHORITY; TRANSFER WATER INFRASTRUCTURE FUND TO NEW DIVISION

SECTION 14.21.(a) The Division of Water Infrastructure is established as a new division within the environmental area of the Department of Environment and Natural Resources. All functions, powers, duties, and obligations previously vested in the Division of Water Quality of the Department of Environment and Natural Resources pertaining to the implementation and administration of Chapter 159G of the General Statutes are transferred to and vested in the Division Water Infrastructure by a Type II transfer, as defined in G.S. 143A-6. All functions, powers, duties, and obligations previously vested in the Division of Water Resources of the Department of Environment and Natural Resources pertaining to the implementation and administration of Chapter 159G of the General Statutes are transferred to and vested in the Division Water Infrastructure by a Type II transfer, as defined in G.S. 143A-6. The Water Infrastructure Fund established under G.S. 159G-22 and all accounts within the Water Infrastructure Fund under G.S. 159G-22 shall be transferred to and administered by the Division of Water Infrastructure.

SECTION 14.21.(b) Chapter 159G of the General Statutes is amended by adding a new Article to read:

"Article 5.

"State Water Infrastructure Authority.

"§ 159G-70. State Water Infrastructure Authority created.

(a) Authority Established. – The State Water Infrastructure Authority is created within the Department of Environment and Natural Resources.

(b) **Membership.** – The Authority consists of nine members as follows:

- (1) The Assistant Secretary of Infrastructure of the Department or the Assistant Secretary's designee who is familiar with the water infrastructure financing, regulatory, and technical assistance programs of the Department.
- (2) The Secretary of Commerce or the Secretary's designee who is familiar with the State programs that fund water or other infrastructure improvements for the purpose of promoting economic development.
- (3) The Director of the Local Government Commission or the Director's designee who is familiar with the functions of the Commission.
- (4) One member who is a professional engineer in the private sector and is familiar with the development of infrastructure necessary for wastewater systems, to be appointed by the Governor to a term that expires on July 1 of even-numbered years.
- (5) One member who is knowledgeable about, and has experience related to, direct federal funding programs for wastewater and public water systems, to be appointed by the Governor to a term that expires on July 1 of odd-numbered years.
- (6) One member who is a representative of an urban local government wastewater system or public water system, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of even-numbered years.
- (7) One member who is a representative of a rural local government wastewater system or public water system, to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of odd-numbered years.
- (8) One member who either (i) is a county commissioner of a rural county or (ii) resides in a rural county and is knowledgeable about, and has experience related to, public health services; to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of even-numbered years.

(9) One member who is familiar with wastewater, drinking water, and stormwater issues and related State funding sources, to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of odd-numbered years.

(c) Terms. – The members appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall serve two-year terms. The other members, who are ex officio members or designees of those members, shall serve until they are no longer in office or are replaced with another designee.

(d) Chair. – The Assistant Secretary of Infrastructure, or the Assistant Secretary's designee, shall serve as Chair of the Authority. The Chair must call the first meeting. The Chair shall serve as a nonvoting member, provided, however, that the Chair shall vote to break a tie.

(e) Meetings. – The Authority shall meet at least four times a year and may meet as often as needed. A majority of the members of the Authority constitutes a quorum for the transaction of business. The affirmative vote of a majority of the members present at a meeting of the Authority is required for action to be taken by the Authority.

(f) Vacancies. – A vacancy in the Authority or as Chair of the Authority resulting from the resignation of a member or otherwise is filled in the same manner in which the original appointment was made. The term of an appointment to fill a vacancy is for the balance of the unexpired term.

(g) Compensation. – Each member of the Authority shall receive no salary as a result of serving on the Authority but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

"§ 159G-71. State Water Infrastructure Authority; powers and duties.

The Authority has the following additional duties:

(1) After reviewing the recommendations for grants and loans submitted to it by the Division, to determine the rank of applications and to select the applications that are eligible to receive grants and loans, consistent with federal law.

(2) To establish priorities for making loans and grants under this Chapter, consistent with federal law.

(3) To review the criteria for making loans and grants under G.S. 159G-23 and make recommendations, if any, to the Department for additional criteria or changes to the criteria, consistent with federal law.

(4) To develop guidelines for making loans and grants under this Chapter, consistent with federal law.

(5) To develop a master plan to meet the State's water infrastructure needs.

(6) To assess and make recommendations on the role of the State in the development and funding of wastewater, drinking water, and stormwater infrastructure in the State.

(7) To analyze the adequacy of projected funding to meet projected needs over the next five years.

(8) To make recommendations on ways to maximize the use of current funding resources, whether federal, State, or local, and to ensure that funds are used in a coordinated manner.

(9) To review the application of management practices in wastewater, drinking water, and stormwater utilities, and to determine the best practices.

(10) To assess the role of public-private partnerships in the future provision of utility service.

(11) To assess the application of the river basin approach to utility planning and management.

(12) To assess the need for a "troubled system" protocol.

"§ 159G-72. State Water Infrastructure Authority; reports.

No later than November 1 of each year, the Authority shall submit a report of its activity and findings, including any recommendations or legislative proposals, to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission."

SECTION 14.21.(c) Article 4 of Chapter 159G of the General Statutes is repealed.

SECTION 14.21.(d) G.S. 159G-20 reads as rewritten:

"§ 159G-20. Definitions.

The following definitions apply in this Chapter:

...

~~(5) Division of Water Quality. The Division of Water Quality of the Department of Environment and Natural Resources.~~

~~(5a) Division of Water Resources. The Division of Water Resources of the Department of Environment and Natural Resources.~~

~~(5b) Division. – Division of Water Infrastructure.~~

...."

SECTION 14.21.(e) G.S. 159G-23 reads as rewritten:

"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking Water Reserve.

The criteria in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. ~~The Division of Water Quality and the Division of Water Resources~~Infrastructure must each establish a system of assigning points to applications based on the following criteria:

(1) Public necessity. – An applicant must explain how the project promotes public health and protects the environment. A project that improves a system that is not in compliance with permit requirements or is under orders from the Department, enables a moratorium to be lifted, or replaces failing septic tanks with a wastewater collection system has priority.

...."

SECTION 14.21.(f) G.S. 159G-26(a) reads as rewritten:

"(a) Requirement. – The Department must publish a report each year on the accounts in the Water Infrastructure Fund that are administered by the Division of Water ~~Quality or the Division of Water Resources~~Infrastructure. The report must be published by 1 November of each year and cover the preceding fiscal year. The Department must make the report available to the public and must give a copy of the report to the Environmental Review Commission and the Fiscal Research Division of the ~~General Assembly~~Legislative Services Commission."

SECTION 14.21.(g) G.S. 159G-30 reads as rewritten:

"§ 159G-30. Department's responsibility.

The Department, through the Division of Water ~~Quality and the Division of Water Resources~~Infrastructure, administers loans and grants made from the CWSRF, the DWSRF, the Wastewater Reserve, and the Drinking Water Reserve. ~~The Division of Water Quality administers loans and grants from the CWSRF and the Wastewater Reserve. The Division of Water Resources administers loans and grants from the DWSRF and the Drinking Water Reserve."~~

SECTION 14.21.(h) G.S. 159G-32(b) reads as rewritten:

"(b) Wastewater Reserve. – The Department is authorized to make loans and grants from the Wastewater Reserve for the following types of projects:

(1) Wastewater collection system.

(2) Wastewater treatment works.

(3) Stormwater quality ~~project~~ projects, including innovative stormwater management projects and pilot projects.

(4) Nonpoint source pollution project."

SECTION 14.21.(i) G.S. 159G-37 reads as rewritten:

"§ 159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water Reserve.

An application for a loan or grant from the ~~CWSRF or the Wastewater Reserve~~ CWSRF, the DWSRF, the Wastewater Reserve, or the Drinking Water Reserve must be filed with the Division of Water Quality of the Department. ~~An application for a loan or grant from the DWSRF or the Drinking Water Reserve must be filed with the Division of Water Resources~~ Infrastructure of the Department. An application must be submitted on a form prescribed by the Division and must contain the information required by the Division. An applicant must submit to the Division any additional information requested by the Division to enable the Division to make a determination on the application. An application that does not contain information required on the application or requested by the Division is incomplete and is not eligible for consideration. An applicant may submit an application in as many categories as it is eligible for consideration under this Article."

SECTION 14.21.(j) G.S. 159G-38 reads as rewritten:

"§ 159G-38. Environmental assessment and public hearing.

(a) Required Information. – An application submitted under this Article for a loan or grant for a project must state whether the project requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. If the application does not identify an exclusion in the North Carolina Environmental Policy Act, it must include an environmental assessment of the project's probable impacts on the environment.

(b) Division Review. – If, after reviewing an application, the Division of Water Quality ~~or the Division of Water Resources, as appropriate,~~ Infrastructure determines that a project requires an environmental assessment, the assessment must be submitted before the Division continues its review of the application. If, after reviewing an environmental assessment, the Division concludes that an environmental impact statement is required, the Division may not continue its review of the application until a final environmental impact statement has been completed and approved as provided in the North Carolina Environmental Policy Act.

(c) Hearing. – The Division of Water Quality ~~or the Division of Water Resources, as appropriate,~~ Infrastructure may hold a public hearing on an application for a loan or grant under this Article if it determines that holding a hearing will serve the public interest. An individual who is a resident of any county in which a proposed project is located may submit a written request for a public hearing. The request must set forth each objection to the proposed project or other reason for requesting a hearing and must include the name and address of the individual making the request. The Division may consider all written objections to the proposed project, any statement submitted with the hearing request, and any significant adverse effects the proposed project may have on the environment. The Division's decision on whether to hold a hearing is conclusive. The Division must keep all written requests for a hearing on an application as part of the records pertaining to the application."

SECTION 14.21.(k) G.S. 159G-39 reads as rewritten:

"§ 159G-39. Review of applications and award of loan or grant.

(a) Point Assignment. – The Division of Water Quality ~~or the Division of Water Resources, as appropriate,~~ Infrastructure must review all applications filed for a loan or grant under this Article for an application period. The Division must rank each application in accordance with the points assigned to the evaluation criteria. The Division must make a written determination of an application's rank and attach the determination to the application.

~~The Division's determination of rank is conclusive.~~ application for the Authority's review. The Authority must consider the Division's determination of rank when the Authority determines an application's rank. The Authority's determination of rank is conclusive.

(b) Initial Consideration. – The Division may consider an application for an emergency loan from the Wastewater Reserve or the Drinking Water Reserve at any time. The Division must consider all other loan applications and all grant applications filed during an application period at the same time in order to rank the applications. The Division shall forward all applications received for the application period to the State Water Infrastructure Authority.

(c) Reconsideration. – When the Authority determines an application's rank is too low to receive an award of a loan or grant for an application period, the Division must include the application with those considered for the next application period. If the application's rank is again too low to receive an award, the application is not eligible for consideration in a subsequent application period. An applicant whose application does not receive an award after review in two application periods may file a new application.

(d) Notification of Decision. – When the ~~Division~~ Authority determines that an application's rank makes it eligible for an award of a loan or grant, the Division must send the applicant a letter of intent to award the loan or grant. The notice must set out any conditions the applicant must meet to receive an award of a loan or grant. When the applicant satisfies the conditions set out in the letter of intent, the Division must send the applicant an offer to award a loan or grant. The applicant must give the Division written notice of whether it accepts or rejects the offer. A loan or grant is considered awarded when an offer to award the loan or grant is issued."

SECTION 14.21.(l) G.S. 143-355.4(b) reads as rewritten:

"(b) To be eligible for State water infrastructure funds from the Drinking Water State Revolving Fund or the Drinking Water Reserve or any other grant or loan of funds allocated by the General Assembly whether the allocation of funds is to a State agency or to a nonprofit organization for the purpose of extending waterlines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system:

- (1) Has established a water rate structure that is adequate to pay the cost of maintaining, repairing, and operating the system, including reserves for payment of principal and interest on indebtedness incurred for maintenance or improvement of the water system during periods of normal use and periods of reduced water use due to implementation of water conservation measures. The funding agency shall apply guidelines developed by the State Water Infrastructure ~~Commission~~ Authority in determining the adequacy of the water rate structure to support operation and maintenance of the system.

...."

SECTION 14.21.(m) Of the funds appropriated to the Department of Environment and Natural Resources in this act, at least three million two hundred thousand dollars (\$3,200,000) for the 2013-2014 fiscal year and at least four million seven hundred thousand dollars (\$4,700,000) for the 2014-2015 fiscal year shall be used for grants to local government units for public water-system related projects and wastewater-related projects. The State Water Infrastructure Authority established by G.S. 159G-70, as enacted by subsection (b) of this section, shall determine the distribution of funds between public water-system related projects and wastewater-related projects, depending upon the number of applications for grants received and the priorities established by the State Water Infrastructure Authority. Grants awarded to local government units for public water-system related projects shall be credited to the Drinking Water Reserve established in G.S. 159G-22 to be used for grants to local government units in accordance with the provisions of Chapter 159G of the General Statutes, as amended by this section. Grants awarded to local government units for wastewater-related projects shall be credited to the Wastewater Reserve established in G.S. 159G 22 to be used for grants to

1 local government units in accordance with the provisions of Chapter 159G of the General
2 Statutes, as amended by this section. The State Water Infrastructure Authority shall report no
3 later than May 1, 2014, to the Environmental Review Commission, the Senate Appropriations
4 Committee on Natural and Economic Resources, the House of Representatives Appropriations
5 Subcommittee on Natural and Economic Resources, and the Fiscal Research Division on the
6 distribution of grant funds awarded under Chapter 159G of the General Statutes, as amended by
7 the section, and whether changes are needed to the existing grant program under Chapter 159G
8 of the General Statutes or other available grant programs to better facilitate the dissemination of
9 funds and meet the project needs of rural, economically-distressed local governments.

10 **SECTION 14.21.(n)** The terms for the members who are appointed initially to the
11 State Water Infrastructure Authority established by G.S. 159G-70, as enacted by subsection (b)
12 of this section, shall commence July 1, 2013. Notwithstanding the provisions of G.S. 159G-70,
13 as enacted by subsection (b) of this section, in order to establish staggered terms, the terms for
14 the members who are appointed initially to the State Water Infrastructure Authority under
15 G.S. 159G-70(b)(4), (6), and (8) shall expire July 1, 2016.

16 **SECTION 14.21.(o)** The Revisor of Statutes shall make any other necessary
17 conforming changes in the General Statutes not included under the provisions of this section in
18 order to effectuate the provisions of this section.
19

20 INCREASE FUNDING FOR DREDGING

21 **SECTION 14.22.(a)** G.S. 75A-3 reads as rewritten:

22 **"§ 75A-3. Wildlife Resources Commission to administer Chapter; Vessel Committee;
23 funds for administration.**

24 (a) The Commission shall enforce and administer the provisions of this Chapter.

25 (b) The chair of the Commission shall designate from among the members of the
26 Commission three members who shall serve as the Vessel Committee of the Commission, and
27 who shall, in their activities with the Commission, place special emphasis on the administration
28 and enforcement of this Chapter.

29 (c) The Boating Account is established within the Wildlife Resources Fund created
30 under G.S. 143-250. Interest and other investment income earned by the Account accrues to the
31 Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter
32 shall be credited to this Account. Motor fuel excise tax revenue is credited to the Account
33 under G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the
34 Executive Budget Act and the Personnel Act, for the administration and enforcement of this
35 Chapter; for activities relating to boating and water safety including education and waterway
36 marking and improvement; and for boating access area acquisition, development, and
37 maintenance. The Commission shall use at least three dollars (\$3.00) of each one-year
38 certificate of number fee and at least nine dollars (\$9.00) of each three-year certificate of
39 number fee collected under the numbering provisions of G.S. 75A-5 for boating access area
40 acquisition, development, and maintenance. The Commission shall transfer on a quarterly basis
41 forty-five percent (45%) of each one-year certificate of number fee and forty-five percent
42 (45%) of each three-year certificate of number fee collected under the numbering provisions of
43 G.S. 75A-5 to the Shallow Draft Navigation Channel Dredging Fund established by
44 G.S. 143-215.73F."

45 **SECTION 14.22.(b)** G.S. 75A-5 reads as rewritten:

46 **"§ 75A-5. Application for certificate of ~~number and fees~~; number; fees; reciprocity;
47 change of ownership; conformity with federal regulations; records; award of
48 certificates; renewal of certificates; transfer of partial interest; destroyed or
49 junked vessels; abandonment; change of address; duplicate certificates;
50 display.**

(a) ~~Application for Certificate of Number and Fees.~~ Number. – The owner of each vessel requiring numbering by this State shall file an application for a certificate of number with the Commission. The Commission shall furnish application forms and shall prescribe the information contained in the application form. The application shall be signed by the owner of the vessel or the owner's agent and shall be accompanied by a fee. ~~The fee is fifteen dollars (\$15.00) for a one-year period or forty dollars (\$40.00) for a three-year period.~~ fee, as set out in subsection (a1) of this section. The fee does not apply to vessels owned and operated by nonprofit rescue squads if they are operated exclusively for rescue purposes, including rescue training. The owner shall have the option of selecting a one-year numbering period or a three-year numbering period. Upon receipt of the application in approved form, the Commission shall enter the application in its records and issue the owner a certificate of number stating the identification number awarded to the vessel and the name and address of the owner, and a validation decal indicating the expiration date of the certificate of number. The owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as may be prescribed by rules of the Commission in order that it may be clearly visible. The identification number shall be maintained in legible condition. The validation decal shall be displayed on the starboard bow of the vessel immediately following the number. The certificate of number shall be pocket size and shall be available for inspection on the vessel for which the certificate is issued at all times the vessel is in operation. Any person charged with failing to so carry a certificate of number shall not be convicted if the person produces in court a certificate of number previously issued to the owner that was valid at the time of the alleged violation.

(a1) Fees. – The fees for certificates of number are as set out in this subsection:

(1) The fee for a certificate of number for a one-year period is:

a. Twenty-five dollars (\$25.00) for a vessel that is less than 26 feet in length.

b. Fifty dollars (\$50.00) for a vessel that is 26 feet or more in length.

(2) The fee for a certificate of number for a three-year period is:

a. Seventy-five dollars (\$75.00) for a vessel that is less than 26 feet in length.

b. One hundred fifty dollars (\$150.00) for a vessel that is 26 feet or more in length.

(b) Reciprocity. – The owner of any vessel already covered by a number in full force and effect pursuant to federal law or a federally approved numbering system of another state shall record the identification number prior to operating the vessel on the waters of this State in excess of the 90-day reciprocity period provided for in G.S. 75A-7(a)(1). The recordation shall be made pursuant to subsection (a) of this section, except that no additional or substitute identification number shall be issued.

(c) Change of Ownership. – Should the ownership of a vessel change, a new application form with a fee in the amount set in subsection ~~(a)~~ (a1) of this section shall be filed with the Commission and a new certificate bearing the same identification number shall be awarded to the new owner in the same manner as an original certificate of number. Possession of the certificate shall in cases involving prosecution for violation of any provision of this Chapter be prima facie evidence that the person whose name appears on the certificate is the owner of the vessel referred to on the certificate.

(d) Conformity With Federal Regulations. – In the event that an agency of the federal government shall have in force an over-all system of identification numbering for vessels within the United States, the numbering system employed pursuant to this Chapter by the Commission shall be in conformity therewith.

(e) Repealed by Session Laws 2006-185, s. 1.

(f) Records. – All records of the Commission made or kept pursuant to this section shall be public records.

(g) Award of Certificates. – Each certificate of number awarded pursuant to this Chapter, unless sooner terminated or discontinued in accordance with the provisions of this Chapter, shall continue in full force and effect to and including the last day of the month during which the certificate was awarded after the lapse of one year in the case of a one-year certificate or three years in the case of a three-year certificate. No person shall willfully remove a validation decal from any vessel during the continuance of its validity or alter, counterfeit, or otherwise tamper with a validation decal attached to any vessel for the purpose of changing or obscuring the indicated date of expiration of the certificate of number of the vessel.

(h) Renewal of Certificates. – An owner of a vessel awarded a certificate of number pursuant to this Chapter shall renew the certificate on or before the first day of the month after which the certificate expires; otherwise, the certificate shall lapse and be void until such time as it may thereafter be renewed. Application for renewal shall be submitted on a form approved by the Commission and shall be accompanied by a fee in the amount set in subsection (a)(a1) of this section. ~~No fee is required for a period of one year for renewal of certificates of number that have been previously issued to commercial fishing vessels as defined in G.S. 75A-5.1, upon compliance with all of the requirements of that section.~~

(i) Transfer of Partial Interest. – The owner shall furnish the Commission notice of the transfer of any part of the owner's interest other than the creation of a security interest in a vessel numbered in this State pursuant to subsections (a) and (b) of this section within 15 days of the transfer. A transfer of partial interest in a vessel shall not affect the owner's right to operate the vessel, nor shall a transfer of partial interest in a vessel terminate the certificate of number.

(i1) Destroyed or Junked Vessels. – The owner of any destroyed or junked vessel shall furnish the Commission notice of the destruction or junking of that vessel within 15 days of its occurrence. Destruction or junking terminates the certificate of number and renders the hull identification number invalid for that vessel.

(i2) Abandonment. – A person may acquire ownership of an abandoned vessel by providing proof to the Commission that the lawful owner has actually abandoned the vessel. The Commission shall adopt rules by which a person seeking to acquire ownership may demonstrate that the vessel is actually abandoned. At a minimum, the rules shall provide for a reasonable attempt to locate the lawful owner and, if the owner is located, notice by the claimant of an intention to claim ownership of the vessel.

(j) Change of Address. – Whenever any person, after applying for or obtaining the certificate of number of a vessel, moves from the address shown in the application or upon the certificate of number, that person shall notify the Commission of the change of address within 30 days of moving in a form acceptable to the Commission.

(j1) Duplicate Certificates. – The Commission shall issue a duplicate certificate of number for a vessel upon application by the person entitled to hold the certificate, if the Commission is satisfied that the original certificate of number has been lost, stolen, mutilated, or destroyed, or has become illegible. The Commission shall charge a fee of five dollars (\$5.00) for issuance of each duplicate certificate.

(k) Display. – No number other than the identification number set forth in the certificate of number or granted reciprocity pursuant to this Chapter shall be painted, attached, or otherwise displayed on either side of the bow of a vessel, except the validation decal required by subsection (a) of this section.

(l) Repealed by Session Laws 2006-185, s. 1."

SECTION 14.22.(c) G.S. 75A-5.1 is repealed.

SECTION 14.22.(d) G.S. 75A-7 reads as rewritten:

"§ 75A-7. Exemption from numbering requirements.

(a) A vessel shall not be required to be numbered under this Chapter if it is:

- (1) A vessel that is required to be awarded an identification number pursuant to federal law or a federally approved numbering system of another state, and for which an identification number has been so awarded: Provided, that any such vessel shall not have been within this State for a period in excess of 90 consecutive days.
- (2) A vessel from a country other than the United States temporarily using the waters of this State.
- (3) A vessel whose owner is the United States, a state or a subdivision thereof.
- (4) A ship's lifeboat.
- ~~(5) A vessel that has a valid marine document issued by the federal Bureau of Customs or any federal agency successor thereto.~~
- (6) A sailboat of not more than 14 feet on the load water line (LWL).
- (7) A vessel with no means of propulsion other than drifting or manual paddling, poling, or rowing.

(b) The Commission is hereby empowered to permit the voluntary numbering of vessels owned by the United States, a state or a subdivision thereof.

(c) Those vessels owned by the United States, a state or a subdivision thereof and those owned by nonprofit rescue squads may be assigned a certificate of number bearing no expiration date but which shall be stamped with the word "permanent" and shall not be renewable so long as the vessel remains the property of the governmental entity or nonprofit rescue squad. If the ownership of any such vessel is transferred from one governmental entity to another or to a nonprofit rescue squad or if a vessel owned by a nonprofit rescue squad is transferred to another nonprofit rescue squad or governmental entity, the Commission shall issue a new permanent certificate of number, displaying the same identification number, without charge to the successor entity. When any such vessel is sold to a private owner or is otherwise transferred to private ownership, the applicable certificate of number shall be deemed to have expired immediately prior to the transfer. Prior to further use on the waters of this State, the new owner shall obtain a certificate of number pursuant to the provisions of this Chapter. The provisions of this subsection applicable to a vessel owned by a nonprofit rescue squad apply only to a vessel operated exclusively for rescue purposes, including rescue training."

SECTION 14.22.(e) G.S. 75A-34 reads as rewritten:

"§ 75A-34. Who may apply for certificate of title; authority of employees of Commission.

(a) Any owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft, as defined in G.S. 75A-13.3(a), that is applying for a certificate of number for the first time in this State pursuant to G.S. 75A-5(a), and any new owner of a motorized vessel or sailboat 14 feet or longer or any personal watercraft to whom ownership is being transferred under G.S. 75A-5(c) shall apply to the Commission for a certificate of title for that vessel. Any other vessel may be titled in this State at the owner's option. A vessel may not be titled in this State if it is titled in another state, unless the current title is surrendered along with the application for a certificate of title in this State. The Commission shall issue a certificate of title upon reasonable evidence of ownership, which may be established by affidavit, bill of sale, manufacturer's statement of origin, certificate of title in this State, certificate of number or title from another state, or other document satisfactory to the Commission. Only one certificate of title may be issued for any vessel in this State. A vessel may not be titled in this State if it is documented with the United States Coast Guard. ~~Guard, unless the documentation has expired or been deleted by the United States Coast Guard.~~ The Commission shall issue a certificate of title upon receipt of a completed application, along with the appropriate fee and reasonable evidence of ownership. The Commission shall require a manufacturer's statement of origin for all new vessels being issued a certificate of number and a certificate of title for the first time. The Commission may request a pencil tracing of the hull identification number (serial number)

for vessels being transferred, in order to positively identify the vessel before issuance of a certificate of title for that vessel.

(b) Employees of the Commission are vested with the power to administer oaths and to take acknowledgements and affidavits incidental to the administration and enforcement of this section. They shall receive no compensation for these services."

SECTION 14.22.(f) G.S. 75A-38 reads as rewritten:

"§ 75A-38. Commission's records; fees.

(a) The Commission shall maintain a record of any title it issues.

(b) The Commission shall charge a fee of ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00) to issue a new or transfer certificate of title. The Commission shall transfer on a quarterly basis at least ten dollars (\$10.00) of each new or transfer certificate of title to the Shallow Draft Navigation Channel Dredging Fund established by G.S. 143-215.73F. The Commission shall charge a fee of ten dollars (\$10.00) for each duplicate title it issues and for the recording of a supplemental lien."

SECTION 14.22.(g) G.S. 105-449.126 reads as rewritten:

"§ 105-449.126. Distribution of part of Highway Fund allocation to Wildlife Resources Fund, Fund and Shallow Draft Navigation Channel Dredging Fund.

(a) The Secretary shall credit to the Wildlife Resources Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Wildlife Resources Fund under this section may be used only for the boating and water safety activities described in G.S. 75A-3(c). The Secretary must credit revenue to the Wildlife Resources Fund on an annual basis.

(b) The Secretary shall credit to the Shallow Draft Navigation Channel Dredging Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on motor fuel. Revenue credited to the Shallow Draft Navigation Channel Dredging Fund under this section may be used only for the dredging activities described in G.S. 143-215.73F. The Secretary shall credit revenue to the Shallow Draft Navigation Channel Dredging Fund on an annual basis.

SECTION 14.22.(h) Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 8B. Shallow Draft Navigation Channel Dredging Fund.

"§ 143-215.73F. Shallow Draft Navigation Channel Dredging Fund.

The Shallow Draft Navigation Channel Dredging Fund is established as a special revenue fund. The Fund consists of fees credited to it under G.S. 75A-3, 75A-38, and 105-449.126. Revenue in the Fund may only be used to provide the State's share of the costs associated with any dredging project designed to keep a shallow draft navigation channel located in State waters navigable and safe. Any project funded by revenue from the Fund must be cost-shared with non-State dollars on a one-to-one basis. For purposes of this section, "shallow draft navigation channel" means (i) a waterway connection, with a maximum depth of 14 feet, between the Atlantic Ocean and a bay or the Atlantic Intracoastal Waterway (ii) a river entrance to the Atlantic Ocean through which tidal and other currents flow or (iii) other interior coastal waterways.

SECTION 14.22.(i) Nothing in this section shall affect the validity, term, or cost of any certificate of number or certificate of title issued prior to July 1, 2013.

SECTION 14.22.(j) This section authorizes a Long Term Dredging Memorandum of Agreement with the U.S. Army Corps of Engineers which may last beyond the current fiscal biennium and which shall provide for all of the following:

(1) Prioritization of projects through joint consultation with the State, applicable units of local government, and the U.S. Army Corps of Engineers.

(2) Compliance with G.S. 143-215.73F. Funds in the Shallow Draft Navigation Channel Dredging Fund shall be used in accordance with that section.

- (3) Annual reporting by the Department on the use of funds provided to the U.S. Army Corps of Engineers under the Long Term Dredging Memorandum of Agreement. These reports shall be made to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management and shall include all of the following:
- A list of all projects commenced.
 - The estimated cost of each project.
 - The date that work on each project commenced or is expected to commence.
 - The date that work on each project was completed or is expected to be completed.
 - The actual cost of each project.

SECTION 14.22.(k) The Department of Environment and Natural Resources may use available funds for the 2013-2014 fiscal year and the 2014-2015 fiscal year in the Shallow Draft Navigation Channel Dredging Fund established in G.S. 143-215.73F, as enacted by subsection (h) of this section, to provide the State's share of costs associated with projects that comply with that section. These funds are hereby appropriated for that purpose, but the Department of Environment and Natural Resources shall approve a project before it is eligible to receive any funds under this section.

SECTION 14.22.(l) Subsection (b) of this section becomes effective October 1, 2013, and applies to applications submitted on or after that date. Subsection (f) of this section becomes effective October 1, 2013, and applies to new or transfer certificates of title issued on or after that date. The remainder of this section becomes effective October 1, 2013.

ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 14.23.(a) G.S. 143B-283 reads as rewritten:

"§ 143B-283. Environmental Management Commission – members; selection; removal; compensation; quorum; services.

(a) ~~The Environmental Management Commission shall consist of 13 members appointed by the Governor. The Governor shall select the members so that the membership of the Commission shall consist of:~~

- ~~One who shall be a licensed physician with specialized training and experience in the health effects of environmental pollution;~~
- ~~One who shall, at the time of appointment, be actively connected with the Commission for Public Health or local board of health or have experience in health sciences;~~
- ~~One who shall, at the time of appointment, be actively connected with or have had experience in agriculture;~~
- ~~One who shall, at the time of appointment, be a registered engineer with specialized training and experience in water supply or water or air pollution control;~~
- ~~One who shall, at the time of appointment, be actively connected with or have had experience in the fish and wildlife conservation activities of the State;~~
- ~~One who shall, at the time of appointment, have special training and scientific expertise in hydrogeology or groundwater hydrology;~~
- ~~Three members interested in water and air pollution control, appointed from the public at large;~~
- ~~One who shall, at the time of appointment, be actively employed by, or recently retired from, an industrial manufacturing facility and knowledgeable in the field of industrial air and water pollution control;~~

- ~~(9) One who shall, at the time of appointment, be actively connected with or have had experience in pollution control problems of municipal or county government;~~
- ~~(10) One who shall, at the time of appointment, have special training and scientific expertise in air pollution control and the effects of air pollution; and~~
- ~~(11) One who shall, at the time of appointment, have special training and scientific expertise in freshwater, estuarine, marine biological, or ecological sciences.~~

(a1) The Environmental Management Commission shall consist of 15 members as follows:

- (1) One appointed by the Governor who shall be a licensed physician.
- (2) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in hydrology, water pollution control, or the effects of water pollution.
- (3) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in hydrology, water pollution control, or the effects of water pollution.
- (4) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in air pollution control or the effects of air pollution.
- (5) One appointed by the Governor who shall at the time of appointment be actively connected with or have had experience in agriculture.
- (6) One appointed by the Governor who shall at the time of appointment have special training and scientific expertise in freshwater, estuarine, marine biological, or ecological sciences or be actively connected with or have had experience in the fish and wildlife conservation activities of the State.
- (7) One appointed by the Governor who shall at the time of appointment be actively employed by, or recently retired from, an industrial manufacturing facility and shall be knowledgeable in the field of industrial pollution control.
- (8) One appointed by the Governor who shall at the time of appointment be a licensed engineer with specialized training and experience in water supply or water or air pollution control.
- (9) One appointed by the Governor who shall serve at large.
- (10) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.
- (11) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.
- (12) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.
- (13) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.
- (14) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(15) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(b) ~~Members appointed by the Governor shall serve terms of office of six years.~~ Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Governor may reappoint a member of the Commission to an additional term if, at the time of the reappointment, the member qualifies for membership on the Commission under subdivisions (1) through (9) of subsection (a)(a1) of this section. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122.

(b1) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(b2) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(b3) A majority of the Commission shall constitute a quorum for the transaction of business.

(b4) All clerical and other services required by the Commission shall be supplied by the Secretary of Environment and Natural Resources.

(c) ~~Nine of the members appointed by the Governor under this section shall be persons who do not derive any significant portion of their income from persons subject to permits or enforcement orders under this Chapter.~~ The Governor shall require adequate disclosure of potential conflicts of interest by members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this ~~section~~subsection, giving due regard to the requirements of federal legislation, and for this purpose may promulgate rules, regulations or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law.

(c1) All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest.

(d) ~~In addition to the members designated by subsection (a) of this section, the General Assembly shall appoint six members, three upon the recommendation of the Speaker of the House of Representatives, and three upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Members appointed by the General Assembly shall serve terms of two years.~~

(e) Members of the Commission shall serve terms of four years."

SECTION 14.23.(b) Transition of Membership of the Environmental Management Commission. –

(a) The terms of all members of the Environmental Management Commission serving on January 1, 2013, shall expire on June 30, 2013. A new Commission of 15 members shall be appointed in the manner provided by G.S. 143B-283(a1), as enacted by subsection (a) of this section.

(b) Members of the Commission whose qualifications are described by subdivisions (3), (5), (7), (8), (9), (11), (13), and (15) of G.S. 143B-283(a1), as enacted by subsection (a) of this section, shall, notwithstanding G.S. 143B-283(e), as enacted by subsection (a) of this section,

be appointed for an initial term of two years and subsequent appointments shall be for four-year terms thereafter. Members of the Commission whose qualifications are described by subdivisions (1), (2), (4), (6), (10), (12), and (14) of G.S. 143B-283(a1), as enacted by subsection (a) of this section, shall be appointed for an initial term of four years and subsequent appointments shall be for four-year terms thereafter. Initial terms shall begin on July 1, 2013, and expire on June 30 of the year of expiration as set forth in this subsection.

(c) Members of the Commission appointed to any other State board or commission as a representative of the Commission shall no longer serve as a member of those boards or commissions after this section becomes law, and a new Commission representative shall be appointed as provided by law.

COASTAL RESOURCES COMMISSION

SECTION 14.24.(a) G.S. 113A-104 reads as rewritten:

"§ 113A-104. Coastal Resources Commission.

(a) Established. – The General Assembly hereby establishes within the Department of Environment and Natural Resources a commission to be designated the Coastal Resources Commission.

~~(b) Composition. — The Coastal Resources Commission shall consist of 15 members appointed by the Governor, as follows:~~

- ~~(1) One who shall at the time of appointment be actively connected with or have experience in commercial fishing.~~
- ~~(2) One who shall at the time of appointment be actively connected with or have experience in wildlife or sports fishing.~~
- ~~(3) One who shall at the time of appointment be actively connected with or have experience in marine ecology.~~
- ~~(4) One who shall at the time of appointment be actively connected with or have experience in coastal agriculture.~~
- ~~(5) One who shall at the time of appointment be actively connected with or have experience in coastal forestry.~~
- ~~(6) One who shall at the time of appointment be actively connected with or have experience in coastal land development.~~
- ~~(7) One who shall at the time of appointment be actively connected with or have experience in marine-related business (other than fishing and wildlife).~~
- ~~(8) One who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area.~~
- ~~(9) One who shall at the time of appointment be actively associated with a State or national conservation organization.~~
- ~~(10) One who shall at the time of appointment be actively connected with or have experience in financing of coastal land development.~~
- ~~(11) Two who shall at the time of appointment be actively connected with or have experience in local government within the coastal area.~~
- ~~(12) Three at-large members.~~

(b1) Composition. – The Coastal Resources Commission shall consist of 13 members as follows:

- (1) One appointed by the Governor who shall at the time of appointment be a coastal property owner or experienced in land development.
- (2) One appointed by the Governor who shall at the time of appointment be a coastal property owner or experienced in land development.
- (3) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area or a marine-related science.

- (4) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area or a marine-related science.
- (5) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in coastal-related business.
- (6) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in local government within the coastal area.
- (7) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in coastal agriculture.
- (8) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in commercial fishing.
- (9) One appointed by the Governor who shall at the time of appointment be actively connected with or have experience in coastal forestry.
- (10) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall at the time of appointment be actively connected with or have experience in sports fishing.
- (11) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.
- (12) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall at the time of appointment be actively connected with or have experience in wildlife.
- (13) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(c) Appointment of Members. – As used in this section, the term "appointing authority" means the Governor in the case of members appointed by the Governor and means the General Assembly in the case of members appointed by the General Assembly. Appointments to the Commission shall be made to provide knowledge and experience in a diverse range of coastal interests. The members of the Commission shall serve and act on the Commission solely for the best interests of the public and public trust, and shall bring their particular knowledge and experience to the Commission for that end alone. Counties and cities in the coastal area may designate and transmit to the appointing authorities no later than May 1 of each even-numbered year qualified persons in the categories set out in subsection (b1) of this section corresponding to the Commission positions to be filled that year.

~~The Governor shall appoint in his sole discretion those members of the Commission whose qualifications are described in subdivisions (6) and (10), and one of the three members described in subdivision (12) of subsection (b) of this section.~~

~~The remaining members of the Commission shall be appointed by the Governor after completion of the nominating procedures prescribed by subsection (d) of this section.~~

(c1) The members of the Commission whose qualifications are described in subdivisions (1) through (5), (9), and (11), (3), (6), (7), (8), (9), (11), and (12) of subsection (b1) of this section shall be persons who do not derive any significant portion of their income from land development, construction, real estate sales, or lobbying and do not otherwise serve as agents for development-related business activities. The Governor shall require adequate disclosure of potential conflicts of interest by these members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this section-subsection.

(c2) All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest.

~~(d) Nominations for Membership.— On or before May 1 in every even-numbered year the Governor shall designate and transmit to the board of commissioners in each county in the coastal area four nominating categories applicable to that county for that year. Said nominating categories shall be selected by the Governor from among the categories represented, respectively by subdivisions (1), (2), (3), (4), (5), (7), (8), (9), (11) — two persons, and (12) — two persons, of subsection (b) of this section (or so many of the above-listed paragraphs as may correspond to vacancies by expiration of term that are subject to being filled in that year). On or before June 1 in every even-numbered year the board of commissioners of each county in the coastal area shall nominate (and transmit to the Governor the names of) one qualified person in each of the four nominating categories that was designated by the Governor for that county for that year. In designating nominating categories from biennium to biennium, the Governor shall equitably rotate said categories among the several counties of the coastal area as in his judgment he deems best; and he shall assign, as near as may be, an even number of nominees to each nominating category and shall assign in his best judgment any excess above such even number of nominees. On or before June 1 in every even-numbered year the governing body of each incorporated city within the coastal area shall nominate and transmit to the Governor the name of one person as a nominee to the Commission. In making nominations, the boards of county commissioners and city governing bodies shall give due consideration to the nomination of women and minorities. The Governor shall appoint 12 persons from among said city and county nominees to the Commission. The several boards of county commissioners and city governing bodies shall transmit the names, addresses, and a brief summary of the qualifications of their nominees to the Governor on or before June 1 in each even-numbered year, beginning in 1974; provided, that the Governor, by registered or certified mail, shall notify the chairman or the mayors of the said local governing boards by May 20 in each such even-numbered year of the duties of local governing boards under this sentence. If any board of commissioners or city governing body fails to transmit its list of nominations to the Governor by June 1, the Governor may add to the nominations a list of qualified nominees in lieu of those that were not transmitted by the board of commissioners or city governing body; Provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean. Within the meaning of this section, the "governing body" is the mayor and council of a city as defined in G.S. 160A-66. The population of cities shall be determined according to the most recent annual estimates of population as certified to the Secretary of Revenue by the Secretary of Administration.~~

~~(e) Residential Qualifications.— All nominees of the several boards of county commissioners and city governing bodies must reside within the coastal area, but need not reside in the county from which they were nominated. No more than one of those members appointed by the Governor from among said nominees may reside in a particular county. No more than two members of the entire Commission, at any time, may reside in a particular county. No more than two members of the entire Commission, at any time, may reside outside the coastal area.~~

(f) Office May Be Held Concurrently with Others. – Membership on the Coastal Resources Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(g) Terms. – The members shall serve staggered terms of office of four years. At the expiration of each member's term, the Governor appointing authority shall reappoint or replace the member with a new member of like qualification ~~(as~~ specified in subsection ~~(b)(b1)~~ of this section), ~~in the manner provided by subsections (c) and (d) of this section. The initial term shall be determined by the Governor in accordance with customary practice but eight of the initial members shall be appointed for two years and seven for four years.~~section.

(h) Vacancies. – In the event of a vacancy arising otherwise than by expiration of term, the Governor appointing authority shall appoint a successor of like qualification ~~(as~~ specified in subsection ~~(b)(b1)~~ of this section)section who shall then serve the remainder of his predecessor's term. ~~When any such vacancy arises, the Governor shall immediately notify the board of commissioners of each county in the coastal area and the governing body of each incorporated city within the coastal area. Within 30 days after receipt of such notification each such county board and city governing body shall nominate and transmit to the Governor the name and address of one person who is qualified in the category represented by the position to be filled, together with a brief summary of the qualifications of the nominee. The Governor shall make the appointment from among said city and county nominees. If any county board or city governing body fails to make a timely transmittal of its nominee, the Governor may add to the nominations a qualified person in lieu of said nominee; Provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean.~~

(i) Officers. – The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of ~~his~~the vice-chairman's regularly appointed term.

(j) Compensation. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

~~(k) In making appointments to and filling vacancies upon the Commission, the Governor shall give due consideration to securing appropriate representation of women and minorities.~~

(l) Attendance. – Regular attendance at Commission meetings is a duty of each member. The Commission shall develop procedures for declaring any seat on the Commission to be vacant upon failure by a member to perform this duty.

(m) Quorum. – A majority of the Commission shall constitute a quorum."

SECTION 14.24.(b) Transition of Membership of the Coastal Resources Commission. – Except as otherwise provided in this section, the terms of all members of the Coastal Resources Commission serving on January 1, 2013, shall expire June 30, 2013. A new Commission of 13 members shall be appointed in the manner provided by G.S. 113A-104(b1), as enacted by subsection (a) of this section. Members appointed in the manner provided by G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall be appointed no later than July 1, 2013.

(1) The member serving pursuant to G.S. 113A-104(b)(1) on January 1, 2013, shall continue to serve pursuant to G.S. 113A-104(b1)(8), as enacted by subsection (a) of this section, until June 30, 2014.

(2) The member serving pursuant to G.S. 113A-104(b)(2) on January 1, 2013, shall continue to serve pursuant to G.S. 113A-104(b1)(10), as enacted by subsection (a) of this section, until June 30, 2014.

(3) The member serving pursuant to G.S. 113A-104(b)(11) on January 1, 2013, whose term would otherwise expire on June 30, 2014, shall continue to serve pursuant to G.S. 113A-104(b1)(6), as enacted by subsection (a) of this section, until June 30, 2014.

- (4) The member serving pursuant to G.S. 113A-104(b)(5) on January 1, 2013, whose term would otherwise expire on June 30, 2014, shall continue to serve pursuant to G.S. 113A-104(b1)(9), as enacted by subsection (a) of this section, until June 30, 2014.

Members of the Commission whose qualifications are described by subdivisions (1), (3), (5), (7), (11), and (13) of G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall be appointed for an initial term of two years, and subsequent appointments shall be for four-year terms thereafter. Members of the Commission whose qualifications are described by subdivisions (2), (4), (6), (8), (9), (10), and (12) of G.S. 113A-104(b1), as enacted by subsection (a) of this section, shall be appointed for an initial term of one year, and subsequent appointments shall be for four-year terms thereafter. Initial terms shall expire on June 30 of the year of expiration.

COASTAL RESOURCES ADVISORY COMMISSION

SECTION 14.25. G.S. 113A-105 reads as rewritten:

"§ 113A-105. Coastal Resources Advisory Council.

(a) Creation. – There is hereby created and established a council to be known as the Coastal Resources Advisory Council.

(b) Membership and Terms. – The Coastal Resources Advisory Council shall consist of not more than ~~45~~20 members appointed or designated as follows:

- ~~(1) Two individuals designated by the Secretary from among the employees of the Department;~~
- ~~(1a) The Secretary of Commerce or person designated by the Secretary of Commerce;~~
- ~~(2) The Secretary of Administration or person designated by the Secretary of Administration;~~
- ~~(3) The Secretary of Transportation or person designated by the Secretary of Transportation; and one additional member selected by the Secretary of Transportation from the Department of Transportation;~~
- ~~(4) The State Health Director or the person designated by the State Health Director;~~
- ~~(5) The Commissioner of Agriculture or person designated by the Commissioner of Agriculture;~~
- ~~(6) The Secretary of Cultural Resources or person designated by the Secretary of Cultural Resources;~~
- ~~(7) One member from each of the four multi-county planning districts of the coastal area to be appointed by the lead regional agency of each district;~~
- ~~(8) One representative from each of the counties in the coastal area to be designated by the respective boards of county commissioners;~~
- ~~(9) No more than eight additional members representative of cities in the coastal area and to be designated by the Commission;~~
- ~~(10) Three members selected by the Commission who are marine scientists or technologists;~~
- ~~(11) One member who is a local health director selected by the Commission upon the recommendation of the Secretary.~~

by the Coastal Resources Commission. Counties and cities in the coastal area may nominate candidates for consideration by the Commission. The terms of all Council members serving on the Council on January 1, 2013, shall expire on June 30, 2013. A new Council shall be appointed in the manner provided by this subsection with terms beginning on July 1, 2013, and expiring on June 30, 2015. Members may be reappointed at the discretion of the Commission.

provided that one-half of the membership at the beginning of any two-year term are residents of counties in the coastal area.

...."

SEVERANCE TAX ON ENERGY MINERALS; USE OF PROCEEDS

SECTION 14.26.(a) If Senate Bill 76, 2013 Session, becomes law, then Section 11 of Senate Bill 76 reads as rewritten:

"**SECTION 11.** Section 1(b) of this act becomes effective March 1, 2015. Section 3(b) of this act is effective when it becomes law and applies retroactively to October 1, 2012. Sections 5(a) through 5(c) of this act are effective for energy minerals sold on or after March 1, 2015, except that G.S. 105-187.76, as enacted by Section 5(a) of this act, becomes effective only if authorized by the General Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013. G.S. 113B-30, enacted by Section 7 of this act, becomes effective only if authorized by the General Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013-2015. The first report due pursuant to G.S. 113B-12, as amended by Section 9(m) of this act, shall be transmitted on or before January 1, 2014. Except as otherwise provided, the remainder of this act is effective when it becomes law."

SECTION 14.26.(b) If Senate Bill 76, 2013 Session, becomes law, the Department of Environment and Natural Resources may, notwithstanding the provisions of G.S. 105-187.76, as enacted by Senate Bill 76, use any proceeds the Department receives from the imposition of the tax on severance of energy minerals imposed under G.S. 105-187.72, as enacted by Senate Bill 76, for the 2013-2014 fiscal year and the 2014-2015 fiscal year for its costs to administer Article 27 of Chapter 113 of the General Statutes, and these funds are appropriated from the General Fund to the Department of Environment and Natural Resources for this purpose.

WILDLIFE ENDOWMENT FUND

SECTION 14.27. G.S. 143-250.1 reads as rewritten:

"§ 143-250.1. Wildlife Endowment Fund.

(a) Recognizing the inestimable importance to the State and its people of conserving the wildlife resources of North Carolina, and for the purpose of providing the opportunity for citizens and residents of the State to invest in the future of its wildlife resources, there is created the North Carolina Wildlife Endowment Fund, the income and principal of which shall be used only for the purpose of supporting wildlife conservation programs of the State in accordance with this section. This fund shall also be known as the Eddie Bridges Fund.

(b) There is created the Board of Trustees of the Wildlife Endowment Fund of the Wildlife Resources Commission, with full authority over the administration of the Wildlife Endowment Fund, whose ex officio chairman, vice-chairman, and members shall be the chairman, vice-chairman, and members of the Wildlife Resources Commission. The State Treasurer shall be the custodian of the Wildlife Endowment Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and 147-69.3.

(c) The assets of the Wildlife Endowment Fund shall be derived from the following:

- (1) The proceeds of any gifts, grants and contributions to the State which are specifically designated for inclusion in the fund;
- (2) The proceeds from the sale of lifetime sportsman combination licenses issued pursuant to G.S. 113-270.1D;
- (3) The proceeds from the sale of lifetime hunting and lifetime fishing licenses pursuant to G.S. 113-270.2(c)(2) and G.S. 113-271(d)(3);
- (4) The proceeds of lifetime subscriptions to the magazine Wildlife in North Carolina at such rates as may be established from time to time by the Wildlife Resources Commission;

- 1 (5) Any amount in excess of the statutory fee for a particular lifetime license or
2 lifetime subscription shall become an asset of the fund and shall qualify as a
3 tax exempt donation to the State;
- 4 (5a) The proceeds from the sale of lifetime combination hunting and fishing
5 licenses for disabled residents pursuant to G.S. 113-270.1C(b)(4);
- 6 (6) Such other sources as may be specified by law.
- 7 (d) The Wildlife Endowment Fund is ~~declared to constitute~~ a special trust derived from
8 a contractual relationship between the State and the members of the public whose investments
9 contribute to the fund. In recognition of such special trust, the following limitations and
10 restrictions are placed on expenditures from the funds:
- 11 (1) Any limitations or restrictions specified by the donors on the uses of the
12 income derived from gifts, grants and voluntary contributions shall be
13 respected but shall not be binding.
- 14 ~~(2) No expenditures or disbursements from the income from the proceeds~~
15 ~~derived from the sale of Infant Lifetime Sportsman or Youth Lifetime~~
16 ~~Sportsman Licenses pursuant to G.S. 113-270.1D(b)(1) or (2) shall be made~~
17 ~~for any purpose until the respective holders of such licenses attain the age of~~
18 ~~16 years. The State Treasurer, as custodian of the fund, shall determine~~
19 ~~actuarially from time to time the amount of income within the fund which~~
20 ~~remains encumbered by and which is free of this restriction. For such~~
21 ~~purpose, the executive director shall cause deposits of proceeds from Infant~~
22 ~~Lifetime Sportsman Licenses to be distinguished and deposits of proceeds~~
23 ~~from Youth Lifetime Sportsman Licenses to be accompanied by information~~
24 ~~as to the ages of the license recipients.~~
- 25 (3) ~~No expenditure or disbursement shall be made from the principal of the~~
26 ~~Wildlife Endowment Fund except as otherwise proved by law. Expenditures~~
27 ~~of principal may be made from the Wildlife Resources Endowment Fund~~
28 ~~once the balance of the Fund exceeds one hundred million dollars~~
29 ~~(\$100,000,000).~~
- 30 (4) The income received and accruing from the investments of the Wildlife
31 Endowment Fund must be spent only in furthering the conservation of
32 wildlife resources and the efficient operation of the North Carolina Wildlife
33 Resources Commission in accomplishing the purposes of the agency as set
34 forth in G.S. 143-239.
- 35 (e) The Board of Trustees of the Wildlife Endowment Fund may accumulate the
36 investment income of the fund until the income, in the sole judgment of the trustees, can
37 provide a significant supplement to the budget of the Wildlife Resources Commission. After
38 that time the trustees, in their sole discretion and authority, may direct expenditures from the
39 income of the fund for the purposes set out in division (4) of subsection (d).
- 40 (f) Expenditure of the income derived from the Wildlife Endowment Fund shall be
41 made through the State budget accounts of the Wildlife Resources Commission in accordance
42 with the provisions of the Executive Budget Act. The Wildlife Endowment Fund is subject to
43 the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General
44 Statutes.
- 45 (g) The Wildlife Endowment Fund and the income therefrom shall not take the place of
46 State appropriations or agency receipts placed in the Wildlife Resources Fund, or any part
47 thereof, but any portion of the income of the Wildlife Endowment Fund available for the
48 purpose set out in division (4) of subsection (d) shall be used to supplement other income of
49 and appropriations to the Wildlife Resources Commission to the end that the Commission may
50 improve and increase its services and become more useful to a greater number of people.

(h) In the event of a future dissolution of the Wildlife Resources Commission, such State agency as shall succeed to its budgetary authority shall, ex officio, assume the trusteeship of the Wildlife Endowment Fund and shall be bound by all the limitations and restrictions placed by this section on expenditures from the Fund. No repeal or modification of this section or of G.S. 143-239 shall alter the fundamental purposes to which the Wildlife Endowment Fund may be applied. No future dissolution of the Wildlife Resources Commission or substitution of any agency in its stead shall invalidate any lifetime license issued in accordance with G.S. 113-270.1D(b), 113-270.2(c)(2), or 113-271(d)(3)."

PART XV. DEPARTMENT OF COMMERCE

SET REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 15.1.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2013, and on or after July 1, 2014.

SECTION 15.1.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2013-2014 and the 2014-2015 fiscal year is two hundred thousand dollars (\$200,000).

INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT

SECTION 15.2. For the 2013-2014 fiscal year and the 2014-2015 fiscal year, the Industrial Commission may, in consultation with the State Chief Information Officer, use up to one million eight hundred thousand dollars (\$1,800,000) of available funds in Budget Code 24611 to replace the Electronic Document Management System (EDMS).

UNEMPLOYMENT INSURANCE RESERVE

SECTION 15.3.(a) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer to the Unemployment Insurance Reserve within the Office of State Budget and Management any unencumbered cash balance as of June 30, 2013, of each of the following special funds within the Department of Commerce and then close each of these special funds:

(1) Worker Training Trust Fund (Special Fund Code 64654-6400).

(2) Training and Employment Account (Special Fund Code 64655-6601).

SECTION 15.3.(b) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the sum of ten million dollars (\$10,000,000) for the 2013-2014 fiscal year from the Special Employment Security Administration Fund (Fund Code 64650-6100) to the Unemployment Insurance Reserve within the Office of State Budget and Management.

EMPLOYMENT SECURITY RESERVE FUND

SECTION 15.4.(a) There is appropriated from the Employment Security Reserve Fund to the Department of Commerce, Division of Employment Security, the amount needed for the 2014-2015 fiscal year to fund the interest payment due to the federal government for the debt owed to the U.S. Treasury for unemployment benefits.

SECTION 15.4.(b) Of the funds credited to and held in the State of North Carolina's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title II of Division B of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the Department of Commerce, Division of Employment Security, may expend the sum of two hundred five million sixty-three thousand five hundred fifty-two dollars

(205,063,552) as follows: (i) one hundred million dollars (\$100,000,000) shall be used to design and build the integrated unemployment insurance benefit and tax accounting system and (ii) the remaining funds shall be used for the operation of the unemployment insurance program.

WORKFORCE INVESTMENT ACT FUNDS/TRANSFER OF FUNDS TO DEPARTMENT OF LABOR

SECTION 15.5. Of the Workforce Investment Act funds awarded to the Department of Commerce by the United States Department of Labor, the sum of three hundred fifty thousand dollars (\$350,000) shall be transferred to the Department of Labor for the Apprenticeship Program on a recurring basis for the 2013-2015 biennium.

SPECIAL FUNDS TRANSFER/OFFSET COMMERCE ADMINISTRATION GENERAL FUND APPROPRIATION

SECTION 15.6.(a) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the unencumbered cash balances in the following funds as of June 30, 2013, to Commerce Administration (Budget Code 14600-1111):

- (1) 24609-2537 – Energy Research Grants
- (2) 24609-2535 – NC Green Business Fund

SECTION 15.6.(b) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the unencumbered cash balance in the International Trade Show Special Fund (Budget Code 24610-2431) as of June 30, 2013, to Commerce Administration (Budget Code 14600-1111) and, upon the transfer, close the Fund.

SECTION 15.6.(c) The transfers in subsections (a) and (b) of this section are to offset General Fund appropriations to the Department of Commerce for administration.

SECRETARY DESIGNATE SUPERVISOR OF BLNC & INTERNATIONAL TRADE DIVISION EMPLOYEES

SECTION 15.7. The Secretary of Commerce shall designate the person or persons who shall supervise the employees in the following agency or division within the Department: (i) Business Link North Carolina; and (ii) International Trade Division. The person or persons designated under this section shall have the powers and duties authorized by the Secretary.

COMMON FOLLOW-UP/CONTINUATION REVIEW

SECTION 15.8.(a) The Department of Commerce, Labor and Economic Analysis Division (LEAD), shall conduct a continuation review of the Common Follow-Up Information Management System (hereinafter "Common Follow-Up") created pursuant to G.S. 96-32. LEAD shall report the preliminary findings of the continuation review to the Fiscal Research Division no later than December 1, 2013, and shall submit a final report to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Natural and Economic Resources, and the House Appropriations Subcommittee on Natural and Economic Resources no later than March 1, 2014.

SECTION 15.8.(b) The continuation review report required by subsection (a) of this section shall include the following information:

- (1) A description of Common Follow-Up and the goals of the program.
- (2) The statutory objectives for Common Follow-Up and the problem or need addressed.
- (3) The extent to which the objectives of Common Follow-Up have been achieved.

- (4) Any functions or programs of Common Follow-Up performed without specific statutory authority.
- (5) The performance measures for Common Follow-Up and the process by which the performance measures determine efficiency and effectiveness.
- (6) Recommendations for statutory, budgetary, or administrative changes needed to improve efficiency and effectiveness of services delivered to the public.
- (7) The consequences of discontinuing funding.
- (8) Recommendations for improving services or reducing costs or duplication.
- (9) The identification of policy issues that should be brought to the attention of the General Assembly.

MARKETING STRATEGY TO PROMOTE NC

SECTION 15.9. The Department of Commerce, Division of Tourism, Film, and Sports Development, shall revise its current marketing strategies to develop and execute a comprehensive national and international advertising, promotion, and public relations strategy to promote the State as a great place to live, work, and play. The Division shall continue to work closely with tourism destination marketing organizations, private businesses, including hotels, restaurants, and attractions, nonprofits, other State agencies, and other organizations and entities to collaborate, plan, and leverage resources in order to accomplish the goals of the comprehensive advertising and promotions strategy.

RURAL ECONOMIC DEVELOPMENT DIVISION CREATED

SECTION 15.10.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read as follows:

"Part 22. Rural Economic Development Division.

"§ 143B-472.126. Rural Economic Development Division created.

There is hereby created in the Department of Commerce a division to be known as the Rural Economic Development Division. The Secretary shall appoint an Assistant Secretary to administer this Division, who shall be subject to the direction and supervision of the Secretary. The Assistant Secretary, subject to the approval of the Secretary, shall select a professional staff of qualified and competent employees to assist in the administration of the duties and responsibilities prescribed in this Part.

"§ 143B-472.127. Programs administered.

(a) The Rural Economic Development Division shall be responsible for administering the program whereby economic development grants or loans are awarded by the Rural Infrastructure Authority as provided in G.S. 143B-472.128 to local government units of the counties that have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment of that section. The funds available for grants or loans under this program may be used as follows:

- (1) To construct critical water and wastewater facilities or to provide other infrastructure needs, including, but not limited to, natural gas, broadband, and rail, to sites where these facilities will generate private job-creating investment. The grants under this subdivision shall not be subject to the provisions of G.S. 143-355.4.
- (2) To provide matching grants or loans to local government units in an economically distressed county that will productively reuse vacant buildings and properties or construct or expand rural health care facilities, with priority given to towns or communities with populations of less than 5,000. For purposes of this section, the term "economically distressed county" has the same meaning as in G.S. 143B-437.01.

(3) Recipients of grant funds under this Part shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The cash match shall come from local resources and may not be derived from other State or federal grant funds.

(4) In awarding grants under this Part, preference shall be given to a project involving a resident company. For purposes of this Part, the term "resident company" means a company that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State. An application for a project that serves an economically distressed area shall have priority over a project that does not. A grant to assist with water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

(5) Under no circumstances shall a grant for a project be awarded in excess of twelve thousand five hundred dollars (\$12,500) per projected job created or saved.

(b) In addition to the duties under subsection (a) of this section, the Rural Economic Development Division shall also be responsible for (i) administering the program whereby local government units are awarded funds by the Rural Infrastructure Authority from the Utility Account under G.S. 143B-437.01 and (ii) administering the program whereby local government units are awarded funds by the Rural Infrastructure Authority for economic development projects from community development block grant funds.

(c) The Rural Economic Development Division may make recommendations to the Rural Infrastructure Authority as to any matters related to the administration of the programs under subsections (a) and (b) of this section.

"§ 143B-472.128. Rural Infrastructure Authority created; powers.

(a) Creation. – The Rural Infrastructure Authority is created within the Department of Commerce.

(b) Membership. – The Authority shall consist of 10 members, who shall be appointed as follows:

(1) The Secretary of Commerce, who shall be chair. However, the Secretary shall vote on matters before the Authority only in the case of a tie.

(2) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate; one of whom shall represent a rural county in the eastern part of the State and shall serve for a term of one year; one of whom shall represent a rural county in the central part of the State and shall serve for a term of two years; and one of whom shall represent a rural county in the western part of the State and shall serve for a term of three years.

(3) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives; one of whom shall represent a rural county in the eastern part of the State and shall serve for a term of three years; one of whom shall represent a rural county in the central part of the State and shall serve for a term of one year; and one of whom shall represent a rural county in the western part of the State and shall serve for a term of two years.

(4) Three members appointed by the Governor; one of whom shall represent a rural county in the eastern part of the State and shall serve for a term of two years; one of whom shall represent a rural county in the central part of the State and shall serve for a term of three years; and one of whom shall represent a rural county in the western part of the State and shall serve for a term of one year.

(c) Terms. – Upon the expiration of the terms provided for in subsection (b) of this section, each member shall serve for a term of three years. No member of the Authority shall serve for more than two consecutive terms, but a person who has been a member for two consecutive terms may be reappointed after being off the Authority for a period of at least three years. An initial term as provided in subsection (b) of this section that is two years or less shall not be counted in determining the limitation on consecutive terms. Initial terms shall commence on July 1, 2013.

(d) Compensation. – Authority members shall receive no salary as a result of serving on the Authority, but are entitled to per diem and allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(e) Meetings. – The Secretary shall convene the first meeting of the Authority within 30 days after the appointment of Authority members under subsection (b) of this section. Meetings shall be held as necessary as determined by the Authority.

(f) Quorum. – A majority of the members of the Authority constitutes a quorum for the transaction of business. A vacancy in the membership of the Authority does not impair the right of the quorum to exercise all rights and to perform all duties of the Authority.

(g) Vacancies. – A vacancy on the Authority shall be filled in the same manner in which the original appointment was made, and the term of the member filling the vacancy shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(h) Removal. – Members may be removed in accordance with G.S. 143B-13. A member who misses three consecutive meetings of the Authority may be removed for nonfeasance.

(i) Powers and Duties. – The Authority has the following powers and duties:

- (1) To receive and review applications from local government units for grants or loans authorized under G.S. 143B-472.127.
- (2) To award grants or loans as provided in G.S. 143B-472.127.
- (3) To formulate policies and priorities for grant and loan making under G.S. 143B-472.127.
- (4) To determine ways in which the Rural Economic Development Division can aid local government units in meeting the costs for preliminary project planning needed for making an application for a grant or loan under G.S. 143B-472.127.
- (5) To determine ways in which the Rural Economic Development Division can effectively disseminate information to local government units about the availability of grants or loans under G.S. 143B-472.127, the application and review process, and any other information that may be deemed useful to local government units in obtaining grants or loans.
- (6) To review from time to time the effectiveness of the grant or loan programs under G.S. 143B-472.127 and to determine ways in which the programs may be improved to better serve local government units.
- (7) No later than September 1 of each year, to submit a report to the Senate Appropriations Committee on Natural and Economic Resources, the House Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division that details all of the following:
 - a. Total number of awards made in the previous fiscal year.
 - b. Geographic display of awards made.
 - c. Total number of jobs created in the previous fiscal year.
 - d. Recommended policy changes that would benefit economic development in rural areas of the State."

SECTION 15.10.(b) For the 2013-2015 biennium, the Department of Commerce, Rural Economic Development Division, as established in subsection (a) of this section, may

use up to three percent (3%) of the funds appropriated in this act to the programs to be administered by the Division, and described in subsection (a) of this section, to cover the Division's expenses in administering those programs.

SECTION 15.10.(c) G.S. 120-123 reads as rewritten:

"§ 120-123. Service by members of the General Assembly on certain boards and commissions.

No member of the General Assembly may serve on any of the following boards or commissions:

...

(80) The Rural Infrastructure Authority, as created by G.S. 143B-472.128."

SECTION 15.10.(d) G.S. 126-5 reads as rewritten:

"§ 126-5. Employees subject to Chapter; exemptions.

...

(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

...

(30) Employees of the Department of Commerce employed in the Rural Economic Development Division.

...."

SECTION 15.10.(e) G.S. 143B-433 reads as rewritten:

"§ 143B-433. Department of Commerce – organization.

The Department of Commerce shall be organized to include:

(1) The following agencies:

...

w. The Rural Economic Development Division.

x. The Rural Infrastructure Authority.

...."

PROSPERITY ZONES/RURAL SATELLITE OFFICES WITHIN ZONES

SECTION 15.11.(a) If Senate Bill 127, 2013 Regular Session, becomes law, of the funds appropriated in this act to the Department of Commerce for the Rural Economic Development Division, the Department shall use up to one million four hundred thousand dollars (\$1,400,000) in each year of the 2013-2015 biennium to establish one primary office in each of the Collaboration for Prosperity Zones described in Senate Bill 127 for the purpose of enhancing collaboration and cooperation between governmental agencies, planning, use of resources, and improved efficiency at a regional level.

SECTION 15.11.(b) If Senate Bill 127, 2013 Regular Session, becomes law, of the funds appropriated in this act to the Department of Commerce for the Rural Economic Development Division, the Department shall use up to one million nine hundred twenty thousand dollars (\$1,920,000) in the 2013-2014 fiscal year and up to two million three hundred twenty thousand dollars (\$2,320,000) in the 2014-2015 fiscal year to establish at least one satellite office in a rural area within each Collaboration for Prosperity Zone. The primary office and rural satellite office in the Zone shall collaborate to support new business recruitment and existing business and industry in the rural areas of the Zone.

SECTION 15.11.(c) If Senate Bill 127, 2013 Regular Session, becomes law, the Secretary of Commerce shall determine the person or persons to whom the Department of Commerce employees working in the Collaboration for Prosperity Zones, including rural satellite offices, shall report. The Secretary shall also determine the appropriate staffing requirements for each rural satellite office.

SECTION 15.11.(d) If Senate Bill 127, 2013 Regular Session, does not become law, the Secretary of Commerce, in conjunction with the Assistant Secretary of Commerce in

charge of the Rural Economic Development Division shall establish regional offices in rural areas across the State to support new business recruitment and existing business and industry in those rural areas. Each regional office shall have at least one full-time employee, who shall report to the Assistant Secretary of Commerce, Rural Economic Development Division.

LEAD/DEVELOP STANDARDIZED PERFORMANCE METRIC FOR NONPROFITS

SECTION 15.12. The Department of Commerce, Labor and Economic Analysis Division (LEAD), shall develop a standardized performance metric to evaluate whether a nonprofit allocated State funds by the Department in the 2013-2015 biennium has achieved its own goals or performance standards. The metric shall include standards for determining whether jobs were actually created, grants were awarded, or loans were made. The information obtained as a result of the metric shall be used by the General Assembly in determining whether to fund the nonprofits in future fiscal years. In order to be eligible to receive State funds, each nonprofit surveyed shall provide to LEAD any information requested to help develop the metric provided for in this section.

CDBG FUNDS/COMMERCE REPEAL RULES MORE RESTRICTIVE THAN HUD RULES

SECTION 15.13. Rules adopted by the Department of Commerce related to the receipt, distribution, or use of Community Development Block Grant (CDBG) funds shall not be more restrictive than rules and regulations promulgated by the United States Department of Housing and Urban Development (HUD) related to the receipt, distribution, or use of CDBG funds. The Department of Commerce shall review all rules adopted by the Department related to the receipt, distribution, or use of CDBG funds, and shall repeal any rules that are more restrictive than HUD rules related to the receipt, distribution, or use of CDBG funds. During the period in which rules are being reviewed as provided in this section, the Department shall not enforce any rules related to the receipt, distribution, or use of CDBG funds that are more restrictive than HUD rules related to the receipt, distribution, or use of CDBG funds.

NER BLOCK GRANTS/2014 AND 2015 PROGRAM YEARS

SECTION 15.14.(a) Appropriations from federal block grant funds are made for the fiscal years ending June 30, 2014, and June 30, 2015, according to the following schedule:
COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$ 1,275,000
02. Economic Development	10,737,500
03. Infrastructure	30,937,500

TOTAL COMMUNITY DEVELOPMENT

BLOCK GRANT – 2014 Program Year	\$42,950,000
2015 Program Year	\$42,950,000

SECTION 15.14.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

SECTION 15.14.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each

1 program category under the Community Development Block Grant shall be increased by the
2 same percentage as the increase in federal funds.

3 **SECTION 15.14.(d)** Limitations on Community Development Block Grant Funds.
4 – Of the funds appropriated in this section for the Community Development Block Grant, the
5 following shall be allocated in each category for each program year: up to one million two
6 hundred seventy-five thousand dollars (\$1,275,000) may be used for State Administration; up
7 to ten million seven hundred thirty-seven thousand five hundred dollars (\$10,737,500) may be
8 used for Economic Development; and up to thirty million nine hundred thirty-seven thousand
9 five hundred dollars (\$30,937,500) may be used for Infrastructure. If federal block grant funds
10 are reduced or increased by the Congress of the United States after the effective date of this act,
11 then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of
12 this section, as applicable.

13 **SECTION 15.14.(e)** The Department of Commerce shall consult with the Joint
14 Legislative Commission on Governmental Operations prior to reallocating Community
15 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever
16 the Director of the Budget finds that:

- 17 (1) A reallocation is required because of an emergency that poses an imminent
18 threat to public health or public safety, the Director of the Budget may
19 authorize the reallocation without consulting the Commission. The
20 Department of Commerce shall report to the Commission on the reallocation
21 no later than 30 days after it was authorized and shall identify in the report
22 the emergency, the type of action taken, and how it was related to the
23 emergency.
- 24 (2) The State will lose federal block grant funds or receive less federal block
25 grant funds in the next fiscal year unless a reallocation is made, the
26 Department of Commerce shall provide a written report to the Commission
27 on the proposed reallocation and shall identify the reason that failure to take
28 action will result in the loss of federal funds. If the Commission does not
29 hear the issue within 30 days of receipt of the report, the Department may
30 take the action without consulting the Commission.

31 **SECTION 15.14.(f)** By September 1, 2013, and September 1, 2014, the Division
32 of Community Assistance, Department of Commerce, shall report to the Joint Legislative
33 Commission on Governmental Operations and the Fiscal Research Division on the use of
34 Community Development Block Grant Funds appropriated in the prior fiscal year. The report
35 shall include the following:

- 36 (1) A discussion of each of the categories of funding and how the categories
37 were selected, including information on how a determination was made that
38 there was a statewide need in each of the categories.
- 39 (2) Information on the number of applications that were received in each
40 category and the total dollar amount requested in each category.
- 41 (3) A list of grantees, including the grantee's name, county, category under
42 which the grant was funded, the amount awarded, and a narrative description
43 of the project.

44 **SECTION 15.14.(g)** For purposes of this section, eligible activities under the
45 category of Infrastructure in subsection (a) of this section are limited to the installation of
46 public water or sewer lines and improvements to water or sewer treatment plants that have
47 specific problems such as being under moratoriums or special orders of consent.
48 Notwithstanding the provisions of subsection (e) of this section, funds allocated to the
49 Infrastructure category in subsection (a) of this section shall not be reallocated to any other
50 category.
51

NER BLOCK GRANTS/2013 PROGRAM YEAR

SECTION 15.15.(a) Section 14.1 of S.L. 2011-145, as amended by Section 13.1 of S.L. 2012-142, reads as rewritten:

"SECTION 14.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$1,000,000	<u>\$1,275,000</u>
03. Scattered Site Housing		7,200,000
04. Economic Development	7,000,000	<u>10,625,000</u>
05. Small Business/Entrepreneurship		2,500,000
06. NC Catalyst		4,500,000
07. Infrastructure	20,300,000	<u>30,600,000</u>

TOTAL COMMUNITY DEVELOPMENT

BLOCK GRANT – 2013 Program Year \$42,500,000

"SECTION 14.1.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

"SECTION 14.1.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

"SECTION 14.1.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to ~~one million dollars (\$1,000,000)~~ one million two hundred seventy-five thousand dollars (\$1,275,000) may be used for State Administration; ~~up to seven million two hundred thousand dollars (\$7,200,000)~~ may be used for Scattered Site Housing; up to seven million dollars (\$7,000,000) ten million six hundred twenty-five thousand dollars (\$10,625,000) may be used for Economic Development; ~~up to two million five hundred thousand dollars (\$2,500,000)~~ may be used for Small Business/Entrepreneurship; up to four million five hundred thousand dollars (\$4,500,000) shall be used for NC Catalyst; and up to twenty million three hundred thousand dollars (\$20,300,000) thirty million six hundred thousand dollars (\$30,600,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

"SECTION 14.1.(e) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

- (1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may

1 authorize the reallocation without consulting the Commission. The
2 Department of Commerce shall report to the Commission on the reallocation
3 no later than 30 days after it was authorized and shall identify in the report
4 the emergency, the type of action taken, and how it was related to the
5 emergency.

- 6 (2) The State will lose federal block grant funds or receive less federal block
7 grant funds in the next fiscal year unless a reallocation is made, the
8 Department of Commerce shall provide a written report to the Commission
9 on the proposed reallocation and shall identify the reason that failure to take
10 action will result in the loss of federal funds. If the Commission does not
11 hear the issue within 30 days of receipt of the report, the Department may
12 take the action without consulting the Commission.

13 **"SECTION 14.1.(f)** By ~~September 1, 2012~~, September 1, 2013, the Division of
14 Community Assistance, Department of Commerce, shall report to the Joint Legislative
15 Commission on Governmental Operations and the Fiscal Research Division on the use of
16 Community Development Block Grant Funds appropriated in the prior fiscal year. The report
17 shall include the following:

- 18 (1) A discussion of each of the categories of funding and how the categories
19 were selected, including information on how a determination was made that
20 there was a statewide need in each of the categories.
21 (2) Information on the number of applications that were received in each
22 category and the total dollar amount requested in each category.
23 (3) A list of grantees, including the grantee's name, county, category under
24 which the grant was funded, the amount awarded, and a narrative description
25 of the project.

26 **"SECTION 14.1.(g)** For purposes of this section, eligible activities under the category of
27 Infrastructure in subsection (a) of this section are limited to the installation of public water or
28 sewer lines and improvements to water or sewer treatment plants that have specific problems
29 such as being under moratoriums or special orders of consent. Notwithstanding the provisions
30 of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a)
31 of this section shall not be reallocated to any other category."

32 **SECTION 15.15.(b)** This section becomes effective June 30, 2013.
33

34 **ONE NORTH CAROLINA FUND**

35 **SECTION 15.16.** Of the funds appropriated in this act to the One North Carolina
36 Fund for the 2013-2015 biennium, the Department of Commerce may use up to two hundred
37 fifty thousand dollars (\$250,000) in each year of the biennium to cover its expenses in
38 administering the One North Carolina Fund and other economic development incentive grant
39 programs. The Department of Commerce shall not use more than two hundred fifty thousand
40 dollars (\$250,000) for administrative costs in any one fiscal year.
41

42 **INDUSTRIAL DEVELOPMENT FUND UTILITY ACCOUNT/USE OF FUNDS**

43 **SECTION 15.17.** Notwithstanding the provisions of G.S. 143B-437.01, of the
44 funds credited to the Industrial Development Fund Utility Account (Utility Account) in the
45 2013-2015 biennium, the sum of five million dollars (\$5,000,000) for each year of the
46 biennium may be used for the operating expenses of the Department of Commerce on a
47 nonrecurring basis. The remainder of the funds in the Utility Account in each year of the
48 biennium shall be awarded by the Rural Infrastructure Authority within the Department of
49 Commerce, as established by this act, for the purposes authorized in G.S. 143B-437.01.
50

51 **MODIFY INDUSTRIAL DEVELOPMENT FUND AND UTILITY ACCOUNT**

SECTION 15.18.(a) G.S. 143B-437.01 reads as rewritten:

"§ 143B-437.01. **Industrial Development Fund-Fund Utility Account.**

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce ~~the Industrial Development Fund~~ a special account to be known as the Industrial Development Fund Utility Account ("Utility Account") to provide funds to assist the local government units of the most economically distressed counties in the State in creating ~~and retaining jobs in certain industries~~ jobs. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the ~~fund account~~:

- (1) The funds shall be used for ~~(i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed industrial buildings to be used for eligible industries~~ buildings. To be eligible for funding, the water, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the ~~specific eligible industrial~~ job creation activity. To be eligible for funding, the sewer infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity, even if the sewer infrastructure is located in a county other than the county in which the building is located.
- (1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars (\$100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.
- (2) The funds shall be used by the city and county governments for projects that ~~will directly~~ are reasonably anticipated to result in the creation ~~or retention of~~ new jobs. ~~The funds shall be expended at a maximum rate of ten thousand dollars (\$10,000) per new job created or per job retained up to a maximum of five hundred thousand dollars (\$500,000) per project. There shall be no maximum funding amount per new job to be created or per project.~~
- (3) There shall be no local match requirement if the project is located in a county that has one of the 25 highest rankings under G.S. 143B-437.08 ~~or that has a population of less than 50,000 and more than nineteen percent (19%) of its population below the federal poverty level according to the most recent federal decennial census~~ G.S. 143B-437.08.
- (4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.
- (5) No project subject to the Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, shall be funded unless the Secretary of Commerce finds that the proposed project will not have a significant adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environment and Natural Resources that concludes, after

- consideration of avoidance and mitigation measures, that the proposed project will not have a significant adverse effect on the environment.
- (6) The funds shall not be used for any nonmanufacturing project that does not meet the wage standard set out in ~~G.S. 105-129.4(b)~~ G.S. 105-129.4(b) or for any retail, entertainment, or sports projects.
- (7) Priority for the use of funds shall be given to eligible industries.
- (a1) Definitions. – The following definitions apply in this section:
- (1) Air courier services. – ~~Defined in G.S. 105-129.81.~~ The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.
- (2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
- (2a) Company headquarters. – ~~Defined in G.S. 105-129.81.~~ A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.
- (3) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
- (4) Economically distressed county. – A county that ~~has one of the 65 highest rankings~~ is defined as a development tier one or two area under G.S. 143B-437.08 after the adjustments of that section are applied.
- (5) Eligible industry. – A company headquarters or a person engaged in the business of air courier services, information technology and services, manufacturing, or warehousing and wholesale trade.
- (6) Information technology and services. – ~~Defined in G.S. 105-129.81.~~ An industry in one of the following, as defined by NAICS:
- a. Data processing industry group 518.
- b. Software publishers industry group 5112.
- c. Computer systems design and related services industry group 5415.
- d. An Internet activity included in industry group 519130.
- (7) Major economic dislocation. – The actual or imminent loss of 500 or more manufacturing jobs in the county or of a number of manufacturing jobs equal to at least ten percent (10%) of the existing manufacturing workforce in the county.
- (8) Manufacturing. – ~~Defined in G.S. 105-129.81.~~ An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.
- (9) Reserved.
- (10) Warehousing. – ~~Defined in G.S. 105-129.81.~~ An industry in warehousing and storage subsector 493 as defined by NAICS.
- (11) Wholesale trade. – ~~Defined in G.S. 105-129.81.~~ An industry in wholesale trade sector 42 as defined by NAICS.
- (b) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5.
- ~~(b1) There is created within the Industrial Development Fund a special account to be known as the Utility Account to provide funds to assist the local government units of the counties that have one of the 65 highest rankings under G.S. 143B-437.08 after the adjustments of that section are applied in creating jobs in eligible industries. The Department of Commerce shall adopt rules providing for the administration of the program. Except as otherwise provided in this subsection, those rules shall be consistent with the rules adopted with respect to the Industrial Development Fund. The rules shall provide that the funds in the Utility Account may be used only for construction of or improvements to new or existing water, sewer, gas, telecommunications, high speed broadband, electrical utility distribution lines or equipment, or~~

transportation infrastructure for existing or new or proposed industrial buildings to be used for eligible industrial operations. To be eligible for funding, the water, sewer, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific industrial activity. There shall be no maximum funding amount per new job to be created or per project.

(c), (c1) Repealed by Session Laws 2012-142, s. 13.4(c), effective July 1, 2012.

(d) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5."

SECTION 15.18.(b) G.S. 105-129.81 reads as rewritten:

"§ 105-129.81. Definitions.

The following definitions apply in this Article:

(2) Air courier services. – ~~The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.~~ Defined in G.S. 143B-437.01.

(5) Company headquarters. – ~~A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.~~ Defined in G.S. 143B-437.01.

(13) Information technology and services. – Defined in G.S. 143B-437.01. ~~An industry in one of the following, as defined by NAICS:~~

a. ~~Data processing industry group 518.~~

b. ~~Software publishers industry group 5112.~~

c. ~~Computer systems design and related services industry group 5415.~~

d. ~~An Internet activity included in industry group 519130.~~

(15) Manufacturing. – ~~An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.~~ Defined in G.S. 143B-437.01.

(25) Warehousing. – ~~An industry in warehousing and storage subsector 493 as defined by NAICS.~~ Defined in G.S. 143B-437.01.

(26) Wholesale trade. – ~~An industry in wholesale trade sector 42 as defined by NAICS.~~ Defined in G.S. 143B-437.01."

SECTION 15.18.(c) G.S. 143B-437.012(d) reads as rewritten:

"(d) Eligibility. – A business is eligible for consideration for a grant under this section if it satisfies the conditions of either subdivision (1) or (2) of this subsection and satisfies the conditions of both subdivisions (3) and (4) of this subsection:

(2) The business is a large manufacturing employer. A business is a large manufacturing employer if the business meets the following requirements:

a. The business is in manufacturing, as defined in ~~G.S. 105-129.81,~~ G.S. 143B-437.01, and is converting its manufacturing process to change the product it manufactures.

b. The Department certifies that the business has invested or intends to invest at least sixty-five million dollars (\$65,000,000) of private funds in improvements to real property and additions to tangible

1 personal property in the project within a three-year period beginning
2 with the time the investment commences.

- 3 c. The business employs at least 320 full-time employees at the project
4 that is the subject of the grant at the time the application is made, and
5 the business agrees to maintain at least 320 full-time employees at
6 the project for the full term of the grant.

7"

8 **SECTION 15.18.(d)** G.S. 143B-435.1(d) reads as rewritten:

9 "(d) Report. – By April 1 and October 1 of each year, the Department of Commerce shall
10 report to the Revenue Laws Study Committee, the Joint Legislative Commission on
11 Governmental Operations, the Senate Appropriations Committee on Natural and Economic
12 Resources, the House of Representatives Appropriations Subcommittee on Natural and
13 Economic Resources, and the Fiscal Research Division of the ~~General Assembly~~ Legislative
14 Services Commission on (i) all clawbacks that have been triggered under the One North
15 Carolina Fund established pursuant to G.S. 143B-437.71, the Job Development Investment
16 Grant Program established pursuant to G.S. 143B-437.52, Job Maintenance and Capital
17 Development Fund established pursuant to G.S. 143B-437.012, the ~~Industrial Development~~
18 ~~Fund and~~ Utility Account established pursuant to G.S. 143B-437.01, and the Site Infrastructure
19 Fund established pursuant to G.S. 143B-437.02 and (ii) its progress on obtaining repayments.
20 The report must include the name of each business, the event that triggered the clawback, and
21 the amount forfeited or to be repaid."

22 **SECTION 15.18.(e)** G.S. 143B-437.07(c) reads as rewritten:

23 "(c) Economic Development Incentive. – An economic development incentive includes
24 any grant from the following programs: Job Development Investment Grant Program; the Job
25 Maintenance and Capital Development Fund; One North Carolina Fund; and the ~~Industrial~~
26 ~~Development Fund, including the~~ Utility Account. The State also incents economic
27 development through the use of tax expenditures in the form of tax credits and refunds. The
28 Department of Revenue must report annually on these statutory economic development
29 incentives, as required under G.S. 105-256."

30 **SECTION 15.18.(f)** G.S. 143B-437.55(c) reads as rewritten:

31 "(c) Annual Reports. – The Committee shall publish a report on the Job Development
32 Investment Grant Program on or before April 30 of each year. The Committee shall submit the
33 report electronically to the House of Representatives Finance Committee, the Senate Finance
34 Committee, the House of Representatives Appropriations Subcommittee on Natural and
35 Economic Resources, the Senate Appropriations Committee on Natural and Economic
36 Resources, and the Fiscal Research Division. The report shall include the following:

37 ...

- 38 (13) The total amount transferred to the Utility Account ~~of the Industrial~~
39 ~~Development Fund~~ under this Part during the preceding year."

40 **SECTION 15.18.(g)** G.S. 143B-437.61 reads as rewritten:

41 "**§ 143B-437.61. Transfer to Industrial Development Fund.** Fund Utility Account.

42 At the time the Department of Commerce remits a check to a business under
43 G.S. 143B-437.60, the Department of Commerce shall transfer to the Utility Account ~~of the~~
44 ~~Industrial Development Fund~~ an amount equal to the amount certified by the Committee as the
45 difference between the amount of the grant and the amount of the grant for which the business
46 would be eligible without regard to G.S. 143B-437.56(d)."

47 **SECTION 15.18.(h)** The Department of Commerce, in conjunction with the Office
48 of the State Controller, shall close the Industrial Development Fund and the Utility Account
49 and shall transfer the remaining fund balances of each to the Industrial Development Fund
50 Utility Account.

1 **SECTION 15.18.(i)** This section becomes effective July 1, 2013, and applies to
2 projects for which funds are initially provided on or after that date.

3
4 **JOB DEVELOPMENT INVESTMENT GRANT PROGRAM MODIFICATIONS**

5 **SECTION 15.19.(a)** G.S. 143B-437.52 reads as rewritten:

6 **"§ 143B-437.52. Job Development Investment Grant Program.**

7 ...
8 (b) Cap and Priority. – The maximum number of grants the Committee may award in
9 each calendar year is 25. In selecting between applicants, a project that is located in an
10 Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project
11 that is not located in a certified Eco-Industrial Park.

12 (c) Awards. – The maximum amount of total annual liability for grants awarded in any
13 single calendar year under this Part, including amounts transferred to the Utility Account
14 pursuant to G.S. 143B-437.61, is fifteen million dollars (\$15,000,000). No agreement may be
15 entered into that, when considered together with other existing agreements governing grants
16 awarded during a single calendar year, could cause the State's potential total annual liability for
17 grants awarded in a single calendar year to exceed this amount. The Department shall make
18 every effort to ensure that the average percentage of withholdings of eligible positions for
19 grants awarded under this Part does not exceed the average of the range provided in
20 G.S. 143B-437.56(a).

21 "

22 **SECTION 15.19.(b)** G.S. 143B-437.55(b) reads as rewritten:

23 "(b) Application Fee. – When filing an application under this section, the business must
24 pay the Committee a fee of five thousand dollars (\$5,000). The fee is due at the time the
25 application is filed. The Secretary of Commerce, the Secretary of Revenue, and the Director of
26 the Office of State Budget and Management shall determine the allocation of the fee imposed
27 by this section among their agencies. The proceeds of the fee are receipts of the agency to
28 which they are credited. Within 30 days of receipt of an application under this section but prior
29 to any award being made, the Department of Commerce shall notify each governing body of an
30 area where a submitted application proposes locating a project of the information listed in this
31 subsection, provided that the governing body agrees, in writing, to any confidentiality
32 requirements imposed by the Department under G.S. 132-6(d). The information required by
33 this subsection includes all of the following:

- 34 (1) The estimated amount of the grant anticipated to be awarded to the applicant
35 for the project.
36 (2) Any economic impact data submitted with the application or prepared by the
37 Department.
38 (3) Any economic impact estimated by the Department to result from the
39 project."

40 **SECTION 15.19.(c)** This section becomes effective July 1, 2013, and applies to
41 applications and awards made on or after that date.

42
43 **JOB DEVELOPMENT INVESTMENT GRANT PROGRAM APPLICATION FEE**
44 **INCREASE**

45 **SECTION 15.20.(a)** G.S. 143B-437.55(b) reads as rewritten:

46 "(b) Application Fee. – When filing an application under this section, the business must
47 pay the Committee a fee of ~~five thousand dollars (\$5,000).~~ ten thousand dollars (\$10,000). The
48 fee is due at the time the application is filed. The Secretary of Commerce, the Secretary of
49 Revenue, and the Director of the Office of State Budget and Management shall determine the
50 allocation of the fee imposed by this section among their agencies. The proceeds of the fee are
51 receipts of the agency to which they are credited."

1 **SECTION 15.20.(b)** This section becomes effective July 1, 2013, and applies to
2 applications filed on or after that date.

3
4 **JOB DEVELOPMENT INVESTMENT GRANT PROGRAM REPORTING FEE**
5 **INCREASE**

6 **SECTION 15.21.(a)** G.S. 143B-437.58(a) reads as rewritten:

7 "(a) No later than March 1 of each year, for the preceding grant year, every business that
8 is awarded a grant under this Part shall submit to the Committee an annual payroll report
9 showing withholdings as a condition of its continuation in the grant program and identifying
10 eligible positions that have been created during the base period that remain filled at the end of
11 each year of the grant. Annual reports submitted to the Committee shall include social security
12 numbers of individual employees identified in the reports. Upon request of the Committee, the
13 business shall also submit a copy of its State and federal tax returns. Payroll and tax
14 information, including social security numbers of individual employees and State and federal
15 tax returns, submitted under this subsection is tax information subject to G.S. 105-259.
16 Aggregated payroll or withholding tax information submitted or derived under this subsection
17 is not tax information subject to G.S. 105-259. When making a submission under this section,
18 the business must pay the Committee a fee of ~~one thousand five hundred dollars (\$1,500)~~ the
19 greater of two thousand five hundred dollars (\$2,500) or three one-hundredths of one percent
20 (.03%) of an amount equal to the grant less the maximum amount to be transferred pursuant to
21 G.S. 143B-437.61. The fee is due at the time the submission is made. The Secretary of
22 Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and
23 Management shall determine the allocation of the fee imposed by this section among their
24 agencies. The proceeds of the fee are receipts of the agency to which they are credited."

25 **SECTION 15.21.(b)** This section becomes effective July 1, 2013, and applies to
26 fees submitted for awards granted on or after that date.

27
28 **TRANSFER STATE ENERGY OFFICE FROM COMMERCE TO DENR**

29
30 **GENERAL**

31 **SECTION 15.22.(a)** The State Energy Office is hereby transferred from the
32 Department of Commerce to the Department of Environment and Natural Resources. This
33 transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

34
35 **ENERGY LOAN FUND**

36 **SECTION 15.22.(b)** Part 2C of Article 10 of Chapter 143B of the General
37 Statutes, G.S. 143B-437.14 through G.S. 143B-437.16, is recodified as Part 32 of Article 7 of
38 Chapter 143B of the General Statutes, G.S. 143B-344.42 through G.S. 143B-344.44.

39 **SECTION 15.22.(c)** G.S. 143B-437.16, recodified as G.S. 143B-344.44 in
40 subsection (b) of this section, reads as rewritten:

41 "**§ 143B-344.44. Lead agency; powers and duties.**

42 (a) For the purposes of this Part, the Department of ~~Commerce, Environment and~~
43 Natural Resources, State Energy Office, is designated as the lead State agency in matters
44 pertaining to energy efficiency.

45 "

46
47 **GUARANTEED ENERGY SAVINGS CONTRACTS**

48 **SECTION 15.22.(d)** G.S. 143-64.17F reads as rewritten:

49 "**§ 143-64.17F. State agencies to use contracts when feasible; rules; recommendations.**

50 ...

(b) The Department of Administration, in consultation with the Department of ~~Commerce~~-Environment and Natural Resources, through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer. The rules adopted pursuant to this subsection shall not apply to energy conservation measures implemented pursuant to G.S. 143-64.17L.

(c) The Department of Administration, and the Department of ~~Commerce~~-Environment and Natural Resources through the State Energy Office, may provide to the Council of State its recommendations concerning any energy savings contracts being considered."

SECTION 15.22.(e) G.S. 143-64.17G reads as rewritten:

"§ 143-64.17G. Report on guaranteed energy savings contracts entered into by local governmental units.

A local governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the Local Government Commission and the State Energy Office of the Department of ~~Administration~~-Environment and Natural Resources. The Commission shall compile the information and report it biennially to the Joint Commission on Governmental Operations. In compiling the information, the Local Government Commission shall include information on the energy savings expected to be realized from a contract and, with the assistance of the Office of State Construction and the State Energy Office, shall evaluate whether expected savings have in fact been realized."

SECTION 15.22.(f) G.S. 143-64.17H reads as rewritten:

"§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.

A State governmental unit that enters into a guaranteed energy savings contract or implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i) the contract and the terms of the contract or (ii) the implementation of the measure to the State Energy Office of the Department of ~~Commerce~~-Environment and Natural Resources within 30 days of the date the contract is entered into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract or implementation and shall evaluate whether expected savings have in fact been realized."

ENERGY ASSISTANCE FOR LOW-INCOME PERSONS

SECTION 15.22.(g) The programs administered under the North Carolina Energy Assistance Act for Low-Income Persons, being the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program, and any other energy-related assistance program for the benefit of low-income persons in existing housing, are transferred from the Department of Commerce to the State Energy Office in the Department of Environment and Natural Resources. The transfer under this subsection shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 15.22.(h) Part 9 of Article 2 of Chapter 108A of the General Statutes, G.S. 108A-70.30, is recodified as Part 33 of Article 7 of Chapter 143B of the General Statutes, G.S. 143B-344.46.

1 **SECTION 15.22.(i)** G.S. 108A-70.30, recodified as G.S. 143B-344.46 in
2 subsection (h) of this section, reads as rewritten:

3 **"§ 143B-344.46. Weatherization Assistance Program and Heating/Air Repair and**
4 **Replacement Program.**

5 The State Energy Office within the Department may administer the Weatherization
6 Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement
7 Program functions. Nothing in this Part shall be construed as obligating the General Assembly
8 to appropriate funds for the Program or as entitling any person to services under the Program."

9 **SECTION 15.22.(j)** Part 21 of Article 10 of Chapter 143B of the General Statutes,
10 G.S. 143B-472.121 through 143B-472.123, is recodified as Part 34 of Article 7 of Chapter
11 143B of the General Statutes, G.S. 143B-344.48 through G.S. 143B-344.50.

12 **SECTION 15.22.(k)** G.S. 143B-472.122, recodified as G.S. 143B-344.49 in
13 subsection (j) of this section, and G.S. 143B-472.123, recodified as G.S. 143B-344.50 in
14 subsection (j) of this section, read as rewritten:

15 **"§ 143B-344.49. Definitions.**

16 The following definitions apply to this Part:

17 ...

18 (2) Department. – The Department of ~~Commerce~~Environment and Natural
19 Resources.

20 (3) Secretary. – The Secretary of ~~Commerce~~the Department of Environment
21 and Natural Resources.

22

23 **"§ 143B-344.50. The ~~Office of Economic Opportunity~~State Energy Office designated**
24 **agency; powers and duties.**

25 (a) The ~~Office of Economic Opportunity of the Department~~State Energy Office in the
26 Department of Environment and Natural Resources shall administer the Weatherization
27 Assistance Program for Low-Income Families established by 42 U.S.C. § 6861, et seq., and 42
28 U.S.C. § 7101, et seq.; the Heating/Air Repair and Replacement Program established by the
29 Secretary under ~~G.S. 108A-70.30; G.S. 143B-344.46;~~ and any other energy-related assistance
30 program for the benefit of low-income persons in existing housing. The ~~Office of Economic~~
31 OpportunityState Energy Office shall exercise the following powers and duties:

32 ...

33 (8) Create a Policy Advisory Council within the ~~Office of Economic~~
34 OpportunityState Energy Office that shall advise the ~~Office of Economic~~
35 OpportunityState Energy Office with respect to the development and
36 implementation of a Weatherization Program for Low-Income Families, the
37 Heating/Air Repair and Replacement Program, and any other energy-related
38 assistance program for the benefit of low-income persons in existing
39 housing.

40 "

41
42 **ENERGY POLICY COUNCIL**

43 **SECTION 15.22.(l)** G.S. 113B-2 reads as rewritten:

44 **"§ 113B-2. Creation of Energy Policy Council; purpose of Council.**

45 (a) There is hereby created a council to advise and make recommendations on energy
46 policy to the Governor and the General Assembly to be known as the Energy Policy Council
47 which shall be located within the Department of ~~Commerce~~Environment and Natural
48 Resources.

49 (b) Except as otherwise provided in this Chapter, the powers, duties and functions of
50 the Energy Policy Council shall be as prescribed by the Secretary of ~~Commerce~~the Department
51 of Environment and Natural Resources.

(c) The Energy Policy Council shall serve as the central energy policy planning body of the State and shall communicate and cooperate with federal, State, regional and local bodies and agencies to the end of effecting a coordinated energy policy."

SECTION 15.22.(m) G.S. 113B-11 reads as rewritten:

"§ 113B-11. Powers and authority.

(c) The Council shall have authority to apply for and utilize grants, contributions and appropriations in order to carry out its duties as defined in Articles 1 and 2 of this Chapter, provided, however, that all such applications and requests are made through and administered by the Department of ~~Commerce~~Environment and Natural Resources.

(e) The Department of ~~Commerce~~Environment and Natural Resources shall provide the staffing capability to the Energy Policy Council so as to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article. The Utilities Commission is hereby authorized to make its staff available to the Council to assist in the development of a State energy policy."

PURCHASES AND CONTRACTS

SECTION 15.22.(n) G.S. 143-58.4 reads as rewritten:

"§ 143-58.4. Energy credit banking and selling program.

(a) The following definitions apply in this section:

(4) Department. – The Department of ~~Commerce~~The Department of Environment and Natural Resources.

(c) Adopt Rules. – The Secretary of ~~Commerce~~Environment and Natural Resources shall adopt rules as necessary to implement this section."

ENERGY POLICY AND LIFE-CYCLE COST ANALYSIS

SECTION 15.22.(o) G.S. 143-64.11 reads as rewritten:

"§ 143-64.11. Definitions.

For purposes of this Article:

(2a) "Energy Office" means the State Energy Office of the Department of ~~Commerce~~Environment and Natural Resources.

...."

SECTION 15.22.(p) G.S. 143-64.12 reads as rewritten:

"§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.

(a) The Department of ~~Commerce~~Environment and Natural Resources through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college

shall submit to the State Energy Office an annual written report of utility consumption and costs. Management plans submitted annually by State institutions of higher learning shall include all of the following:

...."

SECTION 15.22.(q) The Revisor of Statutes shall make any other conforming statutory changes that are necessary to reflect the transfer under subsection (a) of this section.

STAFF FOR RURAL ECONOMIC DEVELOPMENT DIVISION AND WATER INFRASTRUCTURE DIVISION

SECTION 15.23. The Departments of Commerce and Environment and Natural Resources shall work together to determine a way in which to equitably distribute the employees within the Department of Commerce, Division of Community Assistance, responsible for the CDBG program between the Rural Economic Development Division, as established by this act, and the Water Infrastructure Division, as established by this act.

OREGON INLET LAND ACQUISITION TASK FORCE

SECTION 15.24.(a) There is hereby created the Oregon Inlet Land Acquisition Task Force for the purpose of determining, reviewing, and considering the State's options for acquiring the federal government's right, title, and interest in Oregon Inlet and the real property adjacent thereto, including submerged lands. A more particular description of the property to be acquired is provided in subsection (h) of this section. Acquiring the property described in subsection (h) of this section will allow the State to preserve Oregon Inlet and to develop long-term management solutions for preserving and enhancing the navigability of Oregon Inlet, which is both a critical transportation corridor and a critical source of commerce for the State's Outer Banks. The Task Force shall have duties including the following:

- (1) Consulting with the State Property Office and agencies and departments of the federal government, including the United States Department of Fish and Wildlife, United States National Park Service, Congressional Budget Office, and members of the North Carolina congressional delegation to establish the monetary value of Oregon Inlet and the real property adjacent thereto.
- (2) Determining whether and to what degree the federal government will sell to the State Oregon Inlet and the real property adjacent thereto or exchange the property for State-owned real property. If the federal government expresses a willingness to exchange the property for State-owned property, the Task Force shall determine the identity of the State-owned property and the monetary value of the property.
- (3) Exploring any and all options for acquiring Oregon Inlet and the real property adjacent thereto, including condemnation of the coastal lands conveyed to the federal government in a deed dated August 7, 1958, and recorded September 3, 1958, in the Dare County Registry of Deeds.
- (4) Considering any other issues deemed relevant by the Task Force that are related to the acquisition of Oregon Inlet and the real property adjacent thereto.

SECTION 15.24.(b) The Task Force shall consist of the following 13 members:

- (1) The Governor or the Governor's designee, who shall be chair.
- (2) The Commissioner of Agriculture and Consumer Services or the Commissioner's designee.
- (3) The Secretary of the Department of Administration or the Secretary's designee.
- (4) The Secretary of the Department of Commerce or the Secretary's designee.

- (5) The Secretary of the Department of Environment and Natural Resources or the Secretary's designee.
- (6) The Secretary of the Department of Public Safety or the Secretary's designee.
- (7) The Secretary of the Department of Transportation or the Secretary's designee.
- (8) The Attorney General or the Attorney General's designee.
- (9) Two members of the Senate appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.
- (10) Two members of the House of Representatives appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
- (11) The chair of the Dare County Board of Commissioners or the chair's designee.

SECTION 15.24.(c) The terms of the members appointed under subsection (b) of this section shall commence on July 1, 2013. A vacancy on the Task Force shall be filled by the Governor, except that a vacancy in an appointment by the General Assembly shall be filled by the original appointing authority.

SECTION 15.24.(d) The Task Force shall meet at the call of the Governor. All members of the Task Force are voting members. A majority of the members of the Task Force constitutes a quorum.

SECTION 15.24.(e) Members of the Task Force shall receive no compensation for their service, but may receive per diem, travel, and subsistence allowances in accordance with G.S. 120-3.1, 138-5, and 138-6, as appropriate. No State funds shall be appropriated to the Task Force or to any State agency or department for the Task Force.

SECTION 15.24.(f) The Department of Commerce shall provide staff to the Task Force. All State agencies and departments shall provide assistance to the Task Force upon request.

SECTION 15.24.(g) By May 1, 2014, the Task Force shall submit a report detailing its findings and recommendations to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the General Assembly. The Task Force shall terminate upon the filing of the report required by this subsection.

SECTION 15.24.(h) The federally owned property to be acquired by the State shall include all of the federal government's right, title, and interest in the real property, including submerged lands, located within the area described by connecting the following latitude and longitude points:

<u>Latitude:</u>	<u>Longitude:</u>
35.78867341400	-75.53323291600
35.78099563900	-75.52953510600
35.78178528500	-75.52513394400
35.78141354400	-75.52334019100
35.77887390700	-75.52025162500
35.77857436500	-75.51969654900
35.77781290800	-75.51900873900
35.77734893400	-75.51884305500
35.77110009400	-75.51641608800
35.76633568000	-75.51356516200
35.76116258500	-75.51036495800
35.75751496100	-75.50801176500
35.75608651600	-75.51228522200
35.75777480300	-75.51379949200

1	35.75860596900	-75.51451482100
2	35.75960484700	-75.51540263600
3	35.76100041400	-75.51665469900
4	35.76117351400	-75.51681019600
5	35.76212525300	-75.51767780700
6	35.76287562800	-75.51836186100
7	35.76316770200	-75.51862812200
8	35.76381492400	-75.51921814800
9	35.76415098700	-75.51955669900
10	35.76445468400	-75.51995078300
11	35.76485826900	-75.52059025200
12	35.76505577400	-75.52094720300
13	35.76528160600	-75.52142243500
14	35.76548548000	-75.52198988800
15	35.76556574300	-75.52341266800
16	35.76566877400	-75.52523906000
17	35.76454632200	-75.52902085700
18	35.76357138700	-75.53246190700
19	35.76337226200	-75.53339199600
20	35.76333441200	-75.53364756500
21	35.76332909000	-75.53390886900
22	35.76335819500	-75.53458675100
23	35.76341367100	-75.53498008200
24	35.76354478800	-75.53535025300
25	35.76361737400	-75.53547511500
26	35.76383009500	-75.53584104000
27	35.76425804000	-75.53655388200
28	35.76471137600	-75.53740653000
29	35.76502225800	-75.53875413900
30	35.76521060100	-75.54081681300
31	35.76523404100	-75.54194712400
32	35.76525043500	-75.54273769600
33	35.76526768700	-75.54353888100
34	35.76532715800	-75.54394387700
35	35.76541340600	-75.54428520100
36	35.76550080400	-75.54463107400
37	35.76577010000	-75.54534161500
38	35.76597248500	-75.54579049600
39	35.76632062300	-75.54620555000
40	35.76655164400	-75.54635947100
41	35.76725670200	-75.54660003000
42	35.76764041200	-75.54670534600
43	35.76795847900	-75.54670661900
44	35.77077784300	-75.54629895400
45	35.77115918300	-75.54624921300
46	35.77148150500	-75.54619720600
47	35.77234520600	-75.54605784500
48	35.77377517700	-75.54582711000
49	35.77469339200	-75.54566942900
50	35.77590248800	-75.54531166000
51	35.77673545200	-75.54571296000

1	35.77711645600	-75.54582301200
2	35.77742981800	-75.54581293600
3	35.77771608200	-75.54572387500
4	35.77791539100	-75.54559449800
5	35.77810904100	-75.54546879500
6	35.77904847600	-75.54478184500
7	35.77912430900	-75.54486803600
8	35.77981427400	-75.54534862400
9	35.78042966800	-75.54567367500
10	35.78135818100	-75.54600030500
11	35.78175635200	-75.54606539500
12	35.78221194600	-75.54612839200
13	35.78279713100	-75.54636296300
14	35.78378882800	-75.54668308800
15	35.78766932400	-75.54709605000
16	35.79082109200	-75.54691243300
17	35.79820587700	-75.54665906000
18	35.79859286600	-75.54249624600
19	35.80046065100	-75.53877586500
20	35.79408521600	-75.53252823100
21	35.79248815800	-75.53183764800
22	35.79151104100	-75.53197071600
23	35.78867341400	-75.53323291600
24	35.76886839300	-75.52536743000
25	35.76724598100	-75.52438052100
26	35.76805629700	-75.52240411900
27	35.76966632600	-75.52339266000
28	35.76886839300	-75.52536743000.

COMMERCE NONPROFITS/REPORTING REQUIREMENTS AND USE OF STATE FUNDS

SECTION 15.25.(a) High Point Furniture Market Authority and RTI International shall do the following:

- (1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.
- (2) Provide to the Fiscal Research Division a copy of the entity's annual audited financial statement within 30 days of issuance of the statement.

SECTION 15.25.(b) No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of an entity listed in subsection (a) of this section. For purposes of this section, the term "State funds" means funds appropriated or allocated to an entity and interest earned on those funds.

SECTION 15.25.(c) No State funds shall be used by an entity listed in subsection (a) of this section (i) to hire or facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist, without regard to the person's title or (ii) to facilitate any lobbying efforts.

SECTION 15.25.(d) Funds appropriated in this act to RTI International shall be used to support new research that is conducted in the State of North Carolina. Funds

appropriated to RTI International for the 2013-2014 fiscal year that are unexpended and unencumbered as of June 30, 2014, shall revert to the General Fund on June 30, 2014.

RURAL CENTER/REPEAL STATUTORY REFERENCES

SECTION 15.26.(a) G.S. 106-744 reads as rewritten:

"§ 106-744. Purchase of agricultural conservation easements; establishment of North Carolina Agricultural Development and Farmland Preservation Trust Fund and Advisory Committee.

...
(g) There is established the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee. The Advisory Committee shall be administratively located within the Department of Agriculture and Consumer Services and shall advise the Commissioner on the prioritization and allocation of funds, the development of criteria for awarding funds, program planning, and other areas where monies from the Trust Fund can be used to promote the growth and development of family farms in North Carolina. The Advisory Committee shall be composed of 19 members as follows:

...
(7) ~~The Executive Director of the North Carolina Rural Economic Development Center, Inc., or the Executive Director's designee.~~ The Assistant Secretary for the Rural Economic Development Division within the Department of Commerce or the Assistant Secretary's designee.

...."

SECTION 15.26.(b) The Revisor of Statutes may, where necessitated by this section, correct any reference in the General Statutes and make any other conforming changes.

RURAL CENTER/EXPENSES FOR ADMINISTERING STATE-FUNDED GRANT PROGRAMS

SECTION 15.27.(a) The North Carolina Rural Economic Development Center, Inc. (Rural Center), may repurpose funds previously appropriated by the General Assembly for grant and loan programs to administer State-funded programs. Up to three million dollars (\$3,000,000) in the 2013-2014 fiscal year and up to three million dollars (\$3,000,000) in the 2014-2015 fiscal year of any unencumbered funds appropriated to the Rural Center in prior fiscal years may be repurposed to cover administrative expenses associated with State-funded programs. However, prior to repurposing funds to cover administrative expenses as provided in this subsection, the Rural Center shall first expend all State funds appropriated in prior fiscal years for administrative expenses.

SECTION 15.27.(b) No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of the Rural Center. For purposes of this section, the term "State funds" means funds appropriated or allocated to an entity and interest earned on those funds.

SECTION 15.27.(c) No State funds shall be appropriated or allocated to the Rural Center for the 2013-2015 biennium, including grants, loans, or any other awards made by a State agency, department, or other entity. No nonprofit to whom State funds were appropriated or allocated in prior fiscal years or the 2013-2015 biennium shall grant, loan, or give any of those State funds to the Rural Center.

REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS/STATUTES CREATING COMMISSIONS REPEALED

SECTION 15.28.(a) Articles 2 and 4 of Chapter 158 of the General Statutes are repealed.

SECTION 15.28.(b) Upon the dissolution of North Carolina's Eastern Region, the North Carolina's Eastern Region Development Commission, the governing body of North Carolina's Eastern Region, shall liquidate the assets of the Region to the extent possible and distribute all Region assets to the counties of the Region in proportion to the amount of the vehicle registration tax levied by the Commission and collected in each county. The assets of the Region that exceed the amount of the vehicle registration tax collected by the counties and are attributable to an appropriation made to the Region by the General Assembly shall revert to the General Fund and may not be distributed to the counties. A county may use funds distributed to it pursuant to this subsection only for economic development projects and infrastructure construction projects. In calculating the amount to be refunded to each county, the Region shall first allocate amounts loaned and not yet repaid as follows:

- (1) Amounts loaned for a project in a county will be allocated to that county to the extent of its beneficial ownership of the principal of the interest-bearing trust account in which the proceeds of the vehicle registration tax levied by the Commission were placed, and the county will become the owner of the right to repayment of the amount loaned to the extent of its beneficial ownership of the principal of the trust account.
- (2) Amounts not allocated pursuant to subdivision (1) of this subsection shall be allocated among the remaining counties in proportion to the amount of the vehicle registration tax collected in each county, and the remaining counties shall become the owners of the right to repayment of the amounts loaned in proportion to the amount of the vehicle registration tax collected in each county.

Notes and other instruments representing the right to repayment shall, upon dissolution of the Region, be held and collected by the State Treasurer, who shall disburse the collections to the counties as provided in this subsection.

The Commission shall distribute those assets that it is unable to liquidate among the Region counties insofar as practical on an equitable basis, as determined by the Commission. Upon dissolution, the State of North Carolina shall succeed to any remaining rights, obligations, and liabilities of the Region not assigned to the Region counties.

SECTION 15.28.(c) G.S. 120-123 reads as rewritten:

"§ 120-123. Service by members of the General Assembly on certain boards and commissions.

No member of the General Assembly may serve on any of the following boards or commissions:

...

~~(62) The North Carolina's Northeast Commission, as established by G.S. 158-8.2.~~
~~...."~~

SECTION 15.28.(d) G.S. 143-215.42 reads as rewritten:

"§ 143-215.42. Acquisition of lands.

...

(h) This section shall not authorize acquisition by condemnation of interests in land within the boundaries of any project to be constructed by the Tennessee Valley Authority, its agents or subdivision or any project licensed by the Federal Power Commission or interests in land owned or held for use by a public utility, as defined in G.S. 62-3. ~~No commission created pursuant to G.S. 158-8 shall condemn or acquire any property to be used by the Tennessee Valley Authority, its agents or subdivision."~~

SECTION 15.28.(e) G.S. 143-506.10 reads as rewritten:

"§ 143-506.10. Designation of growth centers; achieving balanced growth.

It shall be the policy of the State of North Carolina to support the expansion of the State and to designate growth areas or centers with the potential, capacity and desire for growth. The

Governor, with the advice of county and municipal government officials and citizens, is charged with designating growth areas or centers, which shall include at least one center in each North Carolina county. Designation of growth areas or centers shall be reviewed annually. These designations may be used for the purpose of establishing priority consideration for State and federal assistance for growth.

Progress toward achieving balanced growth shall be measured by the strengthening of economic activity and the adequacy of public services within each of the State's multi-county ~~regions and, as to the geographical area included, the Southeastern Economic Development Commission regions.~~ The Governor, with the advice of county and municipal government officials and citizens, shall develop measures of progress toward achieving balanced growth."

SECTION 15.28.(f) G.S. 153A-398 reads as rewritten:

"§ 153A-398. Regional planning and economic development commissions.

Two or more counties, cities, or counties and cities may create a regional planning and economic development commission by adopting identical concurrent resolutions to that effect. Such a commission has the powers granted by this ~~Article and the powers granted by Chapter 158, Article 2, Article.~~ If such a commission is created, it shall maintain separate books of account for appropriations and expenditures made pursuant to this ~~Article and for appropriations and expenditures made pursuant to Chapter 158, Article 2, Article.~~"

SECTION 15.28.(g) The Revisor of Statutes may, where necessitated by this section, correct any reference in the General Statutes and make any other conforming changes.

HIGH POINT MARKET AUTHORITY/HOUSE COMMERCE ECONOMIC DEVELOPER POSITION

SECTION 15.29. To receive State funds, the High Point Market Authority shall provide suitable work space for a Department of Commerce economic developer position.

NC BIOTECHNOLOGY CENTER

SECTION 15.30.(a) Of the funds appropriated in this act to the North Carolina Biotechnology Center (hereinafter "Center"), the sum of eight million six hundred thousand three hundred thirty-eight dollars (\$8,600,338) for each fiscal year in the 2013-2015 biennium shall be allocated as follows:

- (1) Job Creation: Ag Biotech Initiative, Economic and Industrial Development, and related activities – \$1,852,063;
- (2) Science and Commercialization: Science and Technology Development, Centers of Innovation, Business and Technology Development, Education and Training, and related activities – \$5,566,743; and
- (3) Center Operations: Administration, Professional and Technical Assistance and Oversight, Corporate Communications, Human Resource Management, Financial and Grant Administration, Legal, and Accounting – \$1,181,532.

SECTION 15.30.(b) Except to provide administrative flexibility, up to ten percent (10%) of each of the allocations in subsection (a) of this section may be reallocated to one or more of the other allocations in subsection (a) of this section if, in the judgment of Center management, the reallocation will advance the mission of the Center.

SECTION 15.30.(c) The Center shall comply with the following reporting requirements:

- (1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

- (2) Provide to the Fiscal Research Division a copy of the Center's annual audited financial statement within 30 days of issuance of the statement.

SECTION 15.30.(d) No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of the Center. For purposes of this section, the term "State funds" means funds appropriated or allocated to an entity and interest earned on those funds.

SECTION 15.30.(e) No State funds shall be used by the Center (i) to hire or facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist, without regard to the person's title or (ii) to facilitate any lobbying efforts.

NC BIOTECHNOLOGY CENTER/CHALLENGE GRANT

SECTION 15.31.(a) It is the intent of the General Assembly that the North Carolina Biotechnology Center (hereinafter "Center") raise at least one million dollars (\$1,000,000) in non-State funds for the 2013-2014 fiscal year and at least two million dollars (\$2,000,000) in non-State funds for the 2014-2015 fiscal year. Receipts collected in prior fiscal years, State funds previously appropriated to the Center, and interest earned on State funds appropriated to the Center cannot be used as matching funds required by this section.

SECTION 15.31.(b) For the 2013-2014 fiscal year, the Center shall receive allocations as follows:

- (1) Three-fourths of the funds appropriated in this act for the 2013-2014 fiscal year will be distributed to the Center in regular installments between July 1, 2013, and March 31, 2014.
- (2) The remaining one-fourth of the funds appropriated in this act for the 2013-2014 fiscal year will be distributed in the fourth quarter of the fiscal year after demonstrating to the Department of Commerce that it has received at least the sum of one million dollars (\$1,000,000) in non-State funds to match this allotment.

SECTION 15.31.(c) For the 2014-2015 fiscal year, the Center shall receive allocations as follows:

- (1) One-half of the funds appropriated in this act for the 2014-2015 fiscal year will be distributed to the Center in regular installments between July 1, 2014, and December 31, 2014.
- (2) One-fourth of the funds appropriated in this act for the 2014-2015 fiscal year will be distributed in the third quarter of the fiscal year after demonstrating to the Department of Commerce that it has received at least the sum of one million dollars (\$1,000,000) in non-State funds to match this allotment.
- (3) The remaining one-fourth of the funds appropriated in this act for the 2014-2015 fiscal year will be distributed in the fourth quarter of the fiscal year after demonstrating to the Department of Commerce that it has received at least the sum of one million dollars (\$1,000,000) in non-State funds in addition to the requirements provided in subdivision (2) of this subsection.

NORTH CAROLINA BIOTECHNOLOGY CENTER/EXAMINE CENTER OPERATIONS

SECTION 15.32.(a) The Board of Directors (hereinafter "Board") of the North Carolina Biotechnology Center (hereinafter "Center") shall review and examine each aspect of the Center's operations to determine ways in which efficiencies and cost savings can be achieved. The review required by this section shall include evaluating:

- (1) The activities conducted at the Center's headquarters in Research Triangle Park to determine how each and every activity is necessary to achieve the

goals for which State funds are appropriated. Any unnecessary or duplicative activities shall be reduced or eliminated.

(2) The activities conducted at the Center's regional offices and how those activities can be consolidated and performed in fewer locations.

(3) Staffing requirements at the Center's headquarters and at the regional offices to determine whether some staff positions are duplicated and, if so, whether those duplications can be reduced or eliminated.

(4) Whether State funds would be better used to provide additional grants and loans rather than to support current staffing levels and whether reducing current staffing levels to increase the amount of funds available for grants and loans would provide a positive return on investment. The Center shall determine the appropriate percentage of State funds that should be disbursed for grants, loans, and staff to maximize the return on State funds appropriated to the Center.

(5) The administration of grant and loan programs funded in any way with State funds to ensure that the programs are conducted in a cost-efficient manner.

(6) Any and all cash balances on hand to determine ways in which those cash balances can be used quickly to make grants and loans.

(7) The size of the Board and the overall governance of the Center to determine whether changes in either or both can be made to make the Center more cost-efficient and effective in providing grants or loans.

SECTION 15.32.(b) By March 1, 2014, the Center shall report the findings of the review required by subsection (a) of this section to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report shall include the steps taken by the Center to implement any changes made to the Center's operations as a result of the review and shall include the Center's anticipated funding requirements from the General Assembly.

SECTION 15.32.(c) Remaining allotments after March 1, 2014, shall not be released to the Center if it does not conduct the review and report its findings as provided in this section.

PART XVI. DEPARTMENT OF PUBLIC SAFETY

SUBPART XVI-A. GENERAL PROVISIONS

FEDERAL GRANT REPORTING AND MATCHING FUNDS

SECTION 16A.1.(a) The Department of Public Safety, the Department of Justice, and the Judicial Department shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

SECTION 16A.1.(b) Notwithstanding the provisions of G.S. 143C-6-9, the Department of Public Safety may use up to the sum of one million two hundred thousand

dollars (\$1,200,000) during the 2013-2014 fiscal year and up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2014-2015 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

EXEMPT DPS FROM MOTOR FLEET MANAGEMENT

SECTION 16A.2.(a) G.S. 143-341 reads as rewritten:

"§ 143-341. Powers and duties of Department.

...
(8) General Services:

...

i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

...

3. To require on a schedule determined by the Department all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of ~~the Highway Patrol, the State Bureau of Investigation,~~(i) the Department of Public Safety; or (ii) the constituent institutions of The University of North Carolina which are used primarily for law-enforcement purposes, and except those motor vehicles under the ownership, custody or control of the Department of Public Safety for Butner Public Safety which are used primarily for law enforcement, fire, or emergency purposes.purposes."

SECTION 16A.2.(b) Unexpended funds previously transferred from the Department of Public Safety to Fund Code 74100-7211 shall be reallocated to the Department of Public Safety to support the Department of Public Safety Motor Fleet and are hereby appropriated for that purpose.

SECTION 16A.2.(c) Of the funds appropriated to the Department of Public Safety in the 2012-2013 fiscal year, and subject to the approval of the State Chief Information Officer, the sum of ten million dollars (\$10,000,000) shall be reallocated for the purchase and implementation of an enterprise resource planning (ERP) system that is to be part of a statewide ERP initiative.

SECTION 16A.2.(d) Subsection (c) of this section becomes effective June 30, 2013.

USE OF CLOSED FACILITIES

SECTION 16A.3. In conjunction with the closing of prison facilities, youth detention centers, and youth development centers, the Department of Public Safety shall consult with the county or municipality in which the facility is located, with the elected State and local officials, and with State and federal agencies about the possibility of converting that facility to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the facility to other use. In developing a proposal for future use of each facility, the Department shall give priority to converting the facility to other

criminal justice use. Consistent with existing law and the future needs of the Department of Public Safety, the State may provide for the transfer or the lease of any of these facilities to counties, municipalities, State agencies, federal agencies, or private firms wishing to convert them to other use. The Department of Public Safety may also consider converting some of the facilities recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

LIMITED AUTHORITY TO RECLASSIFY AND ELIMINATE CERTAIN POSITIONS

SECTION 16A.4. Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Secretary of the Department of Public Safety may reclassify or eliminate existing administrative positions that are not specifically addressed in this act as needed for the efficient operation of the Department. The Secretary of the Department of Public Safety shall report any position reclassification undertaken pursuant to this section to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Fiscal Research Division, within 30 days of the reclassification. The report shall include the position number, original title, original fund code, original budgeted salary, new title, new fund code, and new budgeted salary for each reclassified position.

SUBPART XVI-B. DIVISION OF LAW ENFORCEMENT

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

SECTION 16B.1.(a) Assets transferred to the Department of Justice or to the Department of Public Safety during the 2013-2015 fiscal biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice and Public Safety shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 16B.1.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice and the Department of Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

SECTION 16B.1.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

TRANSFER ABC PERMIT APPLICATION INVESTIGATION FUNCTION FROM ALE TO ABC COMMISSION

SECTION 16B.2. G.S. 18B-902(b) reads as rewritten:

"(b) Investigation. – Before issuing a new permit, the ~~Commission, with the assistance of the ALE Section,~~ Commission shall investigate the applicant and the premises for which the permit is requested. The Commission may request the assistance of local ABC officers or other law enforcement officials in investigating applications. An applicant shall cooperate fully with the investigation. The Commission may delegate the duty to conduct investigations under this section to local boards.

The ~~Department of Justice~~ Department of Public Safety may provide a criminal record check to the ~~ALE Section~~ Commission or to the appropriate local board for a person who has applied for a permit through the Commission. The ~~ALE Section~~ Commission or the appropriate local board shall provide to the ~~Department of Justice,~~ Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the ~~Department of Justice,~~ Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The ~~ALE Section and the Commission~~ and local boards shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The ~~Department of Justice~~ Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection."

CREATION OF REGIONAL SBI/ALE OFFICES

SECTION 16B.3. The Department of Public Safety shall create eight regional offices in the Division of Law Enforcement at each of which shall be collocated personnel and property of the Alcohol Law Enforcement Section and the State Bureau of Investigation. Specifically, each regional office shall house one district of personnel and equipment for the Alcohol Law Enforcement Section, and appropriate personnel and equipment for the State Bureau of Investigation. These regional offices shall be operational by July 1, 2014, and on or before March 1, 2014, the Department shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the following:

- (1) The amount of savings the Department anticipates achieving as a result of collocating personnel and property of the Alcohol Law Enforcement Section and the State Bureau of Investigation at the eight regional offices.
- (2) The counties that will be included in each district and the regional office that will serve each district.
- (3) The staffing levels anticipated at each regional office.
- (4) Any statutory or regulatory changes that will be required as a prerequisite to or consequence of housing personnel and property of the Alcohol Law Enforcement Section and the State Bureau of Investigation within the same regional offices.

ELIMINATE BUTNER PUBLIC SAFETY AUTHORITY

SECTION 16B.4.(a) G.S. 122C-408 is repealed and the Butner Public Safety Authority hereby abolished.

SECTION 16B.4.(b) The town of Butner shall file articles of dissolution for the Butner Public Safety Authority with the Secretary of State. Upon filing those articles, all of the

property of the former Butner Public Safety Authority shall be distributed to the Town of Butner.

SECTION 16B.4.(c) G.S. 143-341(8)(i)(3) reads as rewritten:

"§ 143-341. Powers and duties of Department.

The Department of Administration has the following powers and duties:

(8) General Services:

i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

3. To require on a schedule determined by the Department all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of the Highway Patrol, the State Bureau of Investigation, or the constituent institutions of The University of North Carolina which are used primarily for law-enforcement purposes, and except those motor vehicles under the ownership, custody or control of the Department of Public Safety for Butner Public Safety which are used primarily for law-enforcement, fire, or emergency purposes. purposes."

SECTION 16B.4.(d) G.S. 160A-288(d) reads as rewritten:

"(d) For purposes of this section, the following shall be considered the equivalent of a municipal police department:

- (1) Campus law-enforcement agencies established pursuant to G.S. 115D-21.1(a) or G.S. 116-40.5(a).
- (2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes.
- (3) Law enforcement agencies operated or eligible to be operated by a municipality pursuant to G.S. 63-53(2).
- (4) ~~Butner Public Safety Authority.~~
- (5) A Company Police agency of the Department of Agriculture and Consumer Services commissioned by the Attorney General pursuant to Chapter 74E of the General Statutes."

SECTION 16B.4.(e) G.S. 160A-288.2(d) reads as rewritten:

"(d) For the purposes of this section, the following shall be considered the equivalent of a municipal police department:

- (1) Campus law-enforcement agencies established pursuant to G.S. 116-40.5(a).
- (2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes.
- (3) ~~Butner Public Safety Authority."~~

VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER) SYSTEM

SECTION 16B.5.(a) It is the intent of the General Assembly to continue to support development and implementation of the State's Voice Interoperability Plan for Emergency Response (VIPER) system in subsequent fiscal years. The Department is hereby authorized to spend up to five million dollars (\$5,000,000) during the 2013-2014 fiscal year and ten million dollars (\$10,000,000) during the 2014-2015 fiscal year to continue development and implementation of the State's VIPER system by constructing towers that will facilitate system expansion. Notwithstanding any other provision of law, State agencies, offices, commissions, and non-State entities shall not spend more than the amount of State funds authorized in this section for this purpose during the 2013-2015 fiscal biennium. This prohibition shall not be construed to prevent the expenditure of federal funds. This section does not impair or authorize the breach of any contract and instead affects the availability of appropriated funds within the meaning of G.S. 143C-6-8 and the terms of the North Carolina Information Technology Procurement Office General Terms and Conditions for Goods and Related Services related to availability of funds as specified in the applicable contract or contract extension.

SECTION 16B.5.(b) The Department of Public Safety shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on a quarterly basis on the progress of the State's VIPER system.

SUBPART XVI-C. DIVISION OF ADULT CORRECTION

LIMIT USE OF OPERATIONAL FUNDS

SECTION 16C.1. Funds appropriated in this act to the Department of Public Safety for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except that the Department may establish critical positions prior to 120 days of completion representing no more than twenty percent (20%) of the total estimated number of positions.

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

SECTION 16C.2. Notwithstanding G.S. 143C-6-9, the Department of Public Safety may use funds available to the Department for the 2013-2015 fiscal biennium to pay the sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and Senate Appropriations Committee on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT

SECTION 16C.3. The Department of Public Safety may continue to contract with The Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison beds for minimum security female inmates during the 2013-2015 fiscal biennium. The Center for Community Transitions, Inc., shall report by February 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the annual cost per inmate

and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Public Safety.

INMATE MEDICAL COSTS

SECTION 16C.4.(a) The Department of Public Safety shall reimburse those providers and facilities providing approved inmate medical services outside the correctional facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. The Department shall have the right to audit any given provider to determine the actual prevailing charge to ensure compliance with this provision.

This section does apply to vendors providing services that are not billed on a fee-for-service basis, such as temporary staffing. Nothing in this section shall preclude the Department from contracting with a provider for services at rates that provide greater documentable cost avoidance for the State than do the rates contained in this section or at rates that are less favorable to the State but that will ensure the continued access to care.

SECTION 16C.4.(b) The Department of Public Safety shall make every effort to contain inmate medical costs by making use of its own hospital and health care facilities to provide health care services to inmates. To the extent that the Department of Public Safety must utilize other facilities and services to provide health care services to inmates, the Department shall make reasonable efforts to make use of hospitals or other providers with which it has a contract or, if none is reasonably available, hospitals with available capacity or other health care facilities in a region to accomplish that goal. The Department shall make reasonable efforts to equitably distribute inmates among all hospitals or other appropriate health care facilities.

SECTION 16C.4.(c) The Department of Public Safety shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representative Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety no later than November 1, 2013, and quarterly thereafter on:

- (1) The percentage of the total inmates requiring hospitalization or hospital services who receive that treatment at each hospital.
- (2) The volume of services provided by community medical providers that can be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.
- (3) The volume of services provided by community medical providers that cannot be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.
- (4) The volume of services provided by community medical providers that are emergent cases requiring hospital admissions and emergent cases not requiring hospital admissions.
- (5) The volume of inpatient medical services provided to Medicaid-eligible inmates, the cost of treatment, and the estimated savings of paying the nonfederal portion of Medicaid for the services.
- (6) The status of the Division's efforts to contract with hospitals to provide secure wards in each of the State's five prison regions.

ANNUAL REPORT ON SAFEKEEPERS

SECTION 16C.5. The Department of Public Safety shall report by October 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and

Public Safety on county prisoners housed in the State prison system pursuant to safekeeping orders under G.S. 162-39(b) to avoid security risks in county jails or due to insufficient or inadequate county facilities. The report shall include:

- (1) The number of safekeepers currently housed by the Department.
- (2) A list of the facilities where safekeepers are housed and the population of safekeepers by facility.
- (3) The average length of stay by a safekeeper in one of those facilities.
- (4) The amount paid by counties for housing and extraordinary medical care of safekeepers.
- (5) A list of the counties in arrears for safekeeper payments owed to the Department at the end of the fiscal year.

STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM

SECTION 16C.6.(a) G.S. 148-10.4(e) reads as rewritten:

"(e) Operating and Administrative Expenses. ~~Ten percent (10%)~~ Five percent (5%) of the monthly receipts collected and credited to the Statewide Misdemeanant Confinement Fund shall be transferred on a monthly basis to the Sheriffs' Association to be used to support the Program and for administrative and operating expenses of the Association and its staff. ~~One percent (1%)~~ Five percent (5%) of the monthly receipts collected and credited to the Statewide Misdemeanant Confinement Fund shall be transferred on a monthly basis to the General Fund to be allocated to the Division of Adult Correction for its administrative and operating expenses for the Program."

SECTION 16C.6.(b) The North Carolina Sheriffs' Association shall report by October 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Joint Legislative Oversight Committee on Justice and Public Safety on the Statewide Misdemeanant Confinement Program. The report shall include the following with respect to the prior fiscal year:

- (1) Revenue collected by the Statewide Misdemeanant Confinement Program.
- (2) The cost of housing prisoners by county under the Program.
- (3) The cost of transporting prisoners by county under the Program.
- (4) Personnel costs by county.
- (5) Inmate medical care costs by county.
- (6) The number of counties that volunteer to house inmates under the Program.
- (7) The administrative costs paid to the Sheriffs' Association and to the Department of Public Safety.

INMATE CONSTRUCTION PROGRAM

SECTION 16C.7. Notwithstanding G.S. 66-58 or any other provision of law, during the 2013-2015 fiscal biennium, the State Construction Office may, wherever feasible, utilize inmates in the custody of the Division of Adult Correction of the Department of Public Safety through the Inmate Construction Program for repair and renovation projects on State-owned facilities, with priority given to Department of Public Safety construction projects.

TRANSFER OF POSITIONS FROM WESTERN YOUTH INSTITUTION TO Foothills Correctional Institution

SECTION 16C.8. The Division of Adult Correction shall transfer 55 positions from Western Youth Institution to Foothills Correctional Institution to supervise the youthful offenders being transferred from Western Youth Institution to Foothills Correctional Institution.

LEGAL RESEARCH SOFTWARE AND COMPUTER FACILITIES AVAILABLE TO INMATES

SECTION 16C.9. The Department of Public Safety shall develop and implement a system for the provision of legal research software on computer facilities available to inmates in the State prison system, in order to fulfill the State's responsibility to provide inmates in the custody of the Division of Adult Correction with legal assistance and access to the courts. The system shall make use of the most cost-effective legal research software available to meet the State's responsibility and shall be ready for use by inmates no later than July 1, 2013.

REPORT ON PROBATION AND PAROLE CASELOADS

SECTION 16C.10. Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-707.1. Report on probation and parole caseloads.

(a) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on caseload averages for probation and parole officers. The report shall include:

- (1) Data on current caseload averages and district averages for probation/parole officer positions.
- (2) Data on current span of control for chief probation officers.
- (3) An analysis of the optimal caseloads for these officer classifications.
- (4) The number and role of paraprofessionals in supervising low-risk caseloads.
- (5) The process of assigning offenders to an appropriate supervision level based on a risk/needs assessment.
- (6) Data on cases supervised solely for the collection of court-ordered payments.

(b) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the following:

- (1) The number of sex offenders enrolled on active and passive GPS monitoring.
- (2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
- (3) The number of violations.
- (4) The number of absconders.
- (5) The projected number of offenders to be enrolled by the end of the fiscal year."

PAROLE ELIGIBILITY REPORT/MUTUAL AGREEMENT PAROLE PROGRAM/MEDICAL RELEASE PROGRAM

SECTION 16C.11.(a) The Post-Release Supervision and Parole Commission shall, with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the Department of Public Safety, analyze the amount of time each inmate who is eligible for parole on or before July 1, 2014, has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence," for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

SECTION 16C.11.(b) For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

- (1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.
- (2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).
- (3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

SECTION 16C.11.(c) The Post-Release Supervision and Parole Commission shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Chairs of the Senate Appropriations Committee on Justice and Public Safety by April 1, 2014. The report shall include the following: the class of the offense for which each parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions. The Commission shall reinstate the parole review process for each offender who has served more time than that person would have under Structured Sentencing as provided by subsections (a) and (b) of this section.

The Commission shall also report on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled.

SECTION 16C.11.(d) Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-707.2. Mutual agreement parole program report; medical release program report.

(a) The Department of Correction and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates enrolled in the mutual agreement parole program, the number completing the program and being paroled, and the number who enrolled but were terminated from the program. The information should be based on the previous calendar year.

(b) The Department of Public Safety and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates proposed for release, considered for release, and granted release under Chapter 84B of Chapter 15A of the General Statutes, providing for the medical release of inmates who are either permanently and totally disabled, terminally ill, or geriatric.

REPORT ON TREATMENT FOR EFFECTIVE COMMUNITY SUPERVISION

SECTION 16C.12. The Division of Community Corrections shall report by March 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Oversight Committee on Justice and Public Safety on

the status of the Treatment for Effective Community Supervision (TECS) program. The report shall include the following information:

- (1) The amount of funds carried over from the prior fiscal year.
- (2) The dollar amount and purpose of contracts awarded to vendors for the current fiscal year.
- (3) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation via the system.
- (4) An analysis of offender participation data received, including data on each program's utilization, capacity, and completion rates.
- (5) The number of offenders served by each contracted vendor.
- (6) The outcome measures for program participants, including the rates of recidivism, employment status, and educational progress of participants.

JUSTICE REINVESTMENT ACT/LIMITED AUTHORITY TO RECLASSIFY VACANT POSITIONS

SECTION 16C.13.(a) Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Secretary of Public Safety may reclassify vacant positions within the Department to create up to 25 new chief probation/parole officer positions in order to meet the increasing caseloads resulting from the implementation of the Justice Reinvestment Act of 2011, S.L. 2011-192, as amended.

SECTION 16C.13.(b) The Department of Public Safety shall report to the Chairs of the Senate Appropriations Committee on Justice and Public Safety and the House Appropriations Subcommittee on Justice and Public Safety by March 1, 2014, on the following:

- (1) The position number, position type, salary, and position location of each new position created under the authority of this section.
- (2) The position number, position type, fund code, and position location of each vacant position used to create new positions under the authority of this section.

SUBPART XVI-D. DIVISION OF JUVENILE JUSTICE

ANNUAL EVALUATION OF COMMUNITY PROGRAMS AND MULTIPLE PURPOSE GROUP HOMES

SECTION 16D.1. Subpart B of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-811. Annual evaluation of community programs and multiple purpose group homes.

The Department of Public Safety shall conduct an annual evaluation of the community programs and of multipurpose group homes. In conducting the evaluation of each of these, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also determine whether the programs are achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202.

The Department shall report the results of the evaluation to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House of Appropriations Subcommittees on Justice and Public Safety by March 1 of each year."

JUVENILE CRIME PREVENTION COUNCIL FUNDS

SECTION 16D.2.(a) Subpart F of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-852. Department of Public Safety to report on Juvenile Crime Prevention**Council grants.**

(a) On or before February 1 of each year, the Department of Public Safety shall submit to the Chairs of the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council (JCPC) grants, including the following information:

- (1) The amount of the grant awarded.
- (2) The membership of the local committee or council administering the award funds on the local level.
- (3) The type of program funded.
- (4) A short description of the local services, programs, or projects that will receive funds.
- (5) Identification of any programs that received grant funds at one time but for which funding has been eliminated by the Department.
- (6) The number of at-risk, diverted, and adjudicated juveniles served by each county.
- (7) The Department's actions to ensure that county JCPCs prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Department.
- (8) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.

(b) On or before February 1 of each year, the Department of Public Safety shall send to the Fiscal Research Division of the Legislative Services Commission an electronic copy of the list and information required under subsection (a) of this section."

SECTION 16D.2.(b) Of the funds appropriated by this act for the 2013-2015 fiscal biennium to the Department of Public Safety for Juvenile Crime Prevention Council grants, the sum of one hundred twenty-one thousand six hundred dollars (\$121,600) for the 2013-2014 fiscal year and the sum of one hundred twenty-one thousand six hundred dollars (\$121,600) for the 2014-2015 fiscal year shall be transferred to Project Challenge North Carolina, Inc., to be used for the continued support of Project Challenge programs throughout the State.

YOUTH DEVELOPMENT CENTER ANNUAL REPORT

SECTION 16D.3. Subpart B of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-810. Youth Development Center annual report.

The Department of Public Safety shall report by October 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and the Fiscal Research Division of the Legislative Services Commission on the Youth Development Center (YDC) population, staffing, and capacity in the preceding fiscal year. Specifically, the report shall include all of the following:

- (1) The on-campus population of each YDC, including the county the juveniles are from.
- (2) The housing capacity of each YDC.
- (3) A breakdown of staffing for each YDC, including number, type of position, position title, and position description.
- (4) The per-bed and average daily population cost for each facility.

- (5) The operating cost for each facility, including personnel and nonpersonnel items.
- (6) A brief summary of the treatment model, education, services, and plans for reintegration into the community offered at each facility.
- (7) The average length of stay in the YDCs.
- (8) The number of incidents of assaults and attacks on staff at each facility."

JUVENILE FACILITY MONTHLY COMMITMENT REPORT

SECTION 16D.4. Subpart C of Part 3 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-822. Juvenile facility monthly commitment report.

The Department of Public Safety shall report electronically on the first day of each month to the Fiscal Research Division regarding each juvenile correctional facility and the average daily population for the previous month. The report shall include (i) the average daily population for each detention center and (ii) the monthly summary of the Committed Youth Report."

LIMIT USE OF COMMUNITY PROGRAM FUNDS

SECTION 16D.5.(a) Funds appropriated in this act to the Department of Public Safety for the 2013-2015 fiscal biennium for community program contracts that are not required for or used for community program contracts shall only be used for the following:

- (1) Other statewide residential programs that provide Level 2 intermediate dispositional alternatives for juveniles.
- (2) Statewide community programs that provide Level 2 intermediate dispositional alternatives for juveniles.
- (3) Regional programs that are collaboratives of two or more Juvenile Crime Prevention Councils which provide Level 2 intermediate dispositional alternatives for juveniles.
- (4) The Juvenile Crime Prevention Council grants fund to be used for the Level 2 intermediate dispositional alternatives for juveniles listed in G.S. 7B-2506(13) through (23).

SECTION 16D.5.(b) Under no circumstances shall funds appropriated by this act to the Department of Public Safety for the 2013-2015 fiscal biennium for community programs be used for staffing, operations, maintenance, or any other expenses of youth development centers or detention facilities.

SECTION 16D.5.(c) The Department of Public Safety shall submit an electronic report by October 1, 2013, on all expenditures made from the miscellaneous contract line in Fund Code 1230 to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Fiscal Research Division. The report shall include all of the following: an itemized list of the contracts that have been executed, the amount of each contract, the date the contract was executed, the purpose of the contract, the number of juveniles that will be served and the manner in which they will be served, the amount of money transferred to the Juvenile Crime Prevention Council fund, and an itemized list of grants allocated from the funds transferred to the Juvenile Crime Prevention Council fund.

MULTIPURPOSE GROUP HOME

SECTION 16D.6. Of the funds appropriated in this act to the Department of Public Safety for the Division of Juvenile Justice for the 2013-2015 fiscal biennium, the sum of five hundred fifty thousand dollars (\$550,000) for the 2013-2014 fiscal year and the sum of five

hundred fifty thousand dollars (\$550,000) for the 2014-2015 fiscal year shall be used to continue operating a multipurpose group home in Craven County.

DIRECTOR/ADMINISTRATIVE HEAD OF JUVENILE JUSTICE DIVISION

SECTION 16D.7.(a) G.S. 143B-806 reads as rewritten:

"§ 143B-806. Duties and powers of the Division of Juvenile Justice of the Department of Public Safety.

(a) The head of the Division is a ~~Chief Deputy Secretary~~Director appointed by the Secretary of Public Safety. The ~~Chief Deputy Secretary~~Director shall have the powers and duties conferred by this ~~Chapter, Part,~~ delegated by the Secretary of Public Safety or the Governor, and conferred by the Constitution and laws of this State. The Secretary of Public Safety shall be responsible for effectively and efficiently organizing the Division to promote the policy of the State as set forth in this Part and to promote public safety and to prevent the commission of delinquent acts by juveniles.

(b) The ~~Chief Deputy Secretary~~Director shall have the following powers and duties:

...

...."

SECTION 16D.7.(b) G.S. 153A-221.1 reads as rewritten:

"§ 153A-221.1. Standards and inspections.

The legal responsibility of the ~~Chief Deputy Secretary of~~Director of the Division of Juvenile Justice of the Department of Public Safety for State services to county juvenile detention homes under this Article is hereby confirmed and shall include the following: development of State standards under the prescribed procedures; inspection; consultation; technical assistance; and training.

The Secretary of Health and Human Services, in consultation with the ~~Chief Deputy Secretary~~Director of the Division of Juvenile Justice of the Department of Public Safety, shall also develop standards under which a local jail may be approved as a holdover facility for not more than five calendar days pending placement in a juvenile detention home which meets State standards, providing the local jail is so arranged that any child placed in the holdover facility cannot converse with, see, or be seen by the adult population of the jail while in the holdover facility. The personnel responsible for the administration of a jail with an approved holdover facility shall provide close supervision of any child placed in the holdover facility for the protection of the child."

PART XVII. DEPARTMENT OF JUSTICE

BIANNUAL REPORTING ON ATTORNEY ACTIVITY

SECTION 17.1. Beginning on August 1, 2013, and every six months thereafter, the Attorney General shall report on the work of Department of Justice attorneys during the previous two quarters. The reports required by this section shall be filed with the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, with the Chairs of the Senate Appropriations Committee on Justice and Public Safety, with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and with the Fiscal Research Division as follows:

- (1) Agency-specific work. – A report on the work of Department of Justice attorneys for State agencies. This report shall include at least all of the following information:
 - a. The amount of time spent working for each State department and agency.
 - b. The amount of time spent on each case for each State department and agency.

- 1 c. The amount billed to each State agency for the legal services
2 provided.
- 3 (2) Other work. – A report on the work of Department of Justice attorneys that
4 is not on behalf of a particular State agency. The report required by this
5 subdivision shall include all of the information required by subdivision (1)
6 of this section and all of the following information:
- 7 a. The amount of time spent by each unit of the Department of Justice.
8 b. The amount of time spent on each particular matter for each unit of
9 the Department of Justice.

11 ANNUAL CRIME LAB REPORT

12 **SECTION 17.2.** Beginning on October 1, 2013, and yearly thereafter, the Attorney
13 General shall report on the work of the North Carolina State Crime Laboratory during the
14 previous fiscal year. The reports required by this section shall be filed with the Chairs of the
15 Joint Legislative Oversight Committee on Justice and Public Safety and with the Fiscal
16 Research Division. Each report shall include at least the following:

- 17 (1) Summary information about the workload of the Laboratory.
18 (2) Information about the number and type of different procedures and analyses
19 performed by the Laboratory.
20 (3) A geographical breakdown by county of the number and type of requests for
21 the various procedures and analyses performed by the Laboratory.
22 (4) An estimate of the dollar and time cost to perform each type of procedure
23 and analysis performed by the Laboratory.
24

25 DEVELOPMENT OF TRAINING PROGRAM ON PROPER PROCEDURES FOR 26 SUBMISSION OF EVIDENCE TO THE CRIME LAB

27 **SECTION 17.3.(a)** The North Carolina State Crime Laboratory, in conjunction
28 with The University of North Carolina School of Government and the Conference of District
29 Attorneys, shall develop a training program for district attorneys on proper procedures for
30 submitting evidence to the North Carolina State Crime Laboratory. In order to ensure that it
31 will be practicable to require all district attorneys in the State to receive the training in the
32 future, the program shall be (i) designed with the time and resource constraints of district
33 attorneys in mind and (ii) designed in a way that makes the program suitable for regional
34 distribution and distribution through distance learning facilities at community colleges.

35 **SECTION 17.3.(b)** No later than October 1, 2013, the North Carolina State Crime
36 Laboratory shall report its progress on developing the training program to the Chairs of the
37 House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the
38 Senate Appropriations Committee on Justice and Public Safety, to the Chairs of the Joint
39 Legislative Oversight Committee on Justice and Public Safety, and to the Fiscal Research
40 Division.
41

42 USE OF TOXICOLOGY ANALYSIS FUNDS

43 **SECTION 17.4.** If the Attorney General determines that it is not appropriate to
44 outsource toxicology cases due to legal or fiscal concerns involving analyst testimony, funds
45 appropriated in this act for that purpose shall be reallocated to increase toxicology analysis
46 capabilities within the North Carolina State Crime Laboratory.
47

48 NO HIRING OF SWORN STAFF POSITIONS FOR THE NORTH CAROLINA STATE 49 CRIME LABORATORY

50 **SECTION 17.5.** The Department of Justice shall not hire sworn personnel to fill
51 vacant positions in the North Carolina State Crime Laboratory. Nothing in this section shall be

1 construed to require the termination of sworn personnel, but as vacant positions in the State
2 Laboratory are filled, they shall be filled only with non-sworn personnel.

4 **TRANSFER MOST OF THE SBI TO THE DEPARTMENT OF PUBLIC SAFETY**

6 **TRANSFER OF STATE BUREAU OF INVESTIGATION AND DIVISION OF** 7 **CRIMINAL INFORMATION**

8 **SECTION 17.6.(a)** The North Carolina State Crime Laboratory, the State DNA
9 Database and Databank, the Public Corruption Section of the Professional Standards Division
10 of the State Bureau of Investigation, and the 16 information technology positions that currently
11 serve the information technology needs of the Department of Justice are hereby transferred
12 from the State Bureau of Investigation and shall be relocated elsewhere within the Department
13 of Justice as determined by the Attorney General.

14 **SECTION 17.6.(b)** Except for the components transferred pursuant to subsection
15 (a) of this section, the State Bureau of Investigation is hereby transferred to the Department of
16 Public Safety as a new section within the Law Enforcement Division. This transfer shall have
17 all of the elements of a Type I transfer, as described in G.S. 143A-6.

18 **SECTION 17.6.(c)** The Division of Criminal Information is hereby transferred to
19 the Department of Public Safety. This transfer shall have all of the elements of a Type I
20 transfer, as described in G.S. 143A-6.

22 **CREATION OF STATUTORY SUBPARTS**

23 **SECTION 17.6.(d)** Part 4 of Article 13 of Chapter 143B of the General Statutes is
24 amended by adding a new Subpart to read:

25 "Subpart A. General Provisions."

26 **SECTION 17.6.(e)** Part 4 of Article 13 of Chapter 143B of the General Statutes is
27 amended by adding a new Subpart to read:

28 "Subpart B. State Capitol Police."

29 **SECTION 17.6.(f)** Part 4 of Article 13 of Chapter 143B of the General Statutes is
30 amended by adding a new Subpart to read:

31 "Subpart C. State Bureau of Investigation – General Powers and Duties."

33 **REPEAL OF CERTAIN STATUTES AND RECODIFICATION OF OTHER** 34 **AFFECTED STATUTES**

35 **SECTION 17.6.(h)** G.S. 114-13 is repealed.

36 **SECTION 17.6.(i)** G.S. 114-2.7 is recodified as G.S. 143B-901 under Subpart A of
37 Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section.

38 **SECTION 17.6.(j)** G.S. 114-10 through G.S. 114-10.1 are recodified as
39 G.S. 143B-902 through G.S. 143B-905 under Subpart A of Article 13 of Chapter 143B of the
40 General Statutes, as created by subsection (d) of this section.

41 **SECTION 17.6.(k)** G.S. 143B-900 is recodified as G.S. 143B-906 under Subpart B
42 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (e) of this
43 section.

44 **SECTION 17.6.(l)** The following statutes are recodified as G.S. 143B-907 through
45 G.S. 143B-917 under Subpart C of Article 13 of Chapter 143B of the General Statutes, as
46 created by subsection (f) of this section: G.S. 114-12, 114-12.1, 114-14 through 114-15.3, and
47 114-17 through 114-19.

48 **SECTION 17.6.(m)** Part 2 of Article 4 of Chapter 114 of the General Statutes is
49 recodified as Subpart D of Article 13 of Chapter 143B of the General Statutes, "State Bureau of
50 Investigation – Criminal History Record Checks," G.S. 143B-920 through G.S. 143B-972.

Statutory sections of the former statutes that were reserved for future codification shall have corresponding sections that are reserved for future codification in the recodified statutes.

SECTION 17.6.(n) Part 3 of Article 4 of Chapter 114 of the General Statutes is recodified as Subpart E of Article 13 of Chapter 143B of the General Statutes, "State Bureau of Investigation – Protection of Public Officials," G.S. 143B-975 through G.S. 143B-976.

OTHER CHANGES

SECTION 17.6.(o) The following statutes, as recodified by subsections (i) through (n) of this section, as applicable, are amended by deleting the language "Department of Justice" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.15A, 53-244.050, 58-71-51, 58-89A-60, 66-407, 74C-8.1, 74D-2.1, 84-24, 90-11, 90-30, 90-85.15, 90-102.1, 90-143.3, 90-210.25, 90-224, 90-652, 90D-7, 93A-4, 95-47.2, 106-65.26, 110-90.2, 114-12.1, 114-19.1 through 114-19.32, 115C-238.29K, 115C-238.73, 131D-10.3A, 143-166.13, and 160A-304.

SECTION 17.6.(p) The following statute is amended by deleting the language "State Bureau of Investigation" wherever it appears and substituting "North Carolina State Crime Laboratory": G.S. 14-269.1.

SECTION 17.6.(q) The following statutes, as recodified by subsections (i) through (n) of this section, as applicable, are amended by deleting the language "Attorney General" wherever it appears and substituting "Secretary of Public Safety": G.S. 15A-1475, 58-79-1, 114-15.2, and 163-278.

SECTION 17.6.(r) The following statutes, as recodified by subsections (i) through (n) of this section, as applicable, are amended by deleting the language "Director of the State Bureau of Investigation" or "Director of the Bureau" wherever it appears and substituting "Secretary of Public Safety": G.S. 7A-375, 7B-1402, 7B-1404, 15A-1383, 20-39.1, 114-14.1, 114-15.1, 114-15.3.

SECTION 17.6.(s) The following statutes, as recodified by subsections (i) through (n) of this section, as applicable, are amended by deleting the language "Division of Criminal Information" and "State Bureau of Investigation's Division of Criminal Information" wherever it appears and substituting "Department of Public Safety": G.S. 7B-2507, 15A-1340.14, 15A-1340.21, 20-26, 85B-3.2, 114-19.6, 114-19.12, 114-19.23, 114-19.50, 122C-80.

SECTION 17.6.(t) The following statutes, as recodified by subsections (i) through (n) of this section, as applicable, are amended by deleting the language "Division" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.7, 14-208.8, 14-208.8A, 14-208.9, 14-208.9A, 14-208.12A, 14-208.15, 14-208.15A, 14-208.22, and 14-208.27. However, no substitution shall be made under this subsection to instances of the word "Division" that appear in the phrase "Division of Adult Correction."

SECTION 17.6.(t1) The following statutes are amended by deleting "SBI" wherever it appears and substituting "Department of Justice": G.S. 15A-146 and G.S. 15A-148.

SECTION 17.6.(t2) The following statutes are amended by deleting "SBI" wherever it appears and substituting "Department": G.S. 15A-266.3, 15A-266.3A, 15A-266.5, 15A-266.6, 15A-266.7, 15A-266.8, 15A-266.9, 15A-266.12, 15A-267, and 15A-268.

SECTION 17.6.(u) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivisions (7) or (8) of this section.

...

- (7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Department of Justice for support of the ~~State Bureau of Investigation-Laboratory~~. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent.
- (8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the ~~State Bureau of Investigation~~North Carolina State Crime Laboratory under subdivision (7) of this subsection.
- (9) For the support and services of the ~~State Bureau of Investigation~~State DNA Database and DNA Databank, the sum of two dollars (\$2.00). This amount is annually appropriated to the Department of Justice for this purpose. Notwithstanding the provisions of subsection (e) of this section, this cost does not apply to infractions.

...."

SECTION 17.6.(v) G.S. 7A-349 reads as rewritten:

"§ 7A-349. Criminal history record check; denial of employment, contract, or volunteer opportunity.

The Judicial Department may deny employment, a contract, or a volunteer opportunity to any person who refuses to consent to a criminal history check authorized under G.S. 114-19.19 and may dismiss a current employee, terminate a contractor, or terminate a volunteer relationship if that employee, contractor, or volunteer refuses to consent to a criminal history record check authorized under ~~G.S. 114-19.19~~G.S. 143B-941."

SECTION 17.6.(w) G.S. 7B-1904 reads as rewritten:

"§ 7B-1904. Order for secure or nonsecure custody.

The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to assume custody of the juvenile and to make due return on the order. The official executing the order shall give a copy of the order to the juvenile's parent, guardian, or custodian. If the order is for nonsecure custody, the official executing the order shall also give a copy of the petition and order to the person or agency with whom the juvenile is being placed. If the order is for secure custody, copies of the petition and custody order shall accompany the juvenile to the detention facility or holdover facility of the jail. A message of ~~the Division of Criminal Information, State Bureau of Investigation~~the Department of Public Safety, stating that a juvenile petition and secure custody order relating to a specified juvenile are on file in a particular county shall be authority to detain the juvenile in secure custody until a copy of the juvenile petition and secure custody order can be forwarded to the juvenile detention facility.

The copies of the juvenile petition and secure custody order shall be transmitted to the detention facility no later than 72 hours after the initial detention of the juvenile.

An officer receiving an order for custody which is complete and regular on its face may execute it in accordance with its terms and need not inquire into its regularity or continued validity, nor does the officer incur criminal or civil liability for its execution."

SECTION 17.6.(x) G.S. 14-16.9 reads as rewritten:

"§ 14-16.9. Officers-elect to be covered.

Any person who has been elected to any office covered by this Article but has not yet taken the oath of office shall be considered to hold the office for the purpose of this Article and ~~G.S. 114-15.~~ G.S. 143B-911."

SECTION 17.6.(y) G.S. 14-132(c)(3) reads as rewritten:

"(3) Designated by the ~~Attorney General~~ Secretary of Public Safety in accordance with ~~G.S. 114-20.1.~~ G.S. 143B-976."

SECTION 17.6.(z) G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

...

(1c) ~~"Division"~~ "Department" means the ~~Division of Criminal Information of the Department of Justice.~~ Department of Public Safety.

...

(8) "Statewide registry" means the central registry compiled by the ~~Division~~ Department in accordance with G.S. 14-208.14.

...."

SECTION 17.6.(aa) G.S. 14-208.13 reads as rewritten:

"§ 14-208.13. File with Police-Criminal Information Network.

(a) The ~~Division~~ Department of Public Safety shall include the registration information in the ~~Police-Criminal Information Network~~ as set forth in ~~G.S. 114-10.1.~~ G.S. 143B-905.

(b) The ~~Division~~ Department of Public Safety shall maintain the registration information permanently even after the registrant's reporting requirement expires."

SECTION 17.6.(bb) G.S. 14-208.14 reads as rewritten:

"§ 14-208.14. Statewide registry; ~~Division of Criminal Statistics~~ Department of Public Safety designated custodian of statewide registry.

(a) The ~~Division of Criminal Statistics~~ Department of Public Safety shall compile and keep current a central statewide sex offender registry. The ~~Division~~ Department is the State agency designated as the custodian of the statewide registry. As custodian the ~~Division~~ Department has the following responsibilities:

(1) To receive from the sheriff or any other law enforcement agency or penal institution all sex offender registrations, changes of address, changes of academic or educational employment status, and prerelease notifications required under this Article or under federal law. The ~~Division~~ Department shall also receive notices of any violation of this Article, including a failure to register or a failure to report a change of address.

(2) To provide all need-to-know law enforcement agencies (local, State, campus, federal, and those located in other states) immediately upon receipt by the ~~Division~~ Department of any of the following: registration information, a prerelease notification, a change of address, a change of academic or educational employment status, or notice of a violation of this Article.

(2a) To notify the appropriate law enforcement unit at an institution of higher education as soon as possible upon receipt by the ~~Division~~ Department of relevant information based on registration information or notice of a change

of academic or educational employment status. If an institution of higher education does not have a law enforcement unit, then the ~~Division~~Department shall provide the information to the local law enforcement agency that has jurisdiction for the campus.

(3) To coordinate efforts among law enforcement agencies and penal institutions to ensure that the registration information, changes of address, change of name, prerelease notifications, and notices of failure to register or to report a change of address are conveyed in an appropriate and timely manner.

(4) To provide public access to the statewide registry in accordance with this Article.

(4a) To maintain the system for public access so that a registrant's full name, any aliases, and any legal name changes are cross-referenced and a member of the public may conduct a search of the system for a registrant under any of those names.

(5) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry.

(b) The statewide registry shall include the following:

(1) Registration information obtained by a sheriff or penal institution under this Article or from any other local or State law enforcement agency.

(2) Registration information received from a state or local law enforcement agency or penal institution in another state.

(3) Registration information received from a federal law enforcement agency or penal institution."

SECTION 17.6.(cc) G.S. 14-208.31 reads as rewritten:

"§ 14-208.31. File with ~~Police~~Criminal Information Network.

(a) The ~~Division~~Department of Public Safety shall include the registration information in the ~~Police~~Criminal Information Network as set forth in ~~G.S. 114-10.1~~G.S. 143B-905.

(b) The ~~Division~~Department of Public Safety shall maintain the registration information permanently even after the registrant's reporting requirement expires; however, the records shall remain confidential in accordance with Article 32 of Chapter 7B of the General Statutes."

SECTION 17.6.(dd) G.S. 14-415.4(d)(5) reads as rewritten:

"(5) The petitioner submits his or her fingerprints to the sheriff of the county in which the petitioner resides for a criminal background check pursuant to ~~G.S. 114-19.28~~G.S. 143B-950."

SECTION 17.6.(ee) G.S. 15A-1341(d) reads as rewritten:

"(d) Search of Sex Offender Registration Information Required When Placing a Defendant on Probation. – When the court places a defendant on probation, the probation officer assigned to the defendant shall conduct a search of the defendant's name or other identifying information against the registration information regarding sex offenders compiled by the ~~Division of Criminal Statistics of the Department of Justice~~Department of Public Safety in accordance with Article 27A of Chapter 14 of the General Statutes. The probation officer may conduct the search using the Internet site maintained by the ~~Division of Criminal Statistics~~Department of Public Safety."

SECTION 17.6.(ee1) G.S. 15A-266.2 reads as rewritten:

"§ 15A-266.2. Definitions.

As used in this Article, unless another meaning is specified or the context clearly requires otherwise, the following terms have the meanings specified:

...

(1e) Department. – The Department of Justice.

...

(6) ~~"SBI" means the State Bureau of Investigation. The SBI is responsible for the policy, management, and administration of the State DNA identification record system to support law enforcement and other criminal justice agencies.~~

...
(8) "State DNA Database" means the ~~SBI's~~ Department of Justice's DNA identification record system to support law enforcement. It is administered by the ~~SBI~~ Department of Justice and provides DNA records to the FBI for storage and maintenance in CODIS. The ~~SBI's~~ Department's DNA Database system is the collective capability provided by computer software and procedures administered by the ~~SBI~~ Department to store and maintain DNA records related to: forensic casework; convicted offenders and arrestees required to provide a DNA sample under this Article; persons required to register as sex offenders under G.S. 14-208.7; unidentified persons or body parts; missing persons; relatives of missing persons; and anonymous DNA profiles used for forensic validation, forensic protocol development, or quality control purposes or establishment of a population statistics database for use by criminal justice agencies."

SECTION 17.6.(ee2) G.S. 15A-266.3A(d) reads as rewritten:

"(d) After taking a DNA sample from an arrested person required to provide a DNA sample pursuant to this section, the person taking the DNA sample shall provide the arrested person with a written notice of the procedures for seeking an expunction of the DNA sample pursuant to subsections (h), (i), (j), (k), and (l) of this section. The ~~Department of Justice~~ shall provide the written notice required by this subsection."

SECTION 17.6.(ee3) G.S. 15A-266.3A(h) reads as rewritten:

(h) The ~~State Bureau of Investigation~~ Department shall remove a person's DNA record, and destroy any DNA biological samples that may have been retained, from the State DNA Database and DNA Databank if both of the following are determined pursuant to subsection (i) of this section:

...."

SECTION 17.6.(ee4) G.S. 15A-269(b1) reads as rewritten:

"(b1) If the court orders DNA testing, such testing shall be conducted by an ~~SBI-approved~~ Department-approved testing facility, mutually agreed upon by the petitioner and the State and approved by the court. If the parties cannot agree, the court shall designate the testing facility and provide the parties with reasonable opportunity to be heard on the issue."

SECTION 17.6.(gg) G.S. 18C-151(a)(3) reads as rewritten:

"(3) All proposals shall be accompanied by a bond or letter of credit in an amount equal to not less than five percent (5%) of the proposal and the fee to cover the cost of the criminal record check conducted under ~~G.S. 114-19.6.~~ G.S. 143B-926."

SECTION 17.6.(hh) G.S. 48-3-309 reads as rewritten:

"§ 48-3-309. Mandatory preplacement criminal checks of prospective adoptive parents seeking to adopt a minor who is in the custody or placement responsibility of a county department of social services and mandatory preplacement criminal checks of all individuals 18 years of age or older who reside in the prospective adoptive home.

...
(c) The ~~Department of Justice~~ Department of Public Safety shall provide to the Department of Health and Human Services the criminal history of any individual required to be checked under subsection (a) of this section as requested by the Department and obtained from the State and National Repositories of Criminal Histories. The Department shall provide to the

~~Department of Justice, Department of Public Safety,~~ along with the request, the fingerprints of any individual to be checked, any additional information required by the ~~Department of Justice, Department of Public Safety,~~ and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of any individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

...
(h) The ~~Department of Justice~~ Department of Public Safety shall perform the State and national criminal history checks on prospective adoptive parents seeking to adopt a minor in the custody or placement responsibility of a county department of social services and all individuals 18 years of age or older who reside in the prospective adoptive home and shall charge the Department of Health and Human Services a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Health and Human Services, shall bear the costs of implementing this section."

SECTION 17.6.(ii) G.S. 74F-6(16) reads as rewritten:

"(16) Request that the Department of Justice conduct criminal history record checks of applicants for licensure and apprenticeships pursuant to ~~G.S. 114-19.15~~ G.S. 143B-937."

SECTION 17.6.(jj) G.S. 90-113.33(10) reads as rewritten:

"(10) Request that the Department of Justice conduct criminal history record checks of applicants for registration, certification, or licensure pursuant to ~~G.S. 114-19.11A~~ G.S. 143B-932."

SECTION 17.6.(kk) G.S. 90-171.23(b)(19) reads as rewritten:

"(19) Request that the Department of Justice conduct criminal history record checks of applicants for licensure pursuant to ~~G.S. 114-19.11~~ G.S. 143B-931."

SECTION 17.6.(ll) G.S. 90-270.63(b) reads as rewritten:

"(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice in accordance with ~~G.S. 114-19.27~~ G.S. 143B-949. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check."

SECTION 17.6.(mm) G.S. 90-345(b) reads as rewritten:

"(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license

of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice in accordance with ~~G.S. 114-19-26~~ G.S. 143B-948. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check."

SECTION 17.6.(nn) G.S. 93E-2-11(b) reads as rewritten:

"(b) The Board may require that an applicant for registration as an appraisal management company or a registrant consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny registration to an applicant or registrant. The Board shall ensure that the State and national criminal history of an applicant or registrant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or registrant to be checked, a form signed by the applicant or registrant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice in accordance with ~~G.S. 114-19-30~~ G.S. 143B-952. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check."

SECTION 17.6.(oo) G.S. 101-5 reads as rewritten:

"§ 101-5. Name change application requirements; grounds for clerk to order or deny name change; certificate and record.

...

(e) The clerk shall forward the order granting the name change to:

- (1) The State Registrar of Vital Statistics on a form provided by the Registrar. If the applicant was born in North Carolina, the State Registrar shall note the change of name of the individual or individuals specified in the order on the birth certificate of that individual or those individuals and shall notify the register of deeds in the county of birth. If the applicant was born in another state of the United States, the State Registrar shall forward the notice of change of name to the registration office of the state of birth.
- (2) ~~The Division of Criminal Information at the State Bureau of Investigation,~~ Department of Public Safety, which shall update its records to show the name change.

...

(g) Upon information obtained by the clerk of fraud or material misrepresentation in the application for a name change, the clerk on his or her own motion may set aside the order granting the name change after notice to the applicant and opportunity to be heard. If the clerk sets aside the name change order, the clerk shall notify the State Registrar of Vital Statistics and the ~~Division of Criminal Information,~~ Department of Public Safety."

SECTION 17.6.(pp) G.S. 110-90.2(g) reads as rewritten:

"(g) The child care provider shall pay the cost of the fingerprinting and the federal criminal history record check in accordance with ~~G.S. 114-19-5~~ G.S. 143B-925. The Department of Justice shall perform the State criminal history record check. The Department of Health and Human Services shall pay for and conduct the county criminal history record check. Child care providers who reside outside the State bear the cost of the county criminal history

record check and shall provide the county criminal history record check to the Division of Child Development as required by this section."

SECTION 17.6.(qq) G.S. 113-172(a) reads as rewritten:

"(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by ~~G.S. 114-15.1.~~G.S. 143B-912."

SECTION 17.6.(rr) G.S. 114-2.7, as recodified by subsection (i) of this section, reads as rewritten:

"§ 143B-901. Reporting system and database on certain domestic-violence-related homicides; reports by law enforcement agencies required; annual report to the General Assembly.

The ~~Attorney General's Office, Department of Public Safety,~~ in consultation with the North Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police, shall develop a reporting system and database that reflects the number of homicides in the State where the offender and the victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the database shall also include the type of personal relationship that existed between the offender and the victim, whether the victim had obtained an order pursuant to G.S. 50B-3, and whether there was a pending charge for which the offender was on pretrial release pursuant to G.S. 15A-534.1. All State and local law enforcement agencies shall report information to the ~~Attorney General's Office~~Department of Public Safety upon making a determination that a homicide meets the reporting system's criteria. The report shall be made in the format adopted by the ~~Attorney General's Office~~Department of Public Safety. The ~~Attorney General's Office~~Department of Public Safety shall report to the ~~Joint Legislative Committee on Domestic Violence,~~Joint Legislative Oversight Committee on Justice and Public Safety, no later than February 1 of each year, with the data collected for the previous calendar year."

SECTION 17.6.(ss) Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-8.6. Power of arrest.

Law enforcement officers of the Attorney General's office who are engaged in the investigation of public corruption are given the same power of arrest as is now vested in the sheriffs of the several counties, and their jurisdiction shall be statewide. Such law enforcement officers shall, at the request of the Governor, give assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so directed."

SECTION 17.6.(tt) G.S. 114-10, as recodified by subsection (j) of this section, reads as rewritten:

"§ 143B-902. ~~Division of Criminal Information.~~Powers and duties of the Department of Public Safety with respect to criminal information.

~~The Attorney General shall set up in the Department of Justice a division to be designated as the Division of Criminal Information. There shall be assigned to this Division by the Attorney General duties as follows:~~In addition to its other duties, it shall be the duty of the Department of Public Safety to do all of the following:

...

- (2) To collect, correlate, and maintain access to information that will assist in the performance of duties required in the administration of criminal justice throughout the State. This information may include, but is not limited to, motor vehicle registration, drivers' licenses, wanted and missing persons, stolen property, warrants, stolen vehicles, firearms registration, sexual offender registration as provided under Article 27A of Chapter 14 of the General Statutes, drugs, drug users and parole and probation histories. In performing this function, the ~~Division~~Department may arrange to use information available in other agencies and units of State, local and federal government, but shall provide security measures to insure that such information shall be made available only to those whose duties, relating to the administration of justice, require such information.

...

- ~~(5) To perform such other duties as may be from time to time prescribed by the Attorney General.~~

- (6) To promulgate rules and regulations for the administration of this Article."

SECTION 17.6.(uu) G.S. 114-10.01, as recodified by subsection (j) of this section, reads as rewritten:

"§ 143B-903. Collection of traffic law enforcement statistics.

(a) ~~In addition to the duties set forth in G.S. 114-10, the Division of Criminal Information~~In addition to its other duties, the Department of Public Safety shall collect, correlate, and maintain the following information regarding traffic law enforcement by law enforcement officers:

...

- (b) For purposes of this section, "law enforcement officer" means any of the following:

- (1) All State law enforcement officers.
- (2) Law enforcement officers employed by county sheriffs or county police departments.
- (3) Law enforcement officers employed by police departments in municipalities with a population of 10,000 or more persons.
- (4) Law enforcement officers employed by police departments in municipalities employing five or more full-time sworn officers for every 1,000 in population, as calculated by the ~~Division~~Department for the calendar year in which the stop was made.

...

(d) Each law enforcement officer making a stop covered by subdivision (1) of subsection (a) of this section shall be assigned an anonymous identification number by the officer's employing agency. The anonymous identifying number shall be public record and shall be reported to the ~~Division~~Department to be correlated along with the data collected under subsection (a) of this section. The correlation between the identification numbers and the names of the officers shall not be a public record, and shall not be disclosed by the agency except when required by order of a court of competent jurisdiction to resolve a claim or defense properly before the court.

(d1) Any agency subject to the requirements of this section shall submit information collected under subsection (a) of this section to the ~~Division~~Department within 60 days of the close of each month. Any agency that does not submit the information as required by this

subsection shall be ineligible to receive any law enforcement grants available by or through the State until the information which is reasonably available is submitted.

(e) ~~The Division-Department~~ shall publish and distribute by December 1 of each year a list indicating the law enforcement officers that will be subject to the provisions of this section during the calendar year commencing on the following January 1."

SECTION 17.6.(vv) G.S. 114-10.02, as recodified by subsection (j) of this section, reads as rewritten:

"§ 143B-904. Collection of statistics on the use of deadly force by law enforcement officers.

(a) In addition to ~~the duties set forth in G.S. 114-10, the Division of Criminal Information~~ its other duties, the Department of Public Safety shall collect, maintain, and annually publish the number of deaths, by law enforcement agency, resulting from the use of deadly force by law enforcement officers in the course and scope of their official duties.

(b) For purposes of this section, "law enforcement officer" means sworn law enforcement officers with the power of arrest, both State and local."

SECTION 17.6.(ww) G.S. 114-10.1, as recodified by subsection (j) of this section, reads as rewritten:

"§ 143B-905. Police-Criminal Information Network.

(a) ~~The Division of Criminal Information~~Department of Public Safety is authorized to establish, devise, maintain and operate a system for receiving and disseminating to participating agencies information collected, maintained and correlated under authority of ~~G.S. 114-10 of this Article~~G.S. 143B-902. The system shall be known as the ~~Division of Criminal Information~~ Network.

(b) ~~The Division of Criminal Information~~Department of Public Safety is authorized to cooperate with the Division of Motor Vehicles, Department of Administration, ~~the Department of Public Safety,~~ and other State, local and federal agencies and organizations in carrying out the purpose and intent of this section, and to utilize, in cooperation with other State agencies and to the extent as may be practical, computers and related equipment as may be operated by other State agencies.

(c) ~~The Division of Criminal Information~~Department of Public Safety, after consultation with participating agencies, shall adopt rules and regulations governing the organization and administration of the ~~Division of Criminal Information~~ Network, including rules and regulations governing the types of information relating to the administration of criminal justice to be entered into the system, and who shall have access to such information. The rules and regulations governing access to the ~~Division of Criminal Information~~ Network shall not prohibit an attorney who has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining information relevant to that criminal proceeding. The rules and regulations governing access to the ~~Division of Criminal Information~~ Network shall not prohibit an attorney who represents a person in adjudicatory or dispositional proceedings for an infraction from obtaining the person's driving record or criminal history.

(d) ~~The Division of Criminal Information may impose an initial set up fee of two thousand six hundred fifty dollars (\$2,650) for agencies to participate in the Division of Criminal Information Network. This one-time fee shall be used to offset the cost of the router and data circuit needed to access the Network.~~

The ~~Division of Criminal Information-Department~~ may also impose monthly fees on participating agencies. The monthly fees collected under this subsection shall be used to offset the cost of operating and maintaining the Police-Criminal Information Network~~Network~~.

(1) The ~~Division of Criminal Information~~Department may impose a monthly circuit fee on agencies that access the ~~Division of Criminal Information~~ Network through a circuit maintained and operated by the ~~Department of Justice~~Department of Public Safety. The amount of the monthly fee is three

hundred dollars (\$300.00) plus an additional fee amount for each device linked to the Network. The additional fee amount varies depending upon the type of device. For a desktop device after the first seven desktop devices, the additional monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the additional monthly fee is twelve dollars (\$12.00) per device.

- (2) ~~The Division of Criminal Information~~Department may impose a monthly device fee on agencies that access the ~~Police-Criminal~~Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the fee is twelve dollars (\$12.00) per device."

SECTION 17.6.(xx) G.S. 114-11.6 reads as rewritten:

"§ 114-11.6. Division established; duties.

There is hereby established in the office of the Attorney General of North Carolina, a Special Prosecution Division. The attorneys assigned to this Division shall be available to prosecute or assist in the prosecution of criminal cases when requested to do so by a district attorney and the Attorney General approves. In addition, these attorneys assigned to this Division shall ~~serve as legal advisers to the State Bureau of Investigation and the Police Information Network and~~perform any other duties assigned to them by the Attorney General."

SECTION 17.6.(yy) The title of Article 4 of Chapter 114 of the General Statutes and of Part 1 of that Article reads as rewritten:

~~"State Bureau of Investigation.~~North Carolina State Crime Laboratory.

Part 1. General Powers and ~~Duties of the State Bureau of Investigation.~~Duties."

SECTION 17.6.(zz) G.S. 114-12, as recodified by subsection (l) of this section, reads as rewritten:

"§ 143B-907. Bureau of Investigation created; powers and duties.

In order to secure a more effective administration of the criminal laws of the State, to prevent crime, and to procure the speedy apprehension of criminals, the ~~Attorney General~~Secretary of Public Safety shall set up in the Division of Law Enforcement of the Department of Justice-Public Safety a ~~division~~section to be designated as the State Bureau of Investigation. The ~~Division-Section~~ shall have charge of and administer the agencies and activities herein set up for the identification of criminals, for their apprehension, ~~for the scientific analysis of evidence of crime,~~ and investigation and preparation of evidence to be used in criminal courts; and the said Bureau shall have charge of investigation of criminal matters herein especially mentioned, and of such other crimes and criminal procedure as the Governor may direct."

SECTION 17.6.(aaa) G.S. 114-14, as recodified by subsection (l) of this section, reads as rewritten:

"§ 143B-909. General powers and duties of ~~Director and assistants.~~law enforcement officers of the State Bureau of Investigation.

~~The Director of the Bureau and his assistants~~Sworn law enforcement officers of the State Bureau of Investigation are given the same power of arrest as is now vested in the sheriffs of the several counties, and their jurisdiction shall be statewide. ~~The Director of the Bureau and his assistants~~Sworn law enforcement officers of the Bureau shall, at the request of the Governor, give assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so directed. ~~They shall also give assistance, when requested, to the Department of Public Safety in the investigation of cases pending before the parole office and of complaints lodged against parolees, when so directed by the Governor."~~

SECTION 17.6.(bbb) G.S. 114-15, as recodified by subsection (l) of this section, reads as rewritten:

"§ 143B-911. Investigations of lynchings, election frauds, etc.; services subject to call of Governor; witness fees and mileage for ~~Director and assistants~~employees.

(a) The Bureau shall, ~~through its Director and~~ upon request of the Governor, investigate and prepare evidence in the event of any lynching or mob violence in the State; shall investigate all cases arising from frauds in connection with elections when requested to do so by the Board of Elections, and when so directed by the Governor. Such investigation, however, shall in nowise interfere with the power of the Attorney General to make such investigation as the Attorney General is authorized to make under the laws of the State. The Bureau is authorized further, at the request of the Governor, to investigate cases of frauds arising under the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and matters of similar kind when called upon by the Governor so to do. In all such cases it shall be the duty of the Department to keep such records as may be necessary and to prepare evidence in the cases investigated, for the use of enforcement officers and for the trial of causes. The services of ~~the Director of the Bureau, and of the Director's assistants~~employees of the Bureau may be required by the Governor in connection with the investigation of any crime committed anywhere in the State when called upon by the enforcement officers of the State, and when, in the judgment of the Governor, such services may be rendered with advantage to the enforcement of the criminal law. The State Bureau of Investigation is hereby authorized to investigate without request the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1). The Bureau also is authorized at the request of the Governor to conduct a background investigation on a person that the Governor plans to nominate for a position that must be confirmed by the General Assembly, the Senate, or the House of Representatives. The background investigation of the proposed nominee shall be limited to an investigation of the person's criminal record, educational background, employment record, records concerning the listing and payment of taxes, and credit record, and to a requirement that the person provide the information contained in the statements of economic interest required to be filed by persons subject to Chapter 138A of the General Statutes. The Governor must give the person being investigated written notice that the Governor intends to request a background investigation at least 10 days prior to the date that the Governor requests the State Bureau of Investigation to conduct the background investigation. The written notice shall be sent by regular mail, and there is created a rebuttable presumption that the person received the notice if the Governor has a copy of the notice.

...
(c) All records and evidence collected and compiled by ~~the Director of the Bureau and his assistants~~employees of the Bureau shall, upon request, be made available to the district attorney of any district if the same concerns persons or investigations in his district.

(d) In all cases where the cost is assessed against the defendant and paid by him, there shall be assessed in the bill of cost, mileage and witness fees to ~~the Director and any of his assistants~~any employees of the Bureau who are witnesses in cases arising in courts of this State. The fees so assessed, charged and collected shall be forwarded by the clerks of the court to the Treasurer of the State of North Carolina, and there credited to the Bureau of Identification and Investigation Fund."

SECTION 17.6.(ccc) G.S. 114-16 reads as rewritten:

"§ 114-16. Laboratory and clinical facilities; employment of criminologists; services of scientists, etc., employed by State; radio system.

In the ~~said Bureau~~Department of Justice there shall be provided laboratory facilities for the analysis of evidences of crime, including the determination of presence, quantity and character of poisons, the character of bloodstains, microscopic and other examination material associated

1 with the commission of crime, examination and analysis of projectiles of ballistic imprints and
2 records which might lead to the determination or identification of criminals, the examination
3 and identification of fingerprints, and other evidence leading to the identification,
4 apprehension, or conviction of criminals. A sufficient number of persons skilled in such matters
5 shall be employed to render a reasonable service to the public and the criminal justice system in
6 the discharge of their duties. ~~In the personnel of the Bureau shall be included a sufficient~~
7 ~~number of persons of training and skill in the investigation of crime and in the preparation of~~
8 ~~evidence as to be of service to local enforcement officers, under the direction of the Governor,~~
9 ~~in criminal matters of major importance.~~

10 The laboratory and clinical facilities of the institutions of the State, both educational and
11 departmental, shall be made available to the ~~Bureau~~, Department of Justice and scientists and
12 doctors now working for the State through its institutions and departments may be called upon
13 by the Governor to aid the ~~Bureau~~ State Crime Laboratory in the evaluation, preparation, and
14 preservation of evidence in which scientific methods are employed, and a reasonable fee may
15 be allowed by the Governor for such service.

16 The State radio system shall be made available to the ~~Bureau~~ State Crime Laboratory for
17 use in its work."

18 **SECTION 17.6.(ddd)** G.S. 114-19.1(d), as recodified by subsection (m) of this
19 section, reads as rewritten:

20 "(d) Nothing in this section shall be construed as enlarging any right to receive any
21 record of the State Bureau of Investigation. Such rights are and shall be controlled by
22 ~~G.S. 114-15, G.S. 114-19, G.S. 143B-911, 143B-917, 120-19.4A,~~ and other applicable
23 statutes."

24 **SECTION 17.6.(eee)** G.S. 114-19.6(b), as recodified by subsection (m) of this
25 section, reads as rewritten:

26 "(b) When requested by the Department of Health and Human Services or the Division
27 of Juvenile Justice of the Department of Public Safety, the North Carolina Department of
28 Justice may provide to the requesting department or division a covered person's criminal
29 history from the State Repository of Criminal Histories. Such requests shall not be due to a
30 person's age, sex, race, color, national origin, religion, creed, political affiliation, or
31 handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history
32 record check only, the requesting department or division shall provide to the Department of
33 Justice a form consenting to the check signed by the covered person to be checked and any
34 additional information required by the Department of Justice. National criminal record checks
35 are authorized for covered applicants who have not resided in the State of North Carolina
36 during the past five years. For national checks the Department of Health and Human Services
37 or the Division of Juvenile Justice of the Department of Public Safety shall provide to the North
38 Carolina Department of Justice the fingerprints of the covered person to be checked, any
39 additional information required by the Department of Justice, and a form signed by the covered
40 person to be checked consenting to the check of the criminal record and to the use of
41 fingerprints and other identifying information required by the State or National Repositories.
42 The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a
43 search of the State criminal history record file and the State Bureau of Investigation shall
44 forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal
45 history record check. The Department of Health and Human Services and the Division of
46 Juvenile Justice of the Department of Public Safety shall keep all information pursuant to this
47 section confidential. The Department of Justice shall charge a reasonable fee for conducting the
48 checks of the criminal history records authorized by this section."

49 **SECTION 17.6.(fff)** G.S. 114-20, as recodified by subsection (n) of this section,
50 reads as rewritten:

51 "**§ 143B-975. Authority to provide protection to certain public officials.**

1 The North Carolina State Bureau of Investigation is authorized to provide protection to
2 public officials who request it, and who, in the discretion of the ~~Director of the Bureau with the~~
3 ~~approval of the Attorney General~~, Secretary of Public Safety, demonstrate a need for such
4 protection. The bureau shall not provide protection for any individual other than the Governor
5 for a period greater than 30 days without review and reapproval by the ~~Attorney~~
6 ~~General~~, Secretary of Public Safety. This review and reapproval shall be required at the end of
7 each 30-day period."

8 **SECTION 17.6.(ggg)** G.S. 114-20.1, as recodified by subsection (n) of this
9 section, reads as rewritten:

10 **"§ 143B-976. Authority to designate areas for protection of public officials.**

11 (a) The ~~Attorney General~~Secretary of Public Safety is authorized to designate buildings
12 and grounds which constitute temporary residences or temporary offices of any public official
13 being protected under authority of G.S. 114-20, or any area that will be visited by any such
14 official, a public building or facility during the time of such use.

15 (b) The ~~Attorney General or the Director of the State Bureau of Investigation~~Secretary
16 of Public Safety may, with the consent of the official to be protected, make rules governing
17 ingress to or egress from such buildings, grounds or areas designated under this section."

18 **SECTION 17.6.(hhh)** G.S. 120-226(c) reads as rewritten:

19 "(c) Membership. – The Commission shall consist of 22 members to be appointed as
20 follows:

21 ...

22 (12) ~~The Director of the State Bureau of Investigation~~The Secretary of Public
23 Safety or the ~~Director's Secretary's~~ designee.

24"

25 **SECTION 17.6.(iii)** G.S. 122C-80 reads as rewritten:

26 **"§ 122C-80. Criminal history record check required for certain applicants for**
27 **employment.**

28 ...

29 (b) Requirement. – An offer of employment by a provider licensed under this Chapter
30 to an applicant to fill a position that does not require the applicant to have an occupational
31 license is conditioned on consent to a State and national criminal history record check of the
32 applicant. If the applicant has been a resident of this State for less than five years, then the offer
33 of employment is conditioned on consent to a State and national criminal history record check
34 of the applicant. The national criminal history record check shall include a check of the
35 applicant's fingerprints. If the applicant has been a resident of this State for five years or more,
36 then the offer is conditioned on consent to a State criminal history record check of the
37 applicant. A provider shall not employ an applicant who refuses to consent to a criminal history
38 record check required by this section. Except as otherwise provided in this subsection, within
39 five business days of making the conditional offer of employment, a provider shall submit a
40 request to the ~~Department of Justice~~Department of Public Safety under
41 ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a criminal history record check required by this
42 section or shall submit a request to a private entity to conduct a State criminal history record
43 check required by this section. Notwithstanding ~~G.S. 114-19.10~~, G.S. 143B-930, the
44 ~~Department of Justice~~Department of Public Safety shall return the results of national criminal
45 history record checks for employment positions not covered by Public Law 105-277 to the
46 Department of Health and Human Services, Criminal Records Check Unit. Within five business
47 days of receipt of the national criminal history of the person, the Department of Health and
48 Human Services, Criminal Records Check Unit, shall notify the provider as to whether the
49 information received may affect the employability of the applicant. In no case shall the results
50 of the national criminal history record check be shared with the provider. Providers shall make
51 available upon request verification that a criminal history check has been completed on any

staff covered by this section. A county that has adopted an appropriate local ordinance and has access to the Division of Criminal Information data bank may conduct on behalf of a provider a State criminal history record check required by this section without the provider having to submit a request to the Department of Justice. In such a case, the county shall commence with the State criminal history record check required by this section within five business days of the conditional offer of employment by the provider. All criminal history information received by the provider is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section. For purposes of this subsection, the term "private entity" means a business regularly engaged in conducting criminal history record checks utilizing public records obtained from a State agency.

...

(g) Conditional Employment. – A provider may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

- (1) The provider shall not employ an applicant prior to obtaining the applicant's consent for criminal history record check as required in subsection (b) of this section or the completed fingerprint cards as required in ~~G.S. 114-19-10~~G.S. 143B-930.
- (2) The provider shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment."

SECTION 17.6.(jjj) G.S. 122C-205(c) reads as rewritten:

"(c) Upon receipt of notice of an escape or breach of a condition of release as described in subsections (a) and (b) of this section, an appropriate law enforcement officer shall take the client into custody and have the client returned to the 24-hour facility from which the client has escaped or has been conditionally released. Transportation of the client back to the 24-hour facility shall be provided in the same manner as described in G.S. 122C-251 and G.S. 122C-408(b). Law enforcement agencies who are notified of a client's escape or breach of conditional release shall be notified of the client's return by the responsible 24-hour facility. Under the circumstances described in this section, the initial notification by the 24-hour facility of the client's escape or breach of conditional release shall be given by telephone communication to the appropriate law enforcement agency or agencies and, if available and appropriate, by ~~Division of Criminal Information (DCI)~~Department of Public Safety message to any law enforcement agency in or out of state and by entry into the National Crime Information Center (NCIC) telecommunications system. As soon as reasonably possible following notification, written authorization to take the client into custody shall also be issued by the 24-hour facility. Under this section, law enforcement officers shall have the authority to take a client into custody upon receipt of the telephone notification or ~~Division of Criminal Information~~Department of Public Safety message prior to receiving written authorization. The notification of a law enforcement agency does not, in and of itself, render this information public information within the purview of Chapter 132 of the General Statutes. However, the responsible law enforcement agency shall determine the extent of disclosure of personal identifying and background information reasonably necessary, under the circumstances, in order to assure the expeditious return of a client to the 24-hour facility involved and to protect the general public and is authorized to make such disclosure. The responsible law enforcement agency may also place any appropriate message or entry into either the ~~Division of Criminal Information System~~Department of Public Safety's Criminal Information System or National Crime Information System, or both, as appropriate."

SECTION 17.6.(kkk) G.S. 131D-10.3A reads as rewritten:

"§ 131D-10.3A. Mandatory criminal checks.

...

(d) The ~~Department of Justice~~ Department of Public Safety shall provide to the Department the criminal history of the individuals specified in subsection (a) of this section obtained from the State and National Repositories of Criminal Histories as requested by the Department. The Department shall provide to the ~~Department of Justice~~ Department of Public Safety, along with the request, the fingerprints of the individual to be checked, any additional information required by the ~~Department of Justice~~ Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

...
(i) The ~~Department of Justice~~ Department of Public Safety shall perform the State and national criminal history checks on individuals required by this section and shall charge the Department a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Health and Human Services, shall bear the costs of implementing this section."

SECTION 17.6.(III) G.S. 131D-40 reads as rewritten:

"§ 131D-40. Criminal history record checks required for certain applicants for employment.

(a) Requirement; Adult Care Home. – An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an adult care home shall submit a request to the ~~Department of Justice~~ Department of Public Safety under ~~G.S. 114-19.10~~ G.S. 143B-930 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10~~ G.S. 143B-930, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the adult care home as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the adult care home. Adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Adult Care Home. – An offer of employment by a contract agency of an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident

of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a contract agency of an adult care home shall submit a request to the ~~Department of Justice~~ Department of Public Safety under ~~G.S. 114-19.10~~ G.S. 143B-930 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10~~ G.S. 143B-930, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the contract agency of the adult care home as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the contract agency of the adult care home. Contract agencies of adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...

(f) Conditional Employment. – An adult care home may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

- (1) The adult care home shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10~~ G.S. 143B-930.
- (2) The adult care home shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

...."

SECTION 17.6.(mmm) G.S. 131E-159(g) reads as rewritten:

"(g) An individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials is subject to a criminal background review by the Department. At the request of the Department, the Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall review criminal background information and make a recommendation regarding the eligibility of an individual to obtain initial EMS credentials, renew EMS credentials, or maintain EMS credentials. The Department and the Emergency Medical Services Disciplinary Committee shall keep all information obtained pursuant to this subsection confidential. The Medical Care Commission shall adopt rules to implement the provisions of this subsection, including rules to establish a reasonable fee to offset the actual costs of criminal history information obtained pursuant to ~~G.S. 114-19.21~~ G.S. 143B-943."

SECTION 17.6.(nnn) G.S. 131E-265 reads as rewritten:

"§ 131E-265. Criminal history record checks required for certain applicants for employment.

(a) Requirement; Nursing Home or Home Care Agency. – An offer of employment by a nursing home licensed under this Chapter to an applicant to fill a position that does not require

the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An offer of employment by a home care agency licensed under this Chapter to an applicant to fill a position that requires entering the patient's home is conditioned on consent to a criminal history record check of the applicant. In addition, employment status change of a current employee of a home care agency licensed under this Chapter from a position that does not require entering the patient's home to a position that requires entering the patient's home shall be conditioned on consent to a criminal history record check of that current employee. If the applicant for employment or if the current employee who is changing employment status has been a resident of this State for less than five years, then the offer of employment or change in employment status is conditioned on consent to a State and national criminal history record check. The national criminal history record check shall include a check of the applicant's or current employee's fingerprints. If the applicant or current employee has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant or current employee applying for a change in employment status. A nursing home or a home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. In addition, a home care agency shall not change a current employee's employment status from a position that does not require entering the patient's home to a position that requires entering the patient's home who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a nursing home or home care agency shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-930, the ~~Department of Justice~~Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the nursing home or home care agency as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the nursing home or home care agency. Nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home or agency is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An offer of employment by a contract agency of a nursing home or home care agency licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of a nursing home or home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section.

1 Within five business days of making the conditional offer of employment, a contract agency of
2 a nursing home or home care agency shall submit a request to the ~~Department of~~
3 ~~Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-930 to conduct a State or
4 national criminal history record check required by this section, or shall submit a request to a
5 private entity to conduct a State criminal history record check required by this section.
6 Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-930, the ~~Department of Justice~~Department of
7 Public Safety shall return the results of national criminal history record checks for employment
8 positions not covered by Public Law 105-277 to the Department of Health and Human
9 Services, Criminal Records Check Unit. Within five business days of receipt of the national
10 criminal history of the person, the Department of Health and Human Services, Criminal
11 Records Check Unit, shall notify the contract agency of the nursing home or home care agency
12 as to whether the information received may affect the employability of the applicant. In no case
13 shall the results of the national criminal history record check be shared with the contract agency
14 of the nursing home or home care agency. Contract agencies of nursing homes and home care
15 agencies shall make available upon request verification that a criminal history check has been
16 completed on any staff covered by this section. All criminal history information received by the
17 contract agency is confidential and may not be disclosed, except to the applicant as provided by
18 subsection (b) of this section.

19 ...
20 (f) Conditional Employment. – A nursing home or home care agency may employ an
21 applicant conditionally prior to obtaining the results of a criminal history record check
22 regarding the applicant if both of the following requirements are met:

- 23 (1) The nursing home or home care agency shall not employ an applicant prior
24 to obtaining the applicant's consent for a criminal history record check as
25 required in subsection (a) of this section or the completed fingerprint cards
26 as required in ~~G.S. 114-19.10~~G.S. 143B-930.
27 (2) The nursing home or home care agency shall submit the request for a
28 criminal history record check not later than five business days after the
29 individual begins conditional employment.

30"
31 **SECTION 17.6.(nnn1)** Subpart C of Article 13 of Chapter 143B of the General
32 Statutes, as created by subsection (f) of this section is amended by adding a new section to
33 read:

34 **"§ 143B-918. Assistance to local law enforcement officers.**

35 In the personnel of the Bureau shall be included a sufficient number of persons of training
36 and skill in the investigation of crime and in the preparation of evidence as to be of service to
37 local enforcement officers, under the direction of the Governor, in criminal matters of major
38 importance."

39 **SECTION 17.6.(ooo)** G.S. 143-143.10(b)(6) reads as rewritten:

- 40 "(6) To request that the Department of Justice conduct criminal history checks of
41 applicants for licensure pursuant to ~~G.S. 114-19.13~~G.S. 143B-935."

42 **SECTION 17.6.(ppp)** G.S. 143B-1100 reads as rewritten:

43 **"§ 143B-1100. Governor's Crime Commission – creation; composition; terms; meetings,**
44 **etc.**

45 (a) There is hereby created the Governor's Crime Commission of the Department of
46 Public Safety. The Commission shall consist of ~~36-37~~ voting members and ~~six-five~~ nonvoting
47 members. The composition of the Commission shall be as follows:

- 48 ...
49 (2) The nonvoting members shall be ~~the Director of the State Bureau of~~
50 ~~Investigation~~, the Deputy Director of the Division of Juvenile Justice of the
51 Department of Public Safety who is responsible for Intervention/Prevention

programs, the Deputy Director of the Division of Juvenile Justice of the Department of Public Safety who is responsible for Youth Development programs, the Section Chief of the Section of Prisons of the Division of Adult Correction and the Section Chief of the Section of Community Corrections of the Division of Adult Correction.

(b) The membership of the Commission shall be selected as follows:

(1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of Public Safety, ~~the Director of the State Bureau of Investigation~~, the Section Chief of the Section of Prisons of the Division of Adult Correction, the Section Chief of the Section of Community Corrections of the Division of Adult Correction, the Deputy Director who is responsible for Intervention/Prevention of the Division of Juvenile Justice of the Department of Public Safety, the Deputy Director who is responsible for Youth Development of the Division of Juvenile Justice of the Department of Public Safety, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.

...."

SECTION 17.6.(qqq) G.S. 148-37.3(c) reads as rewritten:

"(c) Any private corporation described in subsection (a) of this section shall reimburse the State and any county or other law enforcement agency for the full cost of any additional expenses incurred by the State or the county or other law enforcement agency in connection with the pursuit and apprehension of an escaped inmate from the facility.

In the event of an escape from the facility, any private corporation described in subsection (a) of this section shall immediately notify the sheriff in the county in which the facility is located, who shall cause an immediate entry into the ~~State Bureau of Investigation Division of Criminal Information network~~ Department of Public Safety's Criminal Information Network. The sheriff of the county in which the facility is located shall be the lead law enforcement officer in connection with the pursuit and apprehension of an escaped inmate from the facility."

SECTION 17.6.(rrr) G.S. 153A-94.2 reads as rewritten:

"§ 153A-94.2. Criminal history record checks of employees permitted.

The board of commissioners may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~ Department of Public Safety in accordance with ~~G.S. 114-19.14~~ G.S. 143B-936. The local or regional public employer may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.6.(sss) G.S. 160A-164.2 reads as rewritten:

"§ 160A-164.2. Criminal history record check of employees permitted.

The council may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~ Department of Public Safety in accordance with ~~G.S. 114-19.14~~ G.S. 143B-936. The city may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.6.(ttt) G.S. 164-44(a) reads as rewritten:

"(a) The Commission shall have the secondary duty of collecting, developing, and maintaining statistical data relating to sentencing, corrections, and juvenile justice so that the

primary duties of the Commission will be formulated using data that is valid, accurate, and relevant to this State. All State agencies shall provide data as it is requested by the Commission. For the purposes of ~~G.S. 114-19.1~~, G.S. 143B-921, the Commission shall be considered to be engaged in the administration of criminal justice. All meetings of the Commission shall be open to the public and the information presented to the Commission shall be available to any State agency or member of the General Assembly."

PART XVIII. JUDICIAL DEPARTMENT

SUBPART XVIII-A. OFFICE OF INDIGENT DEFENSE SERVICES

OFFICE OF INDIGENT DEFENSE SERVICES REPORT

SECTION 18A.1. The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, the House of Representatives Appropriations Subcommittee on Justice and Public Safety, and the Senate Appropriations Committee on Justice and Public Safety by March 1 of each year on:

- (1) The volume and cost of cases handled in each district by assigned counsel or public defenders;
- (2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;
- (3) Plans for changes in rules, standards, or regulations in the upcoming year; and
- (4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices.

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS

SECTION 18A.2. The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred fifty thousand dollars (\$2,150,000) in appropriated funds during the 2013-2014 fiscal year for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, for the creation of new public defender offices within existing public defender programs, or for the establishment of regional public defender programs. Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent Defense Services may use a portion of these funds to create positions within existing public defender programs to handle cases in adjacent counties or districts. These funds may be used to create up to 50 new attorney positions and 25 new support staff positions during the 2013-2015 fiscal biennium and for the salaries, benefits, equipment, and related expenses for these positions in both years of the biennium. Positions creation will be staggered across the two years of the biennium. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the proposed expansion.

OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS

SECTION 18A.3. Notwithstanding G.S. 143C-6-9, during the 2013-2015 fiscal biennium, the Office of Indigent Defense Services may use the sum of up to fifty thousand dollars (\$50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the

Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

PRIVATE ASSIGNED COUNSEL

SECTION 18A.4. The Office of Indigent Defense Services shall issue a request for proposals from private law firms or not-for-profit legal representation organizations for the provision of all classes of legal cases for indigent clients in all judicial districts. The Office of Indigent Defense Services shall report on the issuance of this request for proposals to the Joint Legislative Commission on Governmental Operations by October 1, 2013. In cases where the proposed contract can provide representation services more efficiently than current costs, the Office of Indigent Defense Services shall use private assigned counsel funds to enter into contracts for this purpose. In selecting contracts, the Office of Indigent Defense Services shall consider the cost-effectiveness of the proposed contract. Disputes regarding the ability of the potential contractor to provide effective representation for clients served by the contract shall be determined by the senior resident superior court judge for the district.

SUBPART XVIII-B. ADMINISTRATIVE OFFICE OF THE COURTS

GRANT FUNDS

SECTION 18B.1. Notwithstanding G.S. 143C-6-9, the Administrative Office of the Courts may use up to the sum of one million five hundred thousand dollars (\$1,500,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee on Justice and Public Safety, and to the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 18B.2. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2013, for the purchase or repair of office or information technology equipment during the 2013-2014 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and the Office of State Budget and Management on the equipment to be purchased or repaired and the reasons for the purchases.

COURT REPORTER CONTRACTUAL SERVICES FUNDS

SECTION 18B.3. Of the funds appropriated in this act to the Judicial Department for court reporters, the Department shall use the sum of one million nine hundred thirty-eight thousand nine hundred thirty-nine dollars (\$1,938,939) during the 2013-2014 fiscal year to provide contractual services of court reporters for superior court.

CONFERENCE OF DISTRICT ATTORNEYS GRANT FUND

SECTION 18B.4. Of the funds appropriated in this act to the Judicial Department, the sum of one million two hundred fifty thousand dollars (\$1,250,000) in the 2013-2014 fiscal year and the sum of seven hundred fifty thousand dollars (\$750,000) in the 2014-2015 fiscal year shall be allocated to the Conference of District Attorneys and shall be used to establish a grant fund to provide district attorneys across the State with the resources to obtain toxicology

analysis from local hospitals on persons charged with driving while impaired whose conduct did not result in serious injury or death to others.

MODIFY LEGAL AID DOMESTIC VIOLENCE REPORT

SECTION 18B.5. G.S. 7A-474.20 reads as rewritten:

"§ 7A-474.20. Records and reports.

The established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar. The North Carolina State Bar shall report annually to the ~~General Assembly~~ Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the amount of the funds disbursed and the use of the funds by each legal services program receiving funds. The report to the ~~General Assembly~~ Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety shall be made by January 15 of each year beginning January 15, 2006."

FAMILY COURT PROGRAMS

SECTION 18B.6. The Administrative Office of the Courts shall provide direction and oversight to the existing family court programs in order to ensure that each district with a family court program is utilizing best practices and is working effectively and efficiently in the disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report on its efforts in this regard and the results of those efforts to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2014.

MAGISTRATE DISTRIBUTION FORMULA

SECTION 18B.7. The Administrative Office of the Courts, in consultation with the National Center for State Courts, shall study its current formula for the distribution of magistrates across the State and consider revisions to that formula designed to take into account regional differences, travel considerations, and the potential for regionalizing magistrates. The Administrative Office of the Courts shall report its findings and recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2014.

MINUTES MAINTAINED BY THE CLERK OF SUPERIOR COURT TO RECORD CONVENING AND ADJOURNMENT OR RECESS OF BOTH DISTRICT AND SUPERIOR COURT

SECTION 18B.8.(a) G.S. 7A-109(a1) is amended by adding a new section to read:

"(a1) The minutes maintained by the clerk pursuant to this subsection shall record the date and time of each convening of district and superior court, as well as the date and time of each recess or adjournment of district and superior court with no further business before the court."

SECTION 18B.8.(b) The Administrative Office of the Courts shall provide on a monthly basis the records of the dates and times of convening, recess, and adjournment of district and superior court collected by each clerk of superior court pursuant to G.S. 7A-109, as amended by subsection (a) of this section, to the National Center for State Courts, the Fiscal Research Division, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.

JUDICIAL FORMS SHALL CONFORM TO JUSTICE REINVESTMENT CHANGES

SECTION 18B.9. The Administrative Office of the Courts shall ensure that all judicial forms being used in the General Court of Justice conform to all of the changes made in the law with the enactment of the Justice Reinvestment Act of 2011, as amended.

CRIMINAL CASE INFORMATION SYSTEM FOR PUBLIC DEFENDERS

SECTION 18B.10. The Administrative Office of the Courts shall use funds allocated to the Judicial Department for technology for the 2013-2014 fiscal biennium to develop and implement a component of the Department's criminal case information system for use by public defenders no later than July 1, 2014.

CLERKS SHALL ACCEPT CREDIT CARDS

SECTION 18B.11.(a) G.S. 7A-321(a) reads as rewritten:

"(a) The Judicial Department ~~may, shall,~~ in lieu of payment by cash or check, accept payment by credit card, charge card, or debit card for the ~~finer, fees, and~~ costs owed to the ~~courts by offenders court, including fines, fees, and restitution.~~"

SECTION 18B.11.(b) The Administrative Office of the Courts shall provide a cost-effective system for accepting online payments for court costs to all clerks of superior court by January 1, 2014.

SECTION 18B.11.(c) This section becomes effective January 1, 2014.

SPECIAL SUPERIOR COURT JUDGES

SECTION 18B.12. Effective July 1, 2013, G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a8) Notwithstanding any other provision of this section, except as to those three seats designated as of January 1, 2013, under G.S. 7A-45.3 as business court judges, effective on and after July 1, 2013, any seat established by this section is abolished."

AMEND CLASS 3 MISDEMEANOR SENTENCES

SECTION 18B.13.(a) G.S. 15A-1340.23 reads as rewritten:

"§ 15A-1340.23. Punishment limits for each class of offense and prior conviction level.

(a) Offense Classification; Default Classifications. – The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.

(b) Fines. – Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars (\$200.00) for a Class 3 misdemeanor and one thousand dollars (\$1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.

(c) Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described. – Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:

- (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; and "A" indicates that an active punishment is authorized; and
- (2) A range of durations for the sentence of imprisonment: any sentence within the duration specified is permitted.

PRIOR CONVICTION LEVELS**MISDEMEANOR**

OFFENSE	LEVEL I	LEVEL II	LEVEL III

CLASS	No Prior Convictions	One to Four Prior Convictions	Five or More Prior Convictions
A1	1-60 days C/I/A	1-75 days C/I/A	1-150 days C/I/A
1	1-45 days C	1-45 days C/I/A	1-120 days C/I/A
2	1-30 days C	1-45 days C/I	1-60 days C/I/A
3	1-10 days C	1-15 days C/I 1-15 days C if one to three prior convictions 1-15 days C/I if four prior convictions	1-20 days C/I/A.

(d) Fine Only for Certain Class 3 Misdemeanors. – Unless otherwise provided for a specific offense, the judgment for a person convicted of a Class 3 misdemeanor who has no more than three prior convictions shall consist only of a fine."

SECTION 18B.13.(b) This section becomes effective December 1, 2013. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

RECLASSIFICATION OF CERTAIN CLASS 1 AND CLASS 2 MISDEMEANORS AS CLASS 3 MISDEMEANORS

SECTION 18B.14.(a) G.S. 14-106 reads as rewritten:

"§ 14-106. Obtaining property in return for worthless check, draft or order.

Every person who, with intent to cheat and defraud another, shall obtain money, credit, goods, wares or any other thing of value by means of a check, draft or order of any kind upon any bank, person, firm or corporation, not indebted to the drawer, or where he has not provided for the payment or acceptance of the same, and the same be not paid upon presentation, shall be guilty of a ~~Class 2 misdemeanor~~. Class 3 misdemeanor. The giving of the aforesaid worthless check, draft, or order shall be prima facie evidence of an intent to cheat and defraud."

SECTION 18B.14.(b) G.S. 14-107(d) reads as rewritten:

"(d) A violation of this section is a Class I felony if the amount of the check or draft is more than two thousand dollars (\$2,000). If the amount of the check or draft is two thousand dollars (\$2,000) or less, a violation of this section is a misdemeanor punishable as follows:

- (1) Except as provided in subdivision (3) or (4) of this subsection, the person is guilty of a ~~Class 2 misdemeanor~~. Class 3 misdemeanor. Provided, however, if the person has been convicted three times of violating this section, the person shall on the fourth and all subsequent convictions (i) be punished as for a Class 1 misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.
- (2) Repealed by Session Laws 1999-408, s. 1.
- (3) If the check or draft is drawn upon a nonexistent account, the person is guilty of a Class 1 misdemeanor.
- (4) If the check or draft is drawn upon an account that has been closed by the drawer, or that the drawer knows to have been closed by the bank or depository, prior to time the check is drawn, the person is guilty of a Class 1 misdemeanor."

SECTION 18B.14.(c) G.S. 14-167 reads as rewritten:

"§ 14-167. Failure to return hired property.

Any person who shall rent or hire, any horse, mule or other like animal, or any buggy, wagon, truck, automobile, or other vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, and who shall willfully fail to return the same to the possession of the

1 person, firm or corporation from whom such property has been rented or hired at the expiration
2 of the time for which such property has been rented or hired, shall be guilty of a ~~Class 2~~
3 ~~misdemeanor~~ Class 3 misdemeanor.

4 If the value at the time of the rental or hiring of the truck, automobile, or other motor
5 vehicle that is not returned is in excess of four thousand dollars (\$4,000), the person who rented
6 or hired it and failed to return it shall be guilty of a Class H felony."

7 **SECTION 18B.14.(d)** G.S. 14-168.1 reads as rewritten:

8 **"§ 14-168.1. Conversion by bailee, lessee, tenant or attorney-in-fact.**

9 Every person entrusted with any property as bailee, lessee, tenant or lodger, or with any
10 power of attorney for the sale or transfer thereof, who fraudulently converts the same, or the
11 proceeds thereof, to his own use, or secretes it with a fraudulent intent to convert it to his own
12 use, shall be guilty of a ~~Class 1 misdemeanor~~ Class 3 misdemeanor.

13 If, however, the value of the property converted or secreted, or the proceeds thereof, is in
14 excess of four hundred dollars (\$400.00), every person so converting or secreting it is guilty of
15 a Class H felony. In all cases of doubt the jury shall, in the verdict, fix the value of the property
16 converted or secreted."

17 **SECTION 18B.14.(e)** G.S. 14-168.4(a) reads as rewritten:

18 "(a) It shall be a ~~Class 2 misdemeanor~~ Class 3 misdemeanor for any person to fail to
19 return rented property with intent to defeat the rights of the owner, which is rented pursuant to a
20 written rental agreement in which there is an option to purchase the property, after the date of
21 termination provided in the agreement has occurred or, if the termination date is the occurrence
22 of a specified event, then that such event has in fact occurred."

23 **SECTION 18B.14.(f)** G.S. 20-28(a) reads as rewritten:

24 "(a) Driving While License Revoked. – Except as provided in subsection (a1) of this
25 section, any person whose drivers license has been revoked who drives any motor vehicle upon
26 the highways of the State while the license is revoked is guilty of a Class 3 misdemeanor unless
27 the person's license was originally revoked for an impaired driving revocation, in which case
28 the person is guilty of a Class 1 misdemeanor. Upon conviction, the person's license shall be
29 revoked for an additional period of one year for the first offense, two years for the second
30 offense, and permanently for a third or subsequent offense.

31 If the person's license was originally revoked for an impaired driving revocation, the court
32 may order as a condition of probation that the offender abstain from alcohol consumption and
33 verify compliance by use of a continuous alcohol monitoring system, of a type approved by the
34 Division of Adult Correction of the Department of Public Safety, for a minimum period of 90
35 days.

36 The restoree of a revoked drivers license who operates a motor vehicle upon the highways
37 of the State without maintaining financial responsibility as provided by law shall be punished
38 as for driving without a license."

39 **SECTION 18B.14.(g)** G.S. 20-35 reads as rewritten:

40 **"§ 20-35. Penalties for violating Article; defense to driving without a license.**

41 (a) Penalty. – ~~A~~Except as otherwise provided in subsection (a1) of this section, a
42 violation of this Article is a Class 2 misdemeanor unless a statute in the Article sets a different
43 punishment for the violation. If a statute in this Article sets a different punishment for a
44 violation of the Article, the different punishment applies.

45 (a1) The following offenses are Class 3 misdemeanors:

- 46 (1) Failure to obtain a license before driving a motor vehicle, in violation of
47 G.S. 20-7(a).
- 48 (2) Failure to carry a valid license while driving a motor vehicle, in violation of
49 G.S. 20-7(a).
- 50 (3) Failure to comply with license restrictions, in violation of G.S. 20-7(e).

- (4) Operation of a motor vehicle with an expired license, in violation of G.S. 20-7(f).
- (5) Failure to notify the Division of Motor Vehicles of an address change for a drivers license within 60 days after the change occurs, in violation of G.S. 20-7.1.
- (6) Permitting a motor vehicle owned by the person to be operated by an unlicensed person, in violation of G.S. 20-34.

...."

SECTION 18B.14.(h) G.S. 20-176 reads as rewritten:

"§ 20-176. Penalty for misdemeanor or infraction.

(a) Violation of a provision of Part 9, 10, 10A, or 11 of this Article is an infraction unless the violation is specifically declared by law to be a misdemeanor or felony. Violation of the remaining Parts of this Article is a misdemeanor unless the violation is specifically declared by law to be an infraction or a felony.

(b) Unless a specific penalty is otherwise provided by law, a person found responsible for an infraction contained in this Article may be ordered to pay a penalty of not more than one hundred dollars (\$100.00).

(c) ~~Unless~~ Except as otherwise provided in subsection (c2) of this section, and unless a specific penalty is otherwise provided by law, a person convicted of a misdemeanor contained in this Article is guilty of a Class 2 misdemeanor. A punishment is specific for purposes of this subsection if it contains a quantitative limit on the term of imprisonment or the amount of fine a judge can impose.

(c1) Notwithstanding any other provision of law, no person convicted of a misdemeanor for the violation of any provision of this Chapter except G.S. 20-28(a) and (b), G.S. 20-141(j), G.S. 20-141.3(b) and (c), G.S. 20-141.4, or a second or subsequent conviction of G.S. 20-138.1 shall be imprisoned in the State prison system unless the person previously has been imprisoned in a local confinement facility, as defined by G.S. 153A-217(5), for a violation of this Chapter.

(c2) A person who does any of the following is guilty of a Class 3 misdemeanor:

- (1) Fails to carry the registration card in the vehicle, in violation of G.S. 20-57(c).
- (2) Fails to sign the vehicle registration card, in violation of G.S. 20-57(c).
- (3) Fails to notify the Division of Motor Vehicles of an address change for a vehicle registration card within 60 days after the change occurs, in violation of G.S. 20-67.

(d) For purposes of determining whether a violation of an offense contained in this Chapter constitutes negligence per se, crimes and infractions shall be treated identically."

SECTION 18B.14.(i) G.S. 20-111 reads as rewritten:

"§ 20-111. Violation of registration provisions.

It shall be unlawful for any person to commit any of the following acts:

- (1) To drive a vehicle on a highway, or knowingly permit a vehicle owned by that person to be driven on a highway, when the vehicle is not registered with the Division in accordance with this Article or does not display a current registration plate. Violation of this subdivision is a Class 3 misdemeanor.
- (2) To display or cause or permit to be displayed or to have in possession any registration card, certificate of title or registration number plate knowing the same to be fictitious or to have been canceled, revoked, suspended or altered, or to willfully display an expired license or registration plate on a vehicle knowing the same to be expired. Violation of this subdivision is a Class 3 misdemeanor.

(3) The giving, lending, or borrowing of a license plate for the purpose of using same on some motor vehicle other than that for which issued shall make the giver, lender, or borrower guilty of a Class 3 misdemeanor. Where license plate is found being improperly used, such plate or plates shall be revoked or canceled, and new license plates must be purchased before further operation of the motor vehicle.

(4) To fail or refuse to surrender to the Division, upon demand, any title certificate, registration card or registration number plate which has been suspended, canceled or revoked as in this Article provided. Service of the demand shall be in accordance with G.S. 20-48.

(5) To use a false or fictitious name or address in any application for the registration of any vehicle or for a certificate of title or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application. A violation of this subdivision shall constitute a Class 1 misdemeanor.

(6) To give, lend, sell or obtain a certificate of title for the purpose of such certificate being used for any purpose other than the registration, sale, or other use in connection with the vehicle for which the certificate was issued. Any person violating the provisions of this subdivision shall be guilty of a Class 2 misdemeanor."

SECTION 18B.14.(j) G.S. 20-127(d) reads as rewritten:

"(d) Violations. – A person who does any of the following commits a ~~misdemeanor of the class set in G.S. 20-176: Class 3 misdemeanor~~:

(1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.

(2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section."

SECTION 18B.14.(k) G.S. 20-141(j1) reads as rewritten:

"(j1) A person who drives a vehicle on a highway at a speed that is either more than 15 miles per hour more than the speed limit established by law for the highway where the offense occurred or over 80 miles per hour is guilty of a ~~Class 2 misdemeanor~~. Class 3 misdemeanor."

SECTION 18B.14.(l) G.S. 20-313(a) reads as rewritten:

"(a) On or after July 1, 1963, any owner of a motor vehicle registered or required to be registered in this State who shall operate or permit such motor vehicle to be operated in this State without having in full force and effect the financial responsibility required by this Article shall be guilty of a ~~Class 1 misdemeanor~~. Class 3 misdemeanor."

SECTION 18B.14.(m) G.S. 113-135(a) reads as rewritten:

"(a) Any person who violates any provision of this Subchapter or any rule adopted by the Marine Fisheries Commission or the Wildlife Resources Commission, as appropriate, pursuant to the authority of this Subchapter, is guilty of a misdemeanor except that punishment for violation of the rules of the Wildlife Resources Commission is limited as set forth in G.S. 113-135.1. ~~Unless Fishing without a license in violation of G.S. 113-174.1(a) or G.S. 113-270.1B(a) is punishable as a Class 3 misdemeanor.~~ Otherwise, unless a different level of punishment is elsewhere set out, anyone convicted of a misdemeanor under this section is punishable as follows:

(1) For a first conviction, as a Class 3 misdemeanor.

(2) For a second or subsequent conviction within three years, as a Class 2 misdemeanor."

SECTION 18B.14.(n) This section becomes effective December 1, 2013.

Prosecutions for offenses committed before the effective date of this section are not abated or

affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

RECLASSIFY CERTAIN VIOLATIONS OF THE BOATING SAFETY ACT FROM CLASS 3 MISDEMEANORS TO INFRACTIONS

SECTION 18B.15.(a) G.S. 75A-6.1 reads as rewritten:

"(c) Violation of the navigation rules specified in subsection (a) of this section shall constitute ~~a Class 3 misdemeanor and is punishable only by a fine not to exceed one hundred dollars (\$100.00)~~ an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(b) G.S. 75A-13.1 reads as rewritten:

§ 75A-13.1. Skin and scuba divers.

(a) No person shall engage in skin diving or scuba diving in the waters of this State that are open to boating, or assist in such diving, without displaying a diver's flag from a mast, buoy, or other structure at the place of diving; and no person shall display such flag except when diving operations are under way or in preparation.

(b) The diver's flag shall be square, not less than 12 inches on a side, and shall be of red background with a diagonal white stripe, of a width equal to one fifth of the flag's height, running from the upper corner adjacent to the mast downward to the opposite outside corner.

(c) No operator of a vessel under way in the waters of this State shall permit the vessel to approach closer than 50 feet to any structure from which a diver's flag is then being displayed, except where the flag is so positioned as to constitute an unreasonable obstruction to navigation; and no person shall engage in skin diving or scuba diving or display a diver's flag in any locality that will unreasonably obstruct vessels from making legitimate navigational use of the water.

(d) A person who violates a provision of this section is ~~guilty of a Class 3 misdemeanor and shall only be subject to a fine not to exceed twenty-five dollars (\$25.00)~~ responsible for an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(c) G.S. 75A-13.3(c3) reads as rewritten:

"(c3) A vessel livery shall provide the operator of a leased personal watercraft with basic safety instruction prior to allowing the operation of the leased personal watercraft. "Basic safety instruction" shall include direction on how to safely operate the personal watercraft and a review of the safety provisions of this section. A vessel livery that fails to provide basic safety instruction is ~~guilty of a Class 3 misdemeanor~~ responsible for an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(d) G.S. 75A-17(f) reads as rewritten:

"(f) Vessels operated on the waters of this State shall slow to a no-wake speed when passing within 100 feet of a law enforcement vessel that is displaying a flashing blue light unless the vessel is in a narrow channel. Vessels operated on the waters of this State in a narrow channel shall slow to a no-wake speed when passing within 50 feet of a law enforcement vessel that is displaying a flashing blue light. A person who violates this subsection is ~~guilty of a Class 3 misdemeanor~~ responsible for an infraction as provided in G.S. 14-3.1."

SECTION 18B.15.(e) G.S. 75A-18(a) reads as rewritten:

"(a) Except as otherwise provided, a person who violates a provision of this Article or who violates a rule adopted under authority of this Chapter is ~~guilty of a Class 3 misdemeanor and shall only be subject to a fine not to exceed two hundred and fifty dollars (\$250.00) for each violation~~ responsible for an infraction as provided in G.S. 14-3.1. This limitation shall not apply in a case where a more severe penalty is prescribed in this Chapter."

SECTION 18B.15.(f) This section becomes effective December 1, 2013. Prosecutions for offenses committed before the effective date of this section are not abated or

affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

EXPUNCTION FEES

SECTION 18B.16.(a) G.S. 15A-145(e) reads as rewritten:

"(e) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of ~~one hundred twenty-five dollars (\$125.00)~~ one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(b) G.S. 15A-145.1 is amended by adding a new subsection to read:

"(d) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(c) G.S. 15A-145.2(d) reads as rewritten:

"(d) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of ~~sixty-five dollars (\$65.00)~~ one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(d) G.S. 15A-145.3 is amended by adding a new subsection to read:

"(d) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(e) G.S. 15A-145.4 is amended by adding a new subsection to read:

"(j) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(f) G.S. 15A-146 is amended by adding a new subsection to read:

"(d) A person charged with a crime that is dismissed pursuant to compliance with a deferred prosecution agreement and who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 18B.16.(g) This section becomes effective December 1, 2013, and applies to petitions for expunction filed on or after that date.

AMEND MOTION FEES

SECTION 18B.17.(a) G.S. 7A-305(f) reads as rewritten:

"(f) For the support of the General Court of Justice, the sum of twenty dollars (\$20.00) shall accompany any filing ~~containing one or more motions of a notice of hearing on a motion~~ not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees."

1 **SECTION 18B.17.(b)** G.S. 7A-306(g) reads as rewritten:

2 "(g) For the support of the General Court of Justice, the sum of twenty dollars (\$20.00)
3 shall accompany any filing ~~containing one or more motions of a notice of hearing on a motion~~
4 not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of
5 hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys'
6 fees."

7 **SECTION 18B.17.(c)** G.S. 7A-307(a)(4) reads as rewritten:

8 "(4) For the support of the General Court of Justice, the sum of twenty dollars
9 (\$20.00) shall accompany any filing ~~requiring a notice of hearing and~~
10 ~~containing one or more motions of a notice of hearing on a motion~~ not listed
11 in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a
12 notice of hearing on a motion containing as a sole claim for relief the taxing
13 of costs, including attorneys' fees."

14 **SECTION 18B.17.(d)** This section becomes effective August 1, 2013, and applies
15 to notices of hearing on a motion not listed in G.S. 7A-308 filed on or after that date.
16

17 **CRIMINAL JUSTICE EDUCATION AND STANDARDS COMMISSION COURT FEE**

18 **SECTION 18B.18.(a)** G.S. 7A-304(a) reads as rewritten:

19 "(a) In every criminal case in the superior or district court, wherein the defendant is
20 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
21 prosecuting witness, the following costs shall be assessed and collected. No costs may be
22 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
23 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
24 assessed under this section or (ii) waive or reduce costs assessed under subdivisions (7) or (8)
25 of this section.

26

27 (3b) For the services, staffing, and operations of the Criminal Justice Education
28 and Standards ~~Commission and the Sheriffs' Education and Training~~
29 ~~Standards~~Commission, the sum of two dollars (\$2.00) to be remitted to the
30 Department of Justice. ~~One dollar and thirty cents (\$1.30) of this sum shall~~
31 ~~be used exclusively for the Criminal Justice Education and Standards~~
32 ~~Commission, and seventy cents (70¢) shall be used exclusively for the~~
33 ~~Sheriffs' Education and Training Standards Commission.~~

34 "

35 **SECTION 18B.18.(b)** This section becomes effective July 1, 2013, and applies to
36 all costs assessed or collected on or after that date.
37

38 **PART XIX. DEPARTMENT OF CULTURAL RESOURCES**

39 **CULTURAL RESOURCES TO FIND ALTERNATIVE FUNDING FOR STATE** 40 **HISTORIC SITES**

41 **SECTION 19.1.** In an effort to reduce funding of the State's 27 Historic Sites, the
42 Department of Cultural Resources shall find alternative funding sources to support these sites
43 by actively seeking support from the following: (i) the local governments where these Historic
44 Sites are located, (ii) the nonprofit groups associated with these Historic Sites, and (iii) other
45 private sources.
46

47 **ALLOW EXEMPTION TO RULE-MAKING PROCESS FOR ESTABLISHING AND** 48 **CHANGING ADMISSION AND ACTIVITY FEES AT STATE HISTORIC SITES,** 49 **MUSEUMS, AND TRYON PALACE HISTORIC SITES AND GARDENS**

50 **SECTION 19.2.(a)** G.S. 121-7.3 reads as rewritten:
51

"§ 121-7.3. Admission fees.

The Department of Cultural Resources may charge a reasonable admission fee to any historic site and museum administered by the Department. Admission fees collected under this section are receipts of the Department and shall be deposited in a nonreverting account. The Department shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 2004, and shall deposit these receipts into the account. Funds in the account shall be used to support a portion of ~~each museum's operation~~ the operation of each historic site and museum. The Secretary may adopt rules necessary to carry out the provisions of this section. The Department is exempt from the requirements of Chapter 150B of the General Statutes when adopting, amending, or repealing rules for admission fees or related activity fees at historic sites and museums. The Department shall ~~provide~~ submit a ~~quarterly~~ report to the Joint Legislative Commission on Governmental Operations ~~as to the Department's or museums' anticipated use of funds or expenditures of funds pursuant to this section on the amount and purpose of a fee change within 30 days following its effective date."~~

SECTION 19.2.(b) G.S. 143B-71 reads as rewritten:

"§ 143B-71. Tryon Palace Commission – creation, powers and duties.

There is hereby created the Tryon Palace Commission of the Department of Cultural Resources with the power and duty to adopt, amend and rescind rules and regulations concerning the restoration and maintenance of the Tryon Palace complex, and such other powers and duties as provided in Article 2 of Chapter 121 of the General Statutes of North Carolina. The Commission is exempt from the requirements of Chapter 150B of the General Statutes when adopting, amending, or repealing rules for admission fees or related activity fees at Tryon Palace Historic Sites and Gardens. The Commission shall submit a report to the Joint Legislative Commission on Governmental Operations on the amount and purpose of a fee change within 30 days following its effective date."

SECTION 19.2.(c) G.S. 150B-1(d) is amended by adding the following new subdivisions to read:

"(23) The Department of Cultural Resources with respect to admission fees or related activity fees at historic sites and museums pursuant to G.S. 121-7.3.

(24) Tryon Palace Commission with respect to admission fees or related activity fees pursuant to G.S. 143B-71."

ALLOW MUSEUMS AND HISTORIC SITES TO GENERATE REVENUE FROM VENDOR SERVICES

SECTION 19.3.(a) Article 3 of Chapter 111 of the General Statutes is amended by adding a new section to read:

"§ 111-47.2. Food service at museums and historic sites operated by the Department of Cultural Resources.

Notwithstanding Article 3 of Chapter 111 of the General Statutes, the North Carolina Department of Cultural Resources may operate or contract for the operation of food or vending services at museums and historic sites operated by the Department. Notwithstanding G.S. 111-43, the net proceeds of revenue generated by food and vending services provided at museums and historic sites operated by the Department or a vendor with whom the Department has contracted shall be credited to the appropriate fund of the museum or historic site where the funds were generated and shall be used for the operation of that museum or historic site."

SECTION 19.3.(b) G.S. 111-47.2, as enacted by subsection (a) of this section, shall not be construed to alter any contract for food or vending services at any museum or historic site operated by the Department that is in force at the time this section becomes law.

ALLOW EXEMPTION FOR HISTORIC SITES AND MUSEUMS ADMINISTERED BY THE DEPARTMENT OF CULTURAL RESOURCES FROM THE

**PROHIBITION OF THE SALE OF MERCHANDISE OR SERVICES BY
GOVERNMENTAL UNITS**

SECTION 19.4. G.S. 66-58 reads as rewritten:

"§ 66-58. Sale of merchandise or services by governmental units.

(a) Except as may be provided in this section, it shall be unlawful for any unit, department or agency of the State government, or any division or subdivision of the unit, department or agency, or any individual employee or employees of the unit, department or agency in his, or her, or their capacity as employee or employees thereof, to engage directly or indirectly in the sale of goods, wares or merchandise in competition with citizens of the State, or to engage in the operation of restaurants, cafeterias or other eating places in any building owned by or leased in the name of the State, or to maintain service establishments for the rendering of services to the public ordinarily and customarily rendered by private enterprises, or to provide transportation services, or to contract with any person, firm or corporation for the operation or rendering of the businesses or services on behalf of the unit, department or agency, or to purchase for or sell to any person, firm or corporation any article of merchandise in competition with private enterprise. The leasing or subleasing of space in any building owned, leased or operated by any unit, department or agency or division or subdivision thereof of the State for the purpose of operating or rendering of any of the businesses or services herein referred to is hereby prohibited.

(b) The provisions of subsection (a) of this section shall not apply to:

...

(9b) The Department of Cultural Resources for the sale of books, crafts, gifts, and other tourism-related items at historic sites and museums administered by the Department."

...."

MUSEUM OF ART CHALLENGE GRANT

SECTION 19.5.(a) Of the funds appropriated in this act to the Department of Cultural Resources for the North Carolina Museum of Art, the sum of one million dollars (\$1,000,000) in recurring funds shall be allocated to the Museum of Art as provided by this section.

SECTION 19.5.(b) It is the intent of the General Assembly that the Museum of Art raise non-State funds for the 2013-2014 fiscal year that exceed the non-State receipts collected in the 2012-2013 fiscal year by at least one million dollars (\$1,000,000). Receipts collected in the 2012-2013 fiscal year cannot be used as matching funds required by this section. The Museum of Art shall report to the Department of Cultural Resources by December 31, 2013, and June 30, 2014, on whether the funds required by this section were raised.

SECTION 19.5.(c) The Museum of Art shall receive allocations as follows:

(1) On July 1, 2013, a sum of five hundred thousand dollars (\$500,000).

(2) On January 1, 2014, a sum of five hundred thousand dollars (\$500,000), after demonstrating to the Department of Cultural Resources that it has raised at least a sum of five hundred thousand dollars (\$500,000) in non-State funds to match this allotment on a dollar-for-dollar basis.

TRYON PALACE HISTORIC SITES AND GARDENS CHALLENGE GRANT

SECTION 19.6.(a) Of the funds appropriated in this act to the Department of Cultural Resources for Tryon Palace Historic Sites and Gardens, the sum of four hundred seventy-six thousand seven hundred twenty-five dollars (\$476,725) in nonrecurring funds for the 2013-2014 fiscal year shall be allocated to Tryon Palace Historic Sites and Gardens in accordance with this section.

SECTION 19.6.(b) It is the intent of the General Assembly that Tryon Palace Historic Sites and Gardens raise non-State funds for the 2013-2014 fiscal year that exceed the non-State receipts collected in the 2012-2013 fiscal year by at least four hundred seventy-six thousand seven hundred twenty-five dollars (\$476,725). Receipts collected in the 2012-2013 fiscal year cannot be used as matching funds required by this section. Tryon Palace Historic Sites and Gardens shall report to the Department of Cultural Resources by December 31, 2013, and June 30, 2014, on whether the funds required by this section were raised.

SECTION 19.6.(c) Tryon Palace Historic Sites and Gardens shall receive allocations as follows:

(1) On July 1, 2013, a sum of two hundred thirty-eight thousand three hundred sixty-two dollars and fifty cents (\$238,362.50).

(2) On January 1, 2014, a sum of two hundred thirty-eight thousand three hundred sixty-two dollars and fifty cents (\$238,362.50), after demonstrating to the Department of Cultural Resources that it has raised at least a sum of two hundred thirty-eight thousand three hundred sixty-two dollars and fifty cents (\$238,362.50) in non-State funds to match this allotment on a dollar-for-dollar basis.

SECTION 19.6.(d) Non-State matching funds may come from any of the following: (i) friends support; (ii) corporate sponsorship; and (iii) rental income from weddings, corporate events, performances, movies, and photography.

ROANOKE ISLAND COMMISSION

SECTION 19.7.(a) G.S. 143B-131.1 reads as rewritten:

"§ 143B-131.1. Commission established.

~~There is established the Roanoke Island Commission. The Commission shall be an independent, self-supporting commission, but shall be located within the Department of Cultural Resources for historic resource management, organizational, and budgetary purposes.~~ Resources. All of the prescribed powers, duties, and functions of the Commission shall be performed under the direction and supervision of the Secretary of the Department."

SECTION 19.7.(b) G.S. 143B-131.2(a) reads as rewritten:

"(a) The Commission is created to combine various existing entities in the spirit of cooperation for a cohesive body to protect, preserve, develop, and interpret the historical and cultural assets of Roanoke Island. The Commission is further created to operate and administer the Elizabeth II State Historic Site and Visitor Center, the Elizabeth II, Ice Plant Island, and all other properties under the administration of the Department of Cultural Resources located on Roanoke Island having historical significance to the State of North Carolina, Dare County, or the Town of Manteo, except as otherwise determined by the ~~Commission~~ Commission or the Department."

PART XX. DEPARTMENT OF INSURANCE

CONSUMER PROTECTION FUND RETAINED AMOUNT

SECTION 20.1. G.S. 58-2-215 reads as rewritten:

"§ 58-2-215. Consumer Protection Fund.

...

(c) Moneys appropriated by the General Assembly shall be deposited in the Fund and shall become a part of the continuation budget of the Department of Insurance. Such continuation budget amount shall equal the actual expenditures drawn from the Fund during the prior fiscal year plus the official inflation rate designated by the Director of the Budget in the preparation of the State Budget for each ensuing fiscal year; provided that if interest income on

the Fund exceeds the amount yielded by the application of the official inflation rate, such continuation budget amount shall be the actual expenditures drawn from the Fund. In the event the amount in the Fund exceeds ~~five hundred thousand dollars (\$500,000)~~ two hundred fifty thousand dollars (\$250,000) at the end of any fiscal year, such excess shall revert to the General Fund."

WORKERS' COMPENSATION FUND/ALLOCATION FOR VOLUNTEER SAFETY WORKERS

SECTION 20.2.(a) G.S. 105-228.5(d)(3) reads as rewritten:

"(d) Tax Rates; Disposition. –

...

(3) Additional Rate on Property Coverage Contracts. – An additional tax at the rate of seventy-four hundredths percent (0.74%) applies to gross premiums on insurance contracts for property coverage. The tax is imposed on ten percent (10%) of the gross premiums from insurance contracts for automobile physical damage coverage and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. ~~Thirty percent (30%)~~ Twenty-five percent (25%) of the net proceeds of this additional tax must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. ~~Twenty-five percent (25%)~~ Twenty percent (20%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. ~~The remaining net proceeds must be credited to the General Fund. Up to twenty percent (20%), as determined in accordance with G.S. 58-87-10(f), must be credited to the Workers' Compensation Fund. The remaining net proceeds must be credited to the General Fund.~~

The following definitions apply in this subdivision:

- a. Automobile physical damage. – The following lines of business identified by the NAIC: private passenger automobile physical damage and commercial automobile physical damage.
- b. Property coverage. – The following lines of business identified by the NAIC: fire, farm owners multiple peril, homeowners multiple peril, nonliability portion of commercial multiple peril, ocean marine, inland marine, earthquake, private passenger automobile physical damage, commercial automobile physical damage, aircraft, and boiler and machinery. The term also includes insurance contracts for wind damage.
- c. NAIC. – National Association of Insurance Commissioners.

...."

SECTION 20.2.(b) G.S. 58-87-1 reads as rewritten:

"§ 58-87-1. Volunteer Fire Department Fund.

(a) Fund. – The Volunteer Fire Department Fund is created as an interest-bearing, nonreverting fund in the Department to provide matching grants to volunteer fire departments to purchase equipment and make capital improvements. The Commissioner shall administer the Fund. Up to ~~two percent (2%)~~ one percent (1%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year.

...."

SECTION 20.2.(c) G.S. 58-84-25 reads as rewritten:

"§ 58-84-25. Disbursement of funds by Insurance Commissioner.

(a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and

1 pay the same over to the treasurer of the State Firemen's Association for general purposes. The
2 Insurance Commissioner shall deduct the sum of ~~two percent (2%)~~ one percent (1%) from the
3 tax proceeds and retain the same in the budget of the Department of Insurance for the purpose
4 of administering the disbursement of funds by the board of trustees in accordance with the
5 provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50,
6 credit the amount forfeited by nonmember fire districts to the North Carolina State Firemen's
7 Association. The Insurance Commissioner shall distribute the remaining tax proceeds to the
8 treasurer of each fire district as provided in subsections (b) and (c) of this section.

9"

10 **SECTION 20.2.(d)** G.S. 58-87-10 reads as rewritten:

11 **"§ 58-87-10. Workers' Compensation Fund for the benefit of volunteer safety workers.**

12 (a) Definition. – As used in this section, the term "eligible unit" means a volunteer fire
13 department or volunteer rescue/EMS unit that is not part of a unit of local government and is
14 exempt from State income tax under G.S. 105-130.11.

15 (b) Creation. – The Workers' Compensation Fund is created in the Department of
16 Insurance as an expendable trust fund. Accordingly, interest and other investment income
17 earned by the Fund accrues to it, and revenue in the Fund at the end of a fiscal year remains in
18 the Fund and does not revert.

19 (c) Use. – Revenue in the Workers' Compensation Fund shall be used to provide
20 workers' compensation benefits to members of eligible units. Chapter 97 of the General Statutes
21 governs the payment of benefits from the Fund. Benefits are payable for compensable injuries
22 or deaths that occur on or after July 1, 1996.

23 (d) Administration. – The State Fire and Rescue Commission, established under
24 G.S. 58-78-1, shall administer the Workers' Compensation Fund and shall perform this duty by
25 contracting with a third-party administrator. The contracting procedure is not subject to Article
26 3C of Chapter 143 of the General Statutes. The reasonable and necessary expenses incurred by
27 the Commission in administering the Fund shall be paid out of the Fund by the State Treasurer.
28 The Commission may adopt rules to implement this section.

29 (e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund from
30 ~~appropriations made to the Department of Insurance for this purpose. a portion of the proceeds~~
31 of the tax levied under G.S. 105-228.5(d)(3) and from an assessment on local governments
32 served by one or more eligible units as set forth in subsection (g) of this section. In addition,
33 every eligible unit that elects to participate shall pay into the Fund an amount set annually by
34 the State Fire and Rescue Commission to ensure that the Fund will be able to meet its payment
35 obligations under this section. The amount shall be set as a per capita fixed dollar amount for
36 each member of the roster of the eligible unit.

37 The payment shall be made to the State Fire and Rescue Commission on or before July 1 of
38 each year. The Commission shall remit the payments it receives to the State Treasurer, who
39 shall credit the payments to the Fund.

40 (f) Funding Study. – The Department of Insurance shall conduct a periodic actuarial
41 study to calculate the amount required to meet the needs of the Fund. The study shall be based
42 on premiums that are the greater of the premiums paid by members of the Fund for the fiscal
43 year to which the study applies or the premiums paid by members of the Fund in fiscal year
44 2012-2013. The study shall be reviewed by the Office of State Budget and Management. On or
45 before March 1 of each year, the Office of State Budget and Management, in consultation with
46 the Department of Insurance, must notify the Secretary of Revenue of the amount required to
47 meet the needs of the Fund, as determined by the study, for the upcoming fiscal year. The
48 Secretary of Revenue shall remit that amount, subject to the twenty percent (20%) limitation in
49 G.S. 105-228.5(d)(3), to the Fund.

50 (g) Assessment for Shortfall. – If the amount remitted to the Fund by the Secretary of
51 Revenue under subsection (f) of this section is insufficient to meet the needs of the Fund, the

Department of Insurance shall collect the remaining amount from units of local government by multiplying the remaining amount needed by a fraction, the numerator of which is the number of residents in the unit of government served by an eligible unit and the denominator of which is the number of residents in the State served by all eligible units. The Department shall provide written notification to the units of local government of the amount of the assessment no later than April 1 of each year, and the unit of local government shall have 90 days to remit the assessment to the Department for deposit into the Fund."

SET INSURANCE REGULATORY CHARGE

SECTION 20.3.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six percent (6%) for the 2013 and 2014 calendar years.

SECTION 20.3.(b) This section is effective when it becomes law.

PART XXI. STATE BOARD OF ELECTIONS

ELIMINATE NORTH CAROLINA PUBLIC CAMPAIGN FUND

SECTION 21.1.(a) Article 22D of Chapter 163 of the General Statutes is repealed, except that G.S. 163-278.69 is repealed effective upon exhaustion of the funds for publication of the Judicial Voter Guide.

SECTION 21.1.(b) G.S. 84-34 reads as rewritten:

"§ 84-34. Membership fees and list of members.

Every active member of the North Carolina State Bar shall, prior to the first day of July of each year, pay to the secretary-treasurer an annual membership fee in an amount determined by the Council but not to exceed three hundred dollars (\$300.00), ~~plus a surcharge of fifty dollars (\$50.00) for the implementation of Article 22D of Chapter 163 of the General Statutes,~~ and every member shall notify the secretary-treasurer of the member's correct mailing address. Any member who fails to pay the required dues by the last day of June of each year shall be subject to a late fee in an amount determined by the Council but not to exceed thirty dollars (\$30.00). All dues for prior years shall be as were set forth in the General Statutes then in effect. The membership fee shall be regarded as a service charge for the maintenance of the several services authorized by this Article, and shall be in addition to all fees required in connection with admissions to practice, and in addition to all license taxes required by law. The fee shall not be prorated: Provided, that no fee shall be required of an attorney licensed after this Article shall have gone into effect until the first day of January of the calendar year following that in which the attorney was licensed; but this proviso shall not apply to attorneys from other states admitted on certificate. The fees shall be disbursed by the secretary-treasurer on the order of the Council. ~~The fifty dollar (\$50.00) surcharge shall be sent on a monthly schedule to the State Board of Elections.~~ The secretary-treasurer shall annually, at a time and in a law magazine or daily newspaper to be prescribed by the Council, publish an account of the financial transactions of the Council in a form to be prescribed by it. The secretary-treasurer shall compile and keep currently correct from the names and mailing addresses forwarded to the secretary-treasurer and from any other available sources of information a list of members of the North Carolina State Bar and furnish to the clerk of the superior court in each county, not later than the first day of October in each year, a list showing the name and address of each attorney for that county who has not complied with the provisions of this Article. The name of each of the active members who are in arrears in the payment of membership fees shall be furnished to the presiding judge at the next term of the superior court after the first day of October of each year, by the clerk of the superior court of each county wherein the member or members reside, and the court shall thereupon take action that is necessary and proper. The names and addresses of attorneys so certified shall be kept available to the public. The Secretary of Revenue is hereby directed to supply the secretary-treasurer, from records of license tax payments, with

any information for which the secretary-treasurer may call in order to enable the secretary-treasurer to comply with this requirement.

The list submitted to several clerks of the superior court shall also be submitted to the Council at its October meeting of each year and it shall take the action thereon that is necessary and proper."

SECTION 21.1.(c) G.S. 105-159.2 is repealed.

SECTION 21.1.(d) G.S. 163-278.5 reads as rewritten:

"§ 163-278.5. Scope of Article; severability.

The provisions of this Article apply to primaries and elections for North Carolina offices and to North Carolina referenda and do not apply to primaries and elections for federal offices or offices in other States or to non-North Carolina referenda. Any provision in this Article that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect elections for North Carolina offices or North Carolina referenda.

The provisions of this Article are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the Article that can be given effect without the invalid provision.

This section applies to Articles 22B, ~~22D, 22E, 22F,~~ 22G, 22H, 22J, and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 21.1.(e) G.S. 163-278.13(e) reads as rewritten:

"(e) Except as provided in subsections ~~(e2), (e3), (e3)~~ and (e4) of this section, this section shall not apply to any national, State, district or county executive committee of any political party. For the purposes of this section only, the term "political party" means only those political parties officially recognized under G.S. 163-96."

SECTION 21.1.(f) G.S. 163-278.13(e2) is repealed.

SECTION 21.1.(g) G.S. 163-278.23 reads as rewritten:

"§ 163-278.23. Duties of Executive Director of Board.

...

This section applies to Articles 22B, ~~22D, 22E, 22F,~~ 22G, 22H, and 22M of the General Statutes to the same extent that it applies to this Article."

SECTION 21.1.(h) G.S. 163-278.97 reads as rewritten:

"§ 163-278.97. Voter-Owned Elections Fund established; sources of funding.

...

(c) Evaluation and Determination of Fund Amount. – By January 1, 2011, and every four years thereafter, the ~~Board, in conjunction with the Advisory Council established under G.S. 163-278.68(b),~~ Board shall prepare and provide to the Joint Legislative Commission on Governmental Operations of the General Assembly a report documenting, evaluating, and making recommendations relating to the administration, implementation, and enforcement of this Article. In its report, the Board shall set out the funds received to date and the expected needs of the Fund during the next election cycle and make recommendations about the feasibility of expanding its provisions to include other candidates for State office based on the experience of this Article and the experience of similar programs in North Carolina and other states. The Board shall also evaluate and make recommendations regarding how to address activities that could undermine the purpose of this Article, including spending that appears to target candidates but is not reached by regulation."

SECTION 21.1.(i) G.S. 163-278.99E(d) is repealed effective upon exhaustion of the funds for publication of the Judicial Voter Guide in G.S. 163-278.69.

SECTION 21.1.(j) The State Board of Elections shall use the money in the North Carolina Campaign Fund to only publish Judicial Voter Guides as described in G.S. 163-278.69 until the funds have been exhausted.

SECTION 21.1.(k) The secretary-treasurer of the North Carolina State Bar shall remit any payments of the fifty-dollar (\$50.00) surcharge payable for the taxable year January

1, 2013, to the State Board of Elections, and the State Board of Elections must credit the funds received to the North Carolina Public Campaign Fund.

SECTION 21.1.(l) The State Board of Elections shall notify the Revisor of Statutes when the funds have been exhausted for publication of the Judicial Voter Guide.

SECTION 21.1.(m) Subsection (c) of this section is effective for taxable years beginning on or after January 1, 2013. The remainder of this section becomes effective July 1, 2013.

PART XXII. GENERAL ASSEMBLY

DAILY BULLETIN

SECTION 22.1. The North Carolina General Assembly shall discontinue the interagency agreement with UNC School of Government for the production of the Daily Bulletin. The General Assembly shall not employ temporary staff for this service. The UNC School of Government may continue to use General Assembly facilities to publish the Daily Bulletin and receive revenues from its publications.

FOOD SERVICES

SECTION 22.2.(a) The Legislative Services Commission shall issue a Request for Information (RFI) to identify vendors that are interested in providing food services within the General Assembly's buildings. The RFI shall include the following:

- (1) Require that the vendor take over the operations of the General Assembly's food services in the 2014-2015 fiscal year.
- (2) Make available all existing restaurant wares to the vendor. All new equipment costs and repairs would be borne by the vendor.
- (3) Require a plan for services, including days and hours of operations and number of food service outlets to be operational. The proposal of interest by the vendor shall identify any additional cost that must be covered by the General Assembly and any revenue sharing that may benefit the General Assembly's budget.
- (4) Provide the menu items that would be offered at the food service outlets.

The Legislative Services Commission shall review the proposals, hold interviews with the vendors, and collect all of the necessary information to make a comprehensive report to the General Assembly. If House Bill 153 of the 2013 General Assembly becomes law, the Legislative Services Commission shall report the results of the RFI to the Joint Legislative Oversight Committee on General Government by November 1, 2013.

SECTION 22.2.(b) The Food Services Section of the General Assembly's Administrative Division may submit a proposal under subsection (a) of this section, and the proposal shall be reviewed and evaluated in the same manner as proposals submitted by other vendors.

LIMIT STUDY COMMITTEE AUTHORIZATIONS

SECTION 22.3. G.S. 120-19.6(a1) is repealed.

CLARIFY GENERAL ASSEMBLY'S AUTHORITY TO MAKE REPAIRS

SECTION 22.4. G.S. 120-32 reads as rewritten:

"§ 120-32. Commission duties.

The Legislative Services Commission is authorized to:

...

- (11) To specify the operating and capital uses within the General Assembly budget of funds appropriated to the General Assembly which remain

available for expenditure after the end of the biennial fiscal period, and to
revert funds under G.S. 143C-1-2.

...."

PART XXIII. OFFICE OF THE GOVERNOR

SECTION 23.0. This section is reserved.

PART XXIV. OFFICE OF STATE BUDGET AND MANAGEMENT

SYMPHONY CHALLENGE GRANT/OSBM-SPECIAL APPROPRIATIONS

SECTION 24.1.(a) Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of one million five hundred thousand dollars (\$1,500,000) in nonrecurring funds for the 2013-2014 fiscal year and the sum of one million five hundred thousand dollars (\$1,500,000) in nonrecurring funds for the 2014-2015 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section. It is the intent of the General Assembly that the North Carolina Symphony raise at least eight million dollars (\$8,000,000) in non-State funds for the 2013-2014 fiscal year and at least eight million dollars (\$8,000,000) in non-State funds for the 2014-2015 fiscal year. The NC Symphony cannot use funds transferred from the organization's endowment to its operating budget to achieve the fund-raising targets set out in subsections (b) and (c) of this section.

SECTION 24.1.(b) For the 2013-2014 fiscal year, the North Carolina Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (3) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total sum of eight million dollars (\$8,000,000) in non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars (\$500,000) in the 2013-2014 fiscal year.

SECTION 24.1.(c) For the 2014-2015 fiscal year, the North Carolina Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (3) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total sum of eight million dollars (\$8,000,000) in non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars (\$500,000) in the 2014-2015 fiscal year.

SECTION 24.1.(d) Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of three hundred thousand dollars (\$300,000) in nonrecurring funds for the 2013-2014 fiscal year shall be allocated to The Bridge Downeast, Inc., a nonprofit organization, to purchase a facility to house activities for the youth

and senior citizens on Harkers Island and surrounding areas. If these funds are not used for the purpose for which they were appropriated as of June 30, 2014, the funds shall revert to the General Fund.

PART XXV. OFFICE OF THE STATE AUDITOR

SECTION 25.0. This section is reserved.

PART XXVI. DEPARTMENT OF REVENUE

INCREASED FUNDING FOR REVENUE FOR TAX REFORM

SECTION 26.1. If a bill creating personnel positions in the Department of Revenue to implement a comprehensive change to the tax laws of the State passes during the Regular Session of the 2013 General Assembly and is enacted into law, the Department of Revenue shall use the sum of five million dollars (\$5,000,000) appropriated for the 2013-2014 fiscal year and the sum of five million dollars (\$5,000,000) appropriated for the 2014-2015 fiscal year to accomplish the provisions of that act.

PART XXVII. DEPARTMENT OF THE SECRETARY OF STATE

ELECTRONIC SUBMISSION OF ALL DOCUMENTS, REPORTS, AND PAYMENTS BY LOBBYISTS

SECTION 27.1.(a) G.S. 120C-200 reads as rewritten:

"§ 120C-200. Lobbyist registration procedure.

...

(b) The form of the registration shall be prescribed by the Secretary of State, be filed electronically, and shall include the registrant's full name, firm, complete address, and telephone number; the registrant's place of business; the full name, complete address, and telephone number of each principal the lobbyist represents; and a general description of the matters on which the registrant expects to act as a lobbyist.

(c) Each lobbyist shall electronically file an amended registration form with the Secretary of State no later than 10 business days after any change in the information supplied in the lobbyist's last registration under subsection (b) of this section. Each supplementary registration shall include a complete statement of the information that has changed.

...."

SECTION 27.1.(b) G.S. 120C-201(a) reads as rewritten:

"(a) Except as provided for in subsection (b) of this section, a fee of one hundred dollars (\$100.00) is due and payable to the Secretary of State at the time of each lobbyist registration. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to shall be paid electronically but shall not require the fees to be paid electronically-electronically."

SECTION 27.1.(c) G.S. 120C-206 reads as rewritten:

"§ 120C-206. Lobbyist principal's authorization.

...

(b) The form of the written authorization shall be prescribed by the Secretary of State, be filed electronically, and shall include the lobbyist principal's full name, complete address, and telephone number, name and title of any official authorized to sign for the lobbyist principal, and the name of each lobbyist registered to represent that principal.

(c) An amended authorization shall be electronically filed with the Secretary of State no later than 10 business days after any change in the information on the principal's authorization.

Each supplementary authorization shall include a complete statement of the information that has changed."

SECTION 27.1.(d) G.S. 120C-207(a) reads as rewritten:

"(a) Except as provided for in subsection (b) of this section, a fee of one hundred dollars (\$100.00) is due and payable to the Secretary of State at the time the principal's first authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be deposited in the General Fund of the State. ~~The Secretary of State shall allow fees required under this section to~~ shall be paid electronically but shall not require the fees to be paid electronically."

SECTION 27.1.(e) G.S. 120C-401(d) reads as rewritten:

"(d) Each report required by this Article shall be in the form prescribed by the Secretary of State, ~~which may include electronic reports.~~ State and filed electronically."

SECTION 27.1.(f) G.S. 120C-800(f) reads as rewritten:

"(f) Within 15 business days after the end of the quarter in which the reportable expenditure was made, reports required by this section shall be filed electronically with the Secretary of State in a ~~manner~~ form prescribed by the Secretary of State, ~~which may include electronic reports.~~ State. If the designated individual is required to file a statement of economic interest under G.S. 138A-24, then that designated individual may opt to report any information required by this section in the statement of economic interest."

SECTION 27.1.(g) This section becomes effective December 1, 2013, and applies to all filings and payments due on or after that date.

INCREASE REGISTRATION FEE FOR LOBBYIST/LOBBYIST PRINCIPAL

SECTION 27.2.(a) G.S. 120C-201 reads as rewritten:

"§ 120C-201. Lobbyist's registration fee.

(a) ~~Except as provided for in subsection (b) of this section, a~~ fee of one hundred dollars (\$100.00) two hundred fifty dollars (\$250.00) is due and payable to the Secretary of State at the time of each lobbyist registration. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to be paid electronically but shall not require the fees to be paid electronically.

(b) ~~The Secretary of State shall adopt rules providing for a waiver or reduction of the fees required by this section for lobbyists registering to represent persons who have been granted nonprofit status under 26 U.S.C. § 501(c)(3)."~~

SECTION 27.2.(b) G.S. 120C-207 reads as rewritten:

"§ 120C-207. Lobbyist principal's fees.

(a) ~~Except as provided for in subsection (b) of this section, a~~ fee of one hundred dollars (\$100.00) two hundred fifty dollars (\$250.00) is due and payable to the Secretary of State at the time the principal's first authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to be paid electronically but shall not require the fees to be paid electronically.

(b) ~~The Secretary of State shall adopt rules providing for a waiver or reduction of the fees required by this section for lobbyist principals that have been granted nonprofit status under 26 U.S.C. § 501(c)(3)."~~

SECTION 27.2.(c) This section becomes effective July 1, 2013, and applies to registrations on or after that date.

PART XXVIII. OFFICE OF THE LIEUTENANT GOVERNOR

SECTION 28.0. This section is reserved.

PART XXIX. OFFICE OF THE STATE CONTROLLER**OVERPAYMENTS AUDIT**

SECTION 29.1.(a) During the 2013-2015 fiscal biennium, receipts generated by the collection 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 are to be deposited in Special Reserve Account 24172 as required by G.S. 147-86.22(c).

SECTION 29.1.(b) For each year of the 2013-2015 fiscal biennium, five hundred thousand dollars (\$500,000) of the funds in the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs and are hereby appropriated for that purpose.

SECTION 29.1.(c) All funds available in Special Reserve Account 24172 on June 30 of each year of the 2013-2015 fiscal biennium shall revert to the General Fund on that date.

SECTION 29.1.(d) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into Special Reserve Account 24172 and the disbursement of that revenue.

PART XXX. DEPARTMENT OF ADMINISTRATION**ELIMINATE YOUTH ADVOCACY AND INVOLVEMENT OFFICE, YOUTH ADVISORY COUNCIL, STATE YOUTH COUNCIL, AND NC INTERNSHIP COUNCIL**

SECTION 30.1.(a) The Youth Advocacy and Involvement Office in the Department of Administration is eliminated.

SECTION 30.1.(b) Parts 7 and 18 of Article 9 of Chapter 143B of the General Statutes, being G.S. 143B-385 through G.S. 143B-388 and G.S. 143B-417 through G.S. 143B-419, are repealed.

SECTION 30.1.(c) G.S. 7B-1402 reads as rewritten:

"§ 7B-1402. Task Force – creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Task Force within the Department of Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of ~~35~~34 members, ~~44~~10 of whom shall be ex officio members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed by the President Pro Tempore of the Senate. The ex officio members other than the Chief Medical Examiner shall be nonvoting members and may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force. The members shall be as follows:

...

~~(6) The Director of the Governor's Youth Advocacy and Involvement Office;~~

...."

SECTION 30.1.(d) G.S. 143B-846 reads as rewritten:

"§ 143B-846. Creation; method of appointment; membership; chair and vice-chair.

(a) As a prerequisite for a county receiving funding for juvenile court services and delinquency prevention programs, the board of commissioners of a county shall appoint a Juvenile Crime Prevention Council. Each County Council is a continuation of the corresponding Council created under G.S. 147-33.61. The County Council shall consist of not more than ~~26~~24 members and should include, if possible, the following:

...

(12) ~~Two persons under the age of 18 years, one of whom is a member of the State Youth Council;~~

...."

SECTION 30.1.(e) Any funds remaining in the North Carolina Youth Advocacy and Involvement Fund as of June 30, 2013, shall be returned to any person entitled to be reimbursed for registration fees, gifts, donations, or contributions that were made to or for the North Carolina Youth Legislative Assembly (YLA) and the North Carolina Students Against Destructive Decisions (SADD).

ELIMINATE DISPLACED HOMEMAKERS PROGRAM/FUND

SECTION 30.2.(a) G.S. 7A-305(a2) reads as rewritten:

"(a2) In every action for absolute divorce filed in the district court, a cost of seventy-five dollars (\$75.00) shall be assessed against the person filing the divorce action. Costs collected by the clerk pursuant to this subsection shall be remitted to the State Treasurer, who shall deposit ~~fifty five dollars (\$55.00) to the North Carolina Fund for Displaced Homemakers established under G.S. 143B-394.10 and twenty dollars (\$20.00)~~ seventy-five dollars (\$75.00) to the Domestic Violence Center Fund established under G.S. 50B-9. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

SECTION 30.2.(b) G.S. 143B-393 reads as rewritten:

"§ 143B-393. North Carolina Council for Women – creation; powers and duties.

There is hereby created the North Carolina Council for Women of the Department of Administration. The North Carolina Council for Women shall have the following functions and duties:

- (1) To advise the Governor, the principal State departments, and the State legislature concerning the education and employment of women in the State of ~~North Carolina; and~~ Carolina.
- (2) To advise the Secretary of Administration upon any matter the Secretary may refer to it; ~~and~~ the Council.
- ~~(3) To establish programs for the assistance of displaced homemakers as set forth in Part 10B of this Article."~~

SECTION 30.2.(c) Part 10B of Article 9 of Chapter 143B of the General Statutes is repealed.

SECTION 30.2.(d) All unencumbered funds as of June 30, 2013, in the North Carolina Fund for Displaced Homemakers shall be transferred to the Domestic Violence Center Fund established under G.S. 50B-9.

REPEAL STATEWIDE CAPITAL RESERVE

SECTION 30.3. Section 20.4 of S.L. 2011-145 is repealed. Any funds remaining in the reserve established pursuant to that section shall be transferred to the capital project account associated with the capital project for which they were initially appropriated.

BIENNIAL REVIEW OF STATEMENTS OF ECONOMIC INTEREST BY SEC

SECTION 30.4.(a) G.S. 138A-10(a)(4) reads as rewritten:

"§ 138A-10. Powers and duties.

(a) In addition to other powers and duties specified in this Chapter, the Commission shall:

...

- (4) Receive and review all statements of economic ~~interests~~ interest filed with the Commission by prospective and actual covered ~~persons and persons as provided in G.S. 138A-28. evaluate whether (i) the statements conform to the law and the rules of the Commission, and (ii) the financial interests and~~

~~other information reported reveals actual or potential conflicts of interest.~~Pursuant to G.S. 138A-24(e), this subdivision does not apply to statements of economic interest of legislators and judicial officers."

SECTION 30.4.(b) Article 3 of Chapter 138A of the General Statutes is amended by adding a new section to read:

"§ 138A-28. Review and evaluation of statements of economic interest.

(a) The Commission shall receive and review all statements of economic interest pursuant to G.S. 138A-10(a)(4) and shall evaluate whether (i) the statements conform to the law and the rules of the Commission, and (ii) the financial interests and other information reported by prospective and actual covered persons reveal actual or potential conflicts of interest.

(b) Beginning July 1, 2013, the Commission shall establish a biennial cycle for evaluating statements of economic interest. The Commission shall evaluate each initial filing as provided in subsection (a) of this section.

(c) Notwithstanding subsection (b) of this section, statements filed by the following prospective and actual public servants shall be evaluated on an annual basis:

(1) The University of North Carolina Board of Governors, subject to G.S. 138A-24(f).

(2) The State Board of Community Colleges, subject to G.S. 138A-24(f).

(3) The North Carolina Utilities Commission.

(4) The North Carolina Industrial Commission.

(5) Supplemental statements filed pursuant to Chapter 136 of the General Statutes.

(6) Any other board or commission whose members are elected or confirmed by the General Assembly.

(d) Notwithstanding subsections (a) and (b) of this section, statements of economic interest filed by Constitutional officers of the State and individuals elected or appointed as Constitutional officers of the State prior to taking office shall be evaluated every four years upon election or appointment to office.

(e) A public servant who simultaneously serves on more than one covered board may file one statement of economic interest and that statement shall serve as disclosure for all the covered boards. If, during the biennial cycle, a public servant leaves one covered board and begins membership on another covered board, the public servant is not required to file another statement of economic interest, and the Commission is not required to evaluate the statement again in light of the subsequent appointment. The public servant must make subsequent filings pursuant to G.S. 138A-22(a) upon the expiration of the biennial cycle.

(f) Nothing in this section shall be construed to impair the Commission's duties and authority under G.S. 138A-25 and G.S. 138A-26."

USE OF E-COMMERCE FUNDS FOR PURCHASE AND CONTRACT OPERATIONS

SECTION 30.5. Notwithstanding the provisions of G.S. 66-58.12(c), the sum of one million two hundred eighteen thousand six hundred fifty-nine dollars (\$1,218,659) for the 2013-2014 fiscal year and the sum of one million four hundred seventy-six thousand five hundred forty-three dollars (\$1,476,543) for the 2014-2015 fiscal year shall be transferred from the E-Commerce Fund in the Department of Administration Budget Code 24100, Fund 2514, to be used for each year of the 2013-2015 biennium, on a recurring basis, to pay the operating expenses of the Division of Purchase and Contract.

STUDY/E-PROCUREMENT FEE & VENDOR CONTRACT

SECTION 30.6.(a) The Department of Administration shall study the feasibility of reducing or eliminating the e-commerce fee authorized under G.S. 66-58.12(b). The

e-commerce fee supports the E-Procurement System operated by the Department. By February 1, 2014, the Department shall report its findings to the Senate Appropriations Committee on General Government and Information Technology, House of Representatives Appropriations Subcommittee on General Government, Joint Legislative Committee on Information Technology, and Office of State Budget and Management. The report shall include the following:

- (1) The current rate of the fee and how it was calculated.
- (2) The current revenue generated from the fee by departmental users.
- (3) The current breakeven point for the operation of the E-Procurement System.
- (4) The requirements for the operation and administration of the E-Procurement System, including the term of any contract with an outside vendor for the management of the E-Procurement System.
- (5) Total payments to vendors since the initiation of the E-Procurement System.
- (6) Total State receipts since the initiation of the E-Procurement System.
- (7) Information on E-Procurement Systems currently in operation in other states and within North Carolina, including an analysis of the advantages and disadvantages of each.
- (8) The feasibility and cost of utilizing E-Procurement Systems under management by any State institution.
- (9) The feasibility of eliminating the fee supporting the E-Procurement System, E-Commerce Fund (2514), and moving the administration of the E-Procurement System to General Fund Support, including any cost savings to agencies as a result of vendors not assessing the fee on goods purchased through the System.
- (10) The feasibility of reducing the fee by assessing the fee on goods and services only.
- (11) The potential for savings from training State employees to operate and maintain the System.

SECTION 30.6.(b) If the contract with an outside vendor operating the E-Procurement System expires during the 2013-2015 biennium, the Department of Administration, under the supervision of the Enterprise Project Management Office and the Statewide Information Technology Procurement Office, shall issue a request for proposals and select a vendor through open competition. Any new contract shall comply with all State information technology procurement requirements, including G.S. 143-135.9, and shall include a requirement that the project be hosted on State infrastructure.

ELIMINATE AUTHORITY FOR STATE CONTRIBUTION TO COUNTY VETERANS SERVICE PROGRAMS

SECTION 30.7.(a) G.S. 165-6(9) is repealed.

SECTION 30.7.(b) This section becomes effective July 1, 2014.

PART XXXI. HOUSING FINANCE AGENCY

SECTION 31.0. This section is reserved.

PART XXXII. OFFICE OF ADMINISTRATIVE HEARINGS

SECTION 32.0. This section is reserved.

PART XXXIII. DEPARTMENT OF THE STATE TREASURER

1 **SECTION 33.0.** This section is reserved.

2
3 **PART XXXIV. DEPARTMENT OF TRANSPORTATION**

4
5 **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATION**

6 **SECTION 34.1.(a)** The General Assembly authorizes and certifies anticipated
7 revenues for the Highway Fund as follows:

8 For Fiscal Year 2015-2016	\$1,946.7 million
9 For Fiscal Year 2016-2017	\$2,027.6 million
10 For Fiscal Year 2017-2018	\$2,103.3 million
11 For Fiscal Year 2018-2019	\$2,140.4 million

12 **SECTION 34.1.(b)** The General Assembly authorizes and certifies anticipated
13 revenues for the Highway Trust Fund as follows:

14 For Fiscal Year 2015-2016	\$1,160.3 million
15 For Fiscal Year 2016-2017	\$1,215.2 million
16 For Fiscal Year 2017-2018	\$1,256 million
17 For Fiscal Year 2018-2019	\$1,283.7 million

18
19 **INCREASE DOT PRIVATIZATION**

20 **SECTION 34.2.** The Department of Transportation shall seek to increase the use of
21 contracts to further privatize preconstruction work where practical, economical, and likely to
22 lead to increased efficiency. In doing so, the Department of Transportation shall meet each of
23 the following privatization requirements:

- 24 (1) Increase the outsourcing of all activities performed by the Department's
25 Preconstruction and Technical Services units to sixty percent (60%) of the
26 total cost of activities performed by those units in each fiscal year, excluding
27 the cost of activities performed by the Turnpike Authority, the Structures
28 Design and Management unit, and the Bridge Program.
- 29 (2) The Right-of-Way, Project Development and Environmental Analysis and
30 Roadway Design units shall increase the total cost of outsourced activity by
31 five percent (5%) in fiscal year 2013-2014 and by an additional five percent
32 (5%) in fiscal year 2014-2015, from a baseline of fiscal year 2012-2013
33 actual expenditures for those units.

34
35 **SYSTEM PRESERVATION FUNDS PREFERENCE FOR DEFICIENT BRIDGES**

36 **SECTION 34.3.** The funds allocated to the system preservation program (fund
37 center 84210-7839) for fiscal years 2013-2014 and 2014-2015 shall be used for improvements
38 to structurally deficient and functionally obsolete bridges.

39
40 **CONTINGENCY FUND**

41 **SECTION 34.4.(a)** Of the funds appropriated in this act to the Department of
42 Transportation, the sum of twelve million dollars (\$12,000,000) shall be allocated statewide in
43 each fiscal year for rural or small urban highway improvements and related transportation
44 enhancements to public roads and public facilities, industrial access roads, and spot safety
45 projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant
46 to this subsection shall be approved by the Secretary of Transportation. None of these funds
47 used for rural secondary road improvements during the 2013-2014 fiscal year are subject to the
48 county allocation formulas in G.S. 136-44.5(b).

49 **SECTION 34.4.(b)** The Department of Transportation shall report to the members
50 of the General Assembly on projects funded pursuant to this section in each member's district
51 prior to construction. The Department shall make a quarterly comprehensive report on the use

of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

SECTION 34.4.(c) The sum of twenty-eight million dollars (\$28,000,000) of the unallotted and unexpended balance of funds within the Contingency Fund (fund center 1500/157818) shall be transferred to the Highway Fund as appropriated and allocated by this act.

ELIMINATE DIVISION SMALL URBAN CONSTRUCTION PROGRAM

SECTION 34.5. The sum of twenty-five million dollars (\$25,000,000) of the unallotted and unexpended balance of funds within the Division Small Urban Construction Program (fund center 1500/157837) shall be transferred to the Highway Fund as appropriated and allocated by this act. The Division Small Urban Construction Program shall be eliminated after all funds allotted as of June 30, 2013, have been expended. The remaining unallotted and unexpended balance of funds shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

ACCESS AND PUBLIC SERVICE ROAD FUNDS

SECTION 34.6. The sum of three million dollars (\$3,000,000) of the unallotted and unexpended balance of funds within the Access and Public Service Road program (fund center 1500/157814) shall be transferred to the Highway Fund as appropriated and allocated by this act.

ECONOMIC DEVELOPMENT PROGRAM FUNDS

SECTION 34.7. The sum of three million one hundred thousand dollars (\$3,100,000) of the unallotted and unexpended balance of funds within the Economic Development fund (fund center 1500/157838) shall be transferred to the Highway Fund as appropriated and allocated by this act. Funds appropriated to the Economic Development fund shall be used for prioritized highway improvements and infrastructure that support safety and mobility initiatives. Projects funded under this section shall be jointly approved by the Secretary of Transportation and the Secretary of Commerce.

CONGESTION AND MOBILITY REPORTING

SECTION 34.8. G.S. 136-44.3 reads as rewritten:

"§ 136-44.3. Maintenance program.

The Department shall establish performance standards for the maintenance and operation of the State highway system. In each even-numbered year, the Department of Transportation shall survey the condition of the State highway system and shall prepare a report of the findings of the survey. The report shall provide both quantitative and qualitative descriptions of the condition of the system and shall provide estimates of the following:

- (1) The annual cost to meet and sustain the established performance standards for the primary and secondary highway system, to include: (i) routine maintenance and operations, (ii) system preservation, and (iii) pavement and bridge rehabilitation.
- (2) Projected system condition and corresponding optimal funding requirements for a seven-year plan to sustain established performance standards.
- (3) Any significant variations in system conditions among highway divisions.
- (4) An assessment of the level of congestion throughout the primary highway system based on traffic data, and a ranking of the most congested areas based on travel time reliability and the average number of congested hours, together with the Department's recommendations for congestion reduction and mobility improvement.

On the basis of the report and from funds available, the Department of Transportation shall develop a statewide annual maintenance program for the State highway system, which shall be subject to the approval of the Board of Transportation and is consistent with performance standards.

The report on the condition of the State highway system and maintenance funding needs shall be presented to the Joint Legislative Transportation Oversight Committee by December 31 of each even-numbered year, and copies shall be made available to any member of the General Assembly upon request."

REPEAL INTERMODAL CONTINUING APPROPRIATIONS

SECTION 34.9. The following statutes are repealed:

- (1) G.S. 136-16.4.
- (2) G.S. 136-16.5.
- (3) G.S. 136-16.7.
- (4) G.S. 136-16.8.
- (5) G.S. 136-16.9.

FLEXIBLE USE OF FUNDS TO LEVERAGE FEDERAL FUNDS FOR RURAL AND HUMAN SERVICE PUBLIC TRANSPORTATION

SECTION 34.10. In order to ensure maximum funding and to facilitate the use of funds available to the Department, the Department of Transportation, Public Transportation Division, shall have the flexibility to redistribute funding from the "rural capital" grant program and within the "urban technology, human service transportation management, and rural general public" grant program in order to leverage all eligible federal funds for operating assistance to rural and human service transportation systems. The distribution of funds to these systems shall be based on assessed system needs. This section applies only to the 2013-2015 fiscal biennium.

MAXIMIZE LEVERAGE OF FEDERAL PUBLIC TRANSPORTATION OPERATING AND CAPITAL FUNDS FOR LOCAL PUBLIC TRANSPORTATION SYSTEMS

SECTION 34.11. The Department of Transportation, Public Transportation Division, shall provide local public transportation systems with maximum flexibility to use State operating funds from the "urban and regional maintenance" and "urban technology, human service transportation management, and rural general public" grant programs to leverage all eligible federal transit operating assistance funds. This section applies only to the 2013-2015 fiscal biennium.

GRANT FLEXIBILITY FOR BICYCLE AND PEDESTRIAN IMPROVEMENTS

SECTION 34.12. The Department of Transportation, Division of Bicycle and Pedestrian Transportation, may redistribute funds appropriated to the Regional Bicycle Planning Grant program to the Municipal Planning Grant program to award grants to municipalities based on assessed need and the extent to which the Division finds that the municipality's application for grant funding fulfills applicable selection criteria.

UNIFORM FERRY TOLLING

SECTION 34.13.(a) Notwithstanding the date set forth in Section 24.18(b) of S.L. 2012-142, as rewritten by Section 6.2 of S.L. 2012-145, by which the Department of Transportation is required to collect tolls based on the March 2012 amendment to 19 NCAC 02D .0532, the Department shall collect tolls as set forth in this section, beginning on November 1, 2013. Prior to November 1, 2013, the Department shall collect tolls on the same routes and in the same manner as it did prior to the March 2012 amendment to 19 NCAC 02D .0532.

1 **SECTION 34.13.(b)** G.S. 136-82 reads as rewritten:

2 **"§ 136-82. Department of Transportation to establish and maintain ferries.**

3 The Department of Transportation is vested with authority to provide for the establishment
4 and maintenance of ferries connecting the parts of the State highway system, whenever in its
5 discretion the public good may ~~so require~~, require, and shall collect tolls, as established by the
6 Board of Transportation, on the ferry routes. ~~The Board of Transportation shall establish tolls~~
7 ~~for all ferry routes, except for the Ocracoke/Hatteras Ferry and the Knotts Island Ferry. The~~
8 establishment of tolls pursuant to the authority granted in this section shall be exempt from the
9 provisions of Chapter 150B of the General Statutes. Identifying information obtained by the
10 Department related to operation of the ferry system is not a public record under Chapter 132 of
11 the General Statutes and is subject to the disclosure limitations in 18 U.S.C. § 2721 of the
12 federal Driver's Privacy Protection Act. The Department shall maintain the confidentiality of all
13 information required to be kept confidential under 18 U.S.C. § 2721(a), as well as any financial
14 information, transaction history, and information related to the collection of a toll or user fee
15 from a person, including, but not limited to, photographs or other recorded images or automatic
16 vehicle identification or driver account information generated by radio-frequency identification
17 or other electronic means. The Department may use identifying information only for purposes
18 of collecting and enforcing tolls. Nothing in this section is intended to limit the right of any
19 person to examine that person's own account information, or the right of any party, by authority
20 of a proper court order, to inspect and examine identifying information.

21 The Department of Transportation shall credit the proceeds from tolls collected on North
22 Carolina Ferry System routes to reserve accounts within the Highway Fund for each of the
23 Highway Divisions in which system terminals are located and fares are earned. For the
24 purposes of this subsection, fares are earned based on the terminal from which a passenger trip
25 originates or at which fares are collected. Commuter pass receipts shall be credited
26 proportionately to each reserve account based on the distribution of trips originating in each
27 Highway Division. The proceeds credited to each reserve account shall be used exclusively for
28 prioritized capital improvements to the North Carolina Ferry System in the Division in which
29 the proceeds are earned and may be used to supplement funds allocated for projects approved
30 as part of the Transportation Improvement Program.

31 To accomplish the purpose of this ~~section~~ said section, the Department of Transportation is
32 authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats,
33 terminals or other facilities required for the proper operation of ~~such~~ the ferries or to enter into
34 contracts with persons, firms or corporations for the operation thereof and to pay ~~therefor~~
35 ~~such~~ the reasonable sums ~~as may~~ that in the opinion of ~~said~~ the Department of Transportation
36 represent the fair value of the public service rendered.

37 The Department of Transportation, notwithstanding any other provision of law, may
38 operate, or contract for the operation of, concessions on the ferries and at ferry facilities to
39 provide to passengers on the ferries food, drink, and other refreshments, personal comfort
40 items, and souvenirs publicizing the ferry system."

41 **SECTION 34.13.(c)** G.S. 136-82, as rewritten by subsection (b) of this section,
42 reads as rewritten:

43 **"§ 136-82. Department of Transportation to establish and maintain ferries.**

44 The Department of Transportation is vested with authority to provide for the establishment
45 and maintenance of ferries connecting the parts of the State highway system, whenever in its
46 discretion the public good may require, and shall collect tolls, as established by the Board of
47 Transportation, on the ferry routes. The Board of Transportation shall establish tolls for all
48 ferry routes, and the Department of Transportation shall collect the tolls. The establishment of
49 tolls under the authority granted in this section shall be exempt from the provisions of Chapter
50 150B of the General Statutes. Identifying information obtained by the Department related to the
51 collection of tolls, or the issuance of commuter passes or fare waivers is not a public record

under Chapter 132 of the General Statutes and is subject to the disclosure limitations in 18 U.S.C. § 2721, the federal Driver's Privacy Protection Act. The Authority shall maintain the confidentiality of all information required to be kept confidential under 18 U.S.C. § 2721(a), as well as any financial information, transaction history, and information related to the collection of a toll or issuance of a commuter pass or fare waiver from a person, including, but not limited to, photographs or other recorded images or automatic vehicle identification or driver account information generated by radio-frequency identification or other electronic means. The Department may use identifying information only for purposes of collecting and enforcing tolls. Nothing in this section is intended to limit the right of any person to examine that person's own account information, or the right of any party, by authority of a proper court order, to inspect and examine identifying information.

The Department of Transportation shall credit the proceeds from tolls collected on North Carolina Ferry System routes to reserve accounts within the Highway Fund for each of the Highway Divisions in which system terminals are located and fares are earned. For the purposes of this subsection, fares are earned based on the terminal from which a passenger trip originates or at which fares are collected. Commuter pass receipts shall be credited proportionately to each reserve account based on the distribution of trips originating in each Highway Division. The proceeds credited to each reserve account shall be used exclusively for prioritized capital improvements to the North Carolina Ferry System in the Division in which the proceeds are earned, and may be used to supplement funds allocated for projects approved as part of the Transportation Improvement Program.

To accomplish the purpose of this section the Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of the ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay the reasonable sums that in the opinion of said Department of Transportation represent the fair value of the public service rendered.

The Department of Transportation, notwithstanding any other provision of law, may operate, or contract for the operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, and souvenirs publicizing the ferry system."

SECTION 34.13.(d) In establishing tolls for ferry routes under G.S. 136-82, as amended by this section, the Board of Transportation shall consider the needs of commuters and other frequent passengers.

SECTION 34.13.(e) The Board of Transportation shall set the fares required by this section such that projected annual gross toll revenue is at least five million dollars (\$5,000,000) but does not exceed ten million dollars (\$10,000,000).

SECTION 34.13.(f) Subsection (c) of this section becomes effective November 1, 2013.

NORTH CAROLINA RAILROAD COMPANY REPORTING AND DIVIDENDS

SECTION 34.14.(a) Reporting and Oversight. – G.S. 124-1 reads as rewritten:

"§ 124-1. Control of internal improvements.

The Governor and Council of State shall have charge of all the State's interest in all railroads, canals and other works of internal improvements. The Board of Directors of a State-owned railroad company shall be responsible for managing its affairs and for reporting as set forth in ~~G.S. 124-3~~ G.S. 124-17."

SECTION 34.14.(b) Article 2 of Chapter 124 of the General Statutes is amended by adding a new section, G.S. 124-15. G.S. 124-6(b), as amended by Section 3.3(a) of S.L. 1999-431, is recodified as G.S. 124-15(a). G.S. 124-5(b) is recodified as G.S. 124-15(b). G.S. 124-15, as enacted and amended by this subsection, reads as rewritten:

"§ 124-15. Board of directors; appointment and approval of encumbrances.

(a) Notwithstanding subsection (a) of ~~this section, G.S. 124-6~~, for any State-owned railroad company ~~organized as a corporation in which the State is the owner of all the voting stock and which~~ that has trackage in more than two counties, seven of the members of the Board of Directors shall be appointed by the Governor, three of the members of the Board of Directors shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and three of the members of the Board of Directors shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The Board of Directors shall consist of 13 members. Of the Governor's seven appointments, one shall be from the appointees to the Board of Transportation, and one shall be the Secretary of Commerce or the Secretary's designee. Of the initial members appointed by the Governor, three shall be appointed for terms of four years and four shall be appointed for terms of two years. Of the initial members recommended to the General Assembly by the Speaker of the House of Representatives, two shall be appointed for terms of four years and one shall be appointed for a term of two years. Of the initial members recommended to the General Assembly by the President Pro Tempore of the Senate, two shall be appointed for terms of four years and one shall be appointed for a term of two years. Thereafter all Board members shall serve four-year terms. The Board shall elect the chairman from among its membership.

(b) No State-owned railroad company shall sell, lease, mortgage, or otherwise encumber its franchise, right-of-way, or other property, except by and with the approval and consent of the Board of Directors of that corporation. The president or other chief officer of the State-owned railroad company shall report any acquisitions and dispositions in accordance with G.S. 124-3(10)."

SECTION 34.14.(c) Article 2 of Chapter 124 of the General Statutes is amended by adding a new section to read as follows:

"§ 124-16. Strategic plan and capital investment plan required of State-owned railroad company; performance management system.

(a) Any State-owned railroad company shall prepare and maintain a comprehensive strategic plan and a capital investment plan. The strategic plan shall include a mission statement describing the purpose of the company and clear goals that address the strategic issues facing the company.

(b) Any State-owned railroad company shall develop and implement a formalized performance management system based on its strategic plan. The performance management system shall measure and monitor progress toward achieving strategic objectives. When performance fails to achieve strategic objectives within the time period established in the plan, a State-owned railroad company shall take corrective action."

SECTION 34.14.(d) Article 2 of Chapter 124 of the General Statutes is amended by adding a new section, G.S. 124-17. G.S. 124-3(b) is recodified as G.S. 124-17(b). G.S. 124-3(c) is recodified as G.S. 124-17(c). G.S. 124-17, as enacted and amended by this subsection, reads as rewritten:

"§ 124-17. Enhanced annual report of State-owned railroad company; additional reporting requirements to Governor and General Assembly.

(a) A State-owned railroad company shall submit an annual report to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee. The report shall include the following:

(1) The information required under G.S. 124-3.

(2) A copy of the strategic plan and the capital investment plan required under G.S. 124-16.

(3) Any failures to meet strategic objectives and what corrective actions were taken under G.S. 124-16(b).

- (4) Anticipated dividends for the next three fiscal years.
- (5) A description of the State-owned railroad company's business, subsidiaries, and markets in which it operates.
- (6) A list of the properties owned by the State-owned railroad company.
- (7) A list of the directors and executive officers of the State-owned railroad company and a description of the background and experience of each.
- (8) A description of the State-owned railroad company's code of ethics and conflicts of interest policy.
- (9) A summary of the fees paid to an accounting firm during the year.
- (10) A list of the compensation paid to directors and officers of the State-owned railroad company.
- (11) A description of the State-owned railroad company's disagreements with its accountants if there has been a change in accountants.
- (12) A description of any transactions between the State-owned railroad company and its directors, officers, and their family members.

(b) Upon the request of the Governor or any committee of the General Assembly, a State-owned railroad company shall provide all additional information and data within its possession or ascertainable from its records. The State-owned railroad company shall not be deemed to have waived any attorney-client privilege when complying with this subsection. At the time a State-owned railroad company provides information under this section, it shall indicate whether the information is confidential. Confidential information shall be subject to subsection (c) of this section.

(c) Confidential information includes (i) information related to a proposed specific business transaction where inspection, examination, or copying of the records would frustrate the purpose for which the records were created, or (ii) information that is subject to confidentiality obligations of a railroad company. Confidential information is exempt from Chapter 132 of the General Statutes and shall not be subject to a request under G.S. 132-6(a)."

SECTION 34.14.(e) The Freight Rail & Rail Crossing Safety Improvement Fund is established within the Highway Fund.

SECTION 34.14.(f) One-time Cash Dividend. – Notwithstanding G.S. 124-5.1 and G.S. 136-16.6, any State-owned railroad company, as defined under G.S. 124-11, that has trackage in more than two counties shall issue a cash dividend in the amount of fifteen million five hundred thousand dollars (\$15,500,000), which shall be deposited into the Freight Rail & Rail Crossing Safety Improvement Fund no later than January 15, 2014.

SECTION 34.14.(g) Annual Cash Dividend. – G.S. 124-5.1 reads as rewritten:

"§ 124-5.1. State use of North Carolina Railroad Company dividends deposited to Highway Fund.

(a) ~~Notwithstanding the provisions of G.S. 136-16.6, in order to increase the capital of the North Carolina Railroad Company, any dividends of the North Carolina Railroad Company received by the State shall be applied to reduce the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237. Any dividends of the North Carolina Railroad Company received by the State shall be used by the Department of Transportation for the improvement of the property of the North Carolina Railroad Company as recommended and approved by the Board of Directors of the North Carolina Railroad Company. The improvements may include the following project types:~~ deposited into the Freight Rail & Rail Crossing Safety Improvement Fund within the Highway Fund and administered by the Rail Division of the Department of Transportation. The Fund shall be used for the enhancement of freight rail service and railroad-roadway crossing safety, which may include the following project types:

- (1) ~~Railroad and industrial track rehabilitation.~~ Track and associated infrastructure improvements for freight service.

- (2) ~~Railroad signal and grade crossing protection.~~ Grade crossing protection, elimination, and hazard removal.
- (3) ~~Bridge improvements.~~ Signalization improvements.
- (4) ~~Corridor protection.~~ Assistance for projects to improve rail access to industrial, port, and military facilities and for freight intermodal facility improvements, provided that funding assistance under this subdivision shall be subject to the same limits as that for short-line railroads under G.S. 136-44.39.
- (5) ~~Industrial site acquisition.~~

The Fund may also be used to supplement funds allocated for freight rail or railroad-roadway crossing safety projects approved as part of the Transportation Improvement Program.

~~The Department of Transportation shall use the Fund to supplement funds allocated for projects approved as part of the Transportation Improvement Program.~~

(b) ~~Effective January 1, 2000, interest shall not be accrued or otherwise charged on the remaining balance of the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237. Interest accrued on those obligations relating to periods prior to January 1, 2000, shall be deemed paid and contributed by the State to the capital of the North Carolina Railroad Company."~~

SECTION 34.14.(h) Article 2 of Chapter 124 of the General Statutes is amended by adding the following new section:

"§ 124-18. Dividends required of State-owned railroad company.

Any State-owned railroad company that has trackage in more than two counties shall issue an annual cash dividend to the State. The amount of the annual dividend is twenty-five percent (25%) of the company's income from the prior year's trackage rights agreements. The dividend is due by January 15 of each year, and interest shall accrue at the annual rate of prime plus one percent (1%) if the payment is not paid by the due date. The Directors of any State-owned railroad company who vote for or assent to the dividend required under this section shall not be held liable under G.S. 55-8-33."

SECTION 34.14.(i) G.S. 136-16.6 is repealed.

SECTION 34.14.(j) Assess Certain Real Properties. – Any State-owned railroad company, as defined under G.S. 124-11, that has trackage in more than two counties shall assess the company's noncorridor real property that is among the following parcels:

Property Description	County	Nearest Town	Parcel ID
Burke Street Lot	Alamance	Gibsonville	107493
4th Street Lot	Carteret	Morehead	638620808907000
Bridges Street Lot	Carteret	Morehead	638620911461000
Newport Lot	Carteret	Newport	634814246231000
Station & Former Industrial Lot	Carteret	Morehead	638620718127000
Waterfront & Riparian Rights	Carteret	Morehead	638620708857000 & 638620709868000
Wye Property Extension	Carteret	Morehead	637616924807000
Wye Property	Carteret	Morehead	637620923019000
Clarks Lot	Craven	Clarks	8-221-035
N. Craven St. Lot	Craven	New Bern	8-003-241-A
Tiffany & Bright Sts. Property	Lenoir	Kinston	11185 & 26555
Morrisville Former Depot	Wake	Morrisville	0755-14-6475
Waynesboro Lot	Wayne	Goldsboro	2599119118

The assessment shall identify potential environmental issues; title, encroachment and other legal property issues; and any other characteristic of the property that would significantly impact the value of the parcels to a prospective purchaser. Any State-owned

1 railroad company, as defined under G.S. 124-11, that has trackage in more than two counties
 2 shall report no later than April 1, 2014, to the Joint Legislative Transportation Oversight
 3 Committee and the Fiscal Research Division. The report shall include the findings of the
 4 assessment required by this subsection, an estimate of the costs to mitigate any environmental
 5 issues to meet applicable federal or State standards, the estimated value of the parcels taking
 6 into account mitigation costs, and potential alternate State uses for the parcels.

7 **SECTION 34.14.(k)** Subsections (g), (h), and (i) of this section become effective
 8 January 1, 2014.
 9

10 **ELIMINATE TELECOMMUNICATIONS AND INSPECTIONS PROGRAM** 11 **ACCOUNTS**

12 **SECTION 34.15.(a)** The sum of ten million five hundred thousand dollars
 13 (\$10,500,000) of the unallotted and unexpended balance of funds within the Inspection
 14 Program Account shall be transferred to the Highway Fund as appropriated and allocated by
 15 this act. The Inspection Program Account shall be eliminated after all funds allotted as of June
 16 30, 2013, have been expended. The remaining unallotted and unexpended balance of funds
 17 shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

18 **SECTION 34.15.(b)** Effective June 30, 2014, G.S. 20-183.7(d1) is repealed, and
 19 the unallotted and unexpended balance of funds in the Telecommunications Account on that
 20 date shall be transferred to the Reserve for General Maintenance (fund center 1500/150934).

21 **SECTION 34.15.(c)** G.S. 20-183.7 reads as rewritten:

22 "**§ 20-183.7. Fees for performing an inspection and issuing an electronic inspection**
 23 **authorization to a vehicle; use of civil penalties.**
 24 ...

25 (c) Fee Distribution. – Fees collected for electronic inspection authorizations are
 26 payable to the Division of Motor Vehicles. The amount of each fee listed in the table below
 27 shall be credited to the Highway Fund, ~~the Inspection Program Account established in~~
 28 ~~subsection (d) of this section, the Telecommunications Account established in subsection (d1)~~
 29 ~~of this section, the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad~~
 30 ~~Workers' Relief Fund established in G.S. 58-88-5, and the Division of Air Quality of the~~
 31 ~~Department of Environment and Natural Resources:~~

<u>Recipient</u>	<u>Safety Only</u> <u>Electronic</u> <u>Authorization</u>	<u>Emissions and</u> <u>Safety</u> <u>Electronic</u> <u>Authorization</u>
Highway Fund	.55	<u>.555.30</u>
Inspection Program Account	.00	3.00
Telecommunications Account	.00	1.75
Volunteer Rescue/EMS Fund	.18	.18
Rescue Squad Workers' Relief Fund	.12	.12
Division of Air Quality	.00	.65.

42 ~~(d) Inspection Program Account. — The Inspection Program Account is created as a~~
 43 ~~nonreverting account within the Highway Fund. The Division shall administer the Account.~~
 44 ~~Revenue in the Account may be used only to fund the vehicle inspection and maintenance~~
 45 ~~program and to fund replacement of the State Titling and Registration System and the State~~
 46 ~~Automated Driver License System.~~

47"
 48

49 **DIVISION OF MOTOR VEHICLES TECHNOLOGY IMPROVEMENT ACCOUNT**

50 **SECTION 34.16.(a)** The Division of Motor Vehicles Technology Improvement
 51 Account shall be eliminated after all funds allotted as of June 30, 2013, have been expended.

The unallotted and unexpended balance of funds in the Account shall be transferred to the Highway Fund as appropriated and allocated by this act.

SECTION 34.16.(b) G.S. 20-85 reads as rewritten:

"§ 20-85 Schedule of fees.

...

(a1) One dollar (\$1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. ~~The Division shall use the fees derived from transactions with the Division for technology improvements.~~ The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in the Department of Environment and Natural Resources. An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited as follows:

(1) The first four hundred thousand dollars (\$400,000) collected shall be credited to the Reserve for Visitor Centers in the Highway Fund.

(2) Any additional funds collected shall be credited to the Highway Trust Fund and, notwithstanding G.S. 136-176(b), shall be allocated and used for urban loop projects.

...."

DEPARTMENT OF TRANSPORTATION CONTRACTED SERVICES

SECTION 34.17. The Department of Transportation, Business and Contractual Services Unit, shall, in collaboration with the Division of Motor Vehicles, evaluate current contractual models and compensation for the provision of registration, title, tax collection, and other vehicle service transactions by branch agents contracting with the Division of Motor Vehicles. As part of this evaluation, the Department shall conduct an analysis of transaction trends, completion and error rates, and service times by transaction type and branch agent type, and shall assess the appropriateness of the current basis for contractor compensation and rates relative to documented service requirements.

Based on its findings, the Department shall recommend alternatives to the current contractual models for branch agents to standardize contract types, enhance performance, and strengthen contract administration, taking into account citizen accessibility to service centers. In addition, the Department shall submit detailed proposals for alternate options for contractor compensation, including, at a minimum, competitive bidding of branch agent contracts. The Department shall identify anticipated programmatic and fiscal impacts, and include implementation plans for each alternative.

The Department shall report its findings and recommendations to the Joint Legislative Transportation Oversight Committee, Joint Legislative Program Evaluation Oversight Committee, and Fiscal Research Division no later than March 1, 2014.

ETHICS REQUIREMENTS FOR MPOS/RPOS

SECTION 34.18.(a) G.S. 136-202(e) is repealed.

SECTION 34.18.(b) G.S. 136-200.2 is amended by adding new subsections to read:

"(g) Ethics Provisions. – All individuals with voting authority serving on a metropolitan planning organization who are not members of the Board of Transportation shall do all of the following:

(1) Except as permitted under this subdivision, no MPO member acting in that capacity shall participate in an action if the member knows the member, the

1 member's extended family, or any business with which the member is
2 associated may incur a reasonably foreseeable financial benefit from the
3 matter under consideration, which financial benefit would impair the MPO
4 member's independence of judgment or from which it could reasonably be
5 inferred that the financial benefit would influence the member's participation
6 in the action. An MPO member may participate in an action of the MPO
7 under any of the following circumstances:

8 a. When action is ministerial only and does not require the exercise of
9 discretion.

10 b. When the committee records in its minutes that it cannot obtain a
11 quorum in order to take the action because the MPO member is
12 disqualified from acting, the MPO member may be counted for
13 purposes of a quorum but shall otherwise abstain from taking any
14 further action.

15 (2) An MPO member shall have an affirmative duty to promptly disclose in
16 writing to the MPO any conflict of interest or potential conflict of interest
17 under subdivision (1) of this subsection. All written disclosures shall be a
18 public record under Chapter 132 of the General Statutes and attached to the
19 minutes of the meeting in which any discussion or vote was taken by the
20 MPO related to that disclosure.

21 (3) File a statement of economic interest with the State Ethics Commission in
22 accordance with Article 3 of Chapter 138A of the General Statutes, for
23 which the State Ethics Commission shall prepare a written evaluation
24 relative to conflicts of interest and potential conflicts of interest and provide
25 a copy of that evaluation to the MPO member. All statements of economic
26 interest and all written evaluations by the Commission of those statements
27 are public records as provided in G.S. 138A-23. The penalties for failure to
28 file shall be as set forth in G.S. 138A-25(a) and (b).

29 (4) File, with and in the same manner as the statement of economic interest filed
30 under subdivision (3) of this subsection, an additional disclosure of a list of
31 all real estate owned wholly or in part by the MPO member, the MPO
32 member's extended family, or a business with which the MPO member is
33 associated within the jurisdiction of the MPO on which the MPO member is
34 serving. All additional disclosures of real estate filed by MPO members are
35 public records under Chapter 132 of the General Statutes.

36 (h) Confidential Information. – An MPO member shall not use or disclose any
37 nonpublic information gained in the course of or by reason of serving as a member of the MPO
38 in a way that would affect a personal financial interest of the MPO member, the MPO
39 member's extended family, or a business with which the MPO member is associated.

40 (i) Definitions. – For purposes of this section, "extended family" shall have the same
41 meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning
42 as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a
43 direct pecuniary loss to a business competitor.

44 (j) Violations. – A violation of subdivision (1) of subsection (g) of this section shall be
45 a Class 1 misdemeanor. An MPO member who knowingly conceals or knowingly fails to
46 disclose information that is required to be disclosed on a required filing under subdivision (3)
47 or (4) of subsection (g) of this section shall be guilty of a Class 1 misdemeanor. An MPO
48 member who provides false information on a required filing under subdivision (3) or (4) of
49 subsection (g) of this section knowing that the information is false is guilty of a Class H felony.

(k) All individuals with voting authority serving on an MPO who are members of the Board of Transportation shall comply with Chapter 138A of the General Statutes and G.S. 143B-350 while serving on the MPO."

SECTION 34.18.(c) G.S. 136-211(e) is repealed.

SECTION 34.18.(d) G.S. 136-211 is amended by adding new subsections to read:

"(f) Ethics Provisions. – All individuals with voting authority serving on a rural transportation planning organization who are not members of the Board of Transportation shall do all of the following:

(1) Except as permitted under this subdivision, no rural transportation planning organization member acting in that capacity shall participate in an action of the rural transportation planning organization if the rural transportation planning organization member knows the rural transportation planning organization member, the rural transportation planning organization member's extended family, or any business with which the rural transportation planning organization member is associated may incur a reasonably foreseeable financial benefit from the matter under consideration, which financial benefit would impair the rural transportation planning organization member's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the rural transportation planning organization member's participation in the action of the rural transportation planning organization.

a. When action is ministerial only and does not require the exercise of discretion.

b. When the committee records in its minutes that it cannot obtain a quorum in order to take the action because the rural transportation planning organization member is disqualified from acting, the rural transportation planning organization member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.

(2) A rural transportation planning organization member shall have an affirmative duty to promptly disclose in writing to the rural transportation planning organization any conflict of interest or potential conflict of interest under subdivision (1) of this subsection. All written disclosures shall be a public record under Chapter 132 of the General Statutes and attached to the minutes of the meeting in which any discussion or vote was taken by the rural transportation planning organization related to that disclosure.

(3) File a statement of economic interest with the State Ethics Commission in accordance with Article 3 of Chapter 138A of the General Statutes for which the State Ethics Commission shall prepare a written evaluation relative to conflicts of interest and potential conflicts of interest and provide a copy of that evaluation to the rural transportation planning organization member. All statements of economic interest and all written evaluations by the Commission of those statements are public records as provided in G.S. 138A-23. The penalties for failure to file shall be as set forth in G.S. 138A-25(a) and (b).

(4) File, with and in the same manner as the statement of economic interest filed under subdivision (3) of this subsection, an additional disclosure of a list of all real estate owned wholly or in part by the rural transportation planning organization member, the rural transportation planning organization member's extended family, or a business with which the rural transportation planning organization member is associated within the jurisdiction of the

1 rural transportation planning organization on which the rural transportation
2 planning organization member is serving. All additional disclosures of real
3 estate filed by members are public records under Chapter 132 of the General
4 Statutes.

5 (g) Confidential Information. – A rural transportation planning organization member
6 shall not use or disclose any nonpublic information gained in the course of or by reason of
7 serving as a member of the rural transportation planning organization in a way that would
8 affect a personal financial interest of the rural transportation planning organization member, the
9 rural transportation planning organization member's extended family, or a business with which
10 the rural transportation planning organization member is associated.

11 (h) Definitions. – For purposes of this section, "extended family" shall have the same
12 meaning as in G.S. 138A-3(13), "business with which associated" shall have the same meaning
13 as in G.S. 138A-3(3), and "financial benefit" shall mean a direct pecuniary gain or loss or a
14 direct pecuniary loss to a business competitor.

15 (i) Violations. – A violation of subdivision (1) of subsection (f) of this section shall be
16 a Class 1 misdemeanor. A rural transportation planning organization member who knowingly
17 conceals or knowingly fails to disclose information that is required to be disclosed on a
18 required filing under subdivision (3) or (4) of subsection (f) of this section shall be guilty of a
19 Class 1 misdemeanor. A rural transportation planning organization member who provides false
20 information on a required filing under subdivision (3) or (4) of subsection (f) of this section
21 knowing that the information is false is guilty of a Class H felony.

22 (j) All individuals with voting authority serving on a rural transportation planning
23 organization who are members of the Board of Transportation shall comply with Chapter 138A
24 of the General Statutes and G.S. 143B-350 while serving on the rural transportation planning
25 organization."

26 **SECTION 34.18.(e)** This section is effective when it becomes law. All individuals
27 with voting authority serving on a metropolitan planning organization or a rural transportation
28 planning organization shall file statements of economic interest and additional real estate lists
29 with the State Ethics Commission no later than April 15, 2014. Any member of a metropolitan
30 planning organization or a rural transportation planning organization that filed a statement of
31 economic interest in compliance with G.S. 136-202(e) or G.S. 136-211(e) shall not be required
32 to file again, and the State Ethics Commission shall prepare the evaluation under
33 G.S. 136-200.2(g) or G.S. 136-211(f) of that filing.

34 **STRATEGIC TRANSPORTATION INVESTMENTS**

35 **SECTION 34.19.(a)** Chapter 136 of the General Statutes is amended by adding a
36 new Article to read:

37 "Article 14B.

38 "Strategic Prioritization Funding Plan for Transportation Investments.

39 **§ 136-189.10. Definitions.**

40 The following definitions apply in this Article:

- 41 (1) Statewide strategic mobility projects. – Includes only the following:
42 a. Interstate highways and future interstate highways approved by the
43 federal government.
44 b. Routes on the National Highway System as of July 1, 2012,
45 excluding intermodal connectors.
46 c. Highway routes on the United States Department of Defense
47 Strategic Highway Network (STRAHNET).
48 d. Interstate highway toll routes designated by the Department of
49 Transportation, pursuant to its authority under State law, or
50 extensions of highway toll projects in existence on July 1, 2013.
51

- 1 e. Highway projects listed in G.S. 136-179, as it existed on July 1,
2 2012, that are not authorized for construction as of July 1, 2015.
3 f. Appalachian Development Highway System.
4 g. Commercial service airports included in the Federal Aviation
5 Administration's National Plan of Integrated Airport Systems
6 (NPIAS) that provide international passenger service or 375,000 or
7 more enplanements annually, provided that the State's annual
8 financial participation in any single airport project included in this
9 subdivision may not exceed five hundred thousand dollars
10 (\$500,000).
11 h. Freight capacity and safety improvements to Class I freight rail
12 corridors.
13 (2) Regional impact projects. – Includes only the following:
14 a. Projects listed in subdivision (1) of this section, subject to the
15 limitations noted in that subdivision.
16 b. U.S. highway routes not included in subdivision (1) of this section.
17 c. N.C. highway routes not included in subdivision (1) of this section.
18 d. Highway toll routes not included in subdivision (1) of this section.
19 e. Commercial service airports included in the NPIAS that are not
20 included in subdivision (1) of this section, provided that the State's
21 annual financial participation in any single airport project included in
22 this subdivision may not exceed three hundred thousand dollars
23 (\$300,000).
24 f. The State-maintained ferry system, excluding passenger vessel
25 replacement.
26 g. Freight capacity and safety improvements to rail corridors spanning
27 two or more counties and not included in subdivision (1) of this
28 section.
29 (3) Division needs projects. – Includes only the following:
30 a. Projects listed in subdivision (1) or (2) of this section, subject to the
31 limitations noted in those subsections.
32 b. State highway routes not included in subdivision (1) or (2) of this
33 section.
34 c. Airports included in the NPIAS that are not included in subdivision
35 (1) or (2) of this section, provided that the State's total annual
36 financial participation under this sub-subdivision shall not exceed
37 eighteen million five hundred thousand dollars (\$18,500,000).
38 d. Freight capacity and safety improvements to rail corridors not
39 included in subdivision (1) or (2) of this section.
40 e. Public transportation service improvements, facilities, and
41 equipment, including intercity rail, commuter rail, light rail,
42 multimodal terminals and stations used for passenger transit.
43 f. Federally-funded bicycle and pedestrian improvements.
44 g. Replacement of State-maintained ferry vessels.
45 h. Federally-funded municipal road projects.
46 (4) Distribution Regions. – The following Distribution Regions apply to this
47 Article:
48 a. Distribution Region A consists of the following counties: Bertie,
49 Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax,
50 Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank,
51 Perquimans, Tyrrell, Washington, Wayne, and Wilson.

- b. Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
- c. Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.
- d. Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.
- e. Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.
- f. Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
- g. Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.

"§ 136-189.11. Transportation Investment Strategy Formula.

(a) Funds Subject to Formula. – The following sources of funds are subject to this section:

- (1) Highway Trust Fund funds, in accordance with G.S. 136-176.
- (2) Federal aid funds.

(b) Funds Excluded From Formula. – The following funds are not subject to this section:

- (1) Federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149.
- (2) Funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department.
- (3) Funds received from the federal government that under federal law may only be used for Appalachian Development Highway System projects.
- (4) Funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Veterans Memorial Bridge project.
- (5) Funds committed to gap funding for toll roads funded with bonds issued pursuant to G.S. 136-176.
- (6) Funds obligated for projects in the State Transportation Improvement Program that are scheduled for construction as of April 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.
- (7) Toll collections from a turnpike project under Article 6H of this Chapter and other revenue from the sale of the Authority's bonds or notes or project loans, in accordance with G.S. 136-89.192.
- (8) Toll collections from the State-maintained ferry system collected under the authority of G.S. 136-82.

(c) Funds With Alternate Criteria. – The following federal program activities shall be included in the applicable category of the Transportation Investment Strategy Formula set forth in subsection (d) of this section but shall not be subject to the prioritization criteria set forth in that subsection:

- (1) Bridge replacement.

- 1 (2) Interstate maintenance.
2 (3) Highway safety improvement.
3 (d) Transportation Investment Strategy Formula. – Funds subject to the Formula shall
4 be distributed as follows:
5 (1) Statewide Strategic Mobility Projects. – Forty percent (40%) of the funds
6 subject to this section shall be used for Statewide Strategic Mobility
7 Projects.
8 a. Criteria. – Transportation-related quantitative criteria shall be used
9 by the Department to rank highway projects that address
10 cost-effective Statewide Strategic Mobility needs and promote
11 economic and employment growth. The criteria for selection of
12 Statewide Strategic Mobility Projects shall utilize a numeric scale of
13 100 points, based on consideration of the following quantitative
14 criteria:
15 1. Benefit-cost.
16 2. Congestion.
17 3. Safety.
18 4. Freight.
19 5. Multimodal.
20 6. Pavement condition.
21 7. Lane width.
22 8. Shoulder width.
23 b. Project cap. – No more than 10 percent (10%) of the funds projected
24 to be allocated to the Statewide Strategic Mobility category over any
25 five-year period may be assigned to any contiguous project or group
26 of projects in the same corridor within a Highway Division or within
27 adjoining Highway Divisions.
28 (2) Regional Impact Projects. – Thirty percent (30%) of the funds subject to this
29 section shall be used for Regional Impact Projects and allocated by
30 population of Distribution Regions, based on the most recent estimates
31 certified by the Office of State Budget and Management.
32 a. Criteria. – A combination of transportation-related quantitative
33 criteria, qualitative criteria, and local input shall be used to rank
34 Regional Impact Projects involving highways that address
35 cost-effective needs from a region-wide perspective and promote
36 economic growth. Local input is defined as the rankings identified by
37 the Department's Transportation Division Engineers, Metropolitan
38 Planning Organizations, and Rural Transportation Planning
39 Organizations. The criteria utilized for selection of Regional Impact
40 Projects shall be based 30 percent (30%) on local input and 70
41 percent (70%) on consideration of a numeric scale of 100 points,
42 based on the following quantitative criteria:
43 1. Benefit-cost.
44 2. Congestion.
45 3. Safety.
46 4. Freight.
47 5. Multimodal.
48 6. Pavement condition.
49 7. Lane width.
50 8. Shoulder width.

9. Accessibility and connectivity to employment centers, tourist destinations, and military installations.
- (3) Division Need Projects. – Thirty percent (30%) of the funds subject to this section shall be allocated in equal share to each of the Department divisions, as defined in G.S. 136-14.1, and used for Division Need Projects.
- a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Division Need Projects involving highways that address cost-effective needs from a Division-wide perspective, provide access, and address safety-related needs of local communities. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. The criteria utilized for selection of Division Need Projects shall be based 50 percent (50%) on local input and 50 percent (50%) on consideration of a numeric scale of 100 points, based on the following quantitative criteria, except as provided in sub-subdivision b. of this subdivision:
1. Benefit-cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.
7. Lane width.
8. Shoulder width.
9. Accessibility and connectivity to employment centers, tourist destinations, and military installations.
- b. Alternate criteria. – Funding from the following programs shall be included in the computation of each of the Department division equal shares but shall be subject to alternate quantitative criteria:
1. Federal Surface Transportation Program-Direct Attributable funds appropriated to the State.
2. Federal Transportation Alternatives funds appropriated to the State.
3. Federal Railway-highway crossings program funds appropriated to the State.
4. Projects requested from the Department in support of a time-critical job creation opportunity, when the opportunity would be classified as transformational under the Job Development Investment Grant program established pursuant to G.S. 143B-437.52, provided that the total State investment in each fiscal year for all projects funded under this sub-subdivision shall not exceed ten million dollars (\$10,000,000) in the aggregate or two million dollars (\$2,000,000) per project.
5. Federal funds for municipal road projects.
- c. Bicycle and pedestrian limitation. – The Department shall not provide financial support for bicycle and pedestrian improvement projects, except for federal funds administered by the Department for that purpose. This sub-subdivision shall not apply to funds allocated

- 1 to a municipality pursuant to G.S. 136-41.1 which are committed by
2 the municipality as matching funds for federal funds administered by
3 the Department and used for bicycle and pedestrian improvement
4 projects. This limitation shall not apply to projects under construction
5 or authorized for construction on June 30, 2013.
- 6 (4) Criteria for nonhighway projects. – Nonhighway projects subject to this
7 subsection shall be evaluated through a separate prioritization process
8 established by the Department that complies with all of the following:
- 9 a. The criteria used for selection of projects for a particular
10 transportation mode shall be based on a minimum of four
11 quantitative criteria.
- 12 b. Local input shall include rankings of projects identified by the
13 Department's Transportation Division Engineers, Metropolitan
14 Planning Organizations, and Rural Transportation Planning
15 Organizations.
- 16 c. The criteria shall be based on a scale not to exceed 100 points that
17 includes no bonus points or other alterations favoring any particular
18 mode of transportation.
- 19 (e) Authorized Formula Variance. – The Department may vary from the Formula set
20 forth in this section if it complies with the following:
- 21 (1) Limitation on variance. – The Department, in obligating funds in accordance
22 with this section, shall ensure that the percentage amount obligated to
23 Statewide Strategic Mobility Projects, Regional Impact Projects, and
24 Division Need Projects does not vary by more than five percent (5%) over
25 any five-year period from the percentage required to be allocated to each of
26 those categories by this section. Funds obligated among distribution regions
27 or divisions pursuant to this section may vary up to 10 percent (10%) over
28 any five-year period.
- 29 (2) Calculation of variance. – Each year the Secretary shall calculate the amount
30 of Regional Impact and Division Need funds allocated in that year to each
31 division and region, the amount of funds obligated, and the amount the
32 obligations exceeded or were below the allocation. In the first variance
33 calculation under this subdivision following the end of fiscal year
34 2015-2016, the target amounts obtained according to the Formula set forth in
35 this section shall be adjusted to account for any differences between
36 allocations and obligations reported for the previous year. In the first
37 variance calculation under this subdivision following the end of fiscal year
38 2016-2017, the target amounts obtained according to the Formula set forth in
39 this section shall be adjusted to account for any differences between
40 allocations and obligations reported for the previous two fiscal years. In the
41 first variance calculation under this subdivision following the end of fiscal
42 year 2017-2018, the target amounts obtained according to the Formula set
43 forth in this section shall be adjusted to account for any differences between
44 allocations and obligations reported for the previous three fiscal years. In the
45 first variance calculation under this subdivision following the end of fiscal
46 year 2018-2019, the target amounts obtained according to the Formula set
47 forth in this section shall be adjusted to account for any differences between
48 allocations and obligations reported for the previous four fiscal years. The
49 new target amounts shall be used to fulfill the requirements of subdivision
50 (1) of this subsection for the next update of the Transportation Improvement

1 Program. The adjustment to the target amount shall be allocated by
2 Distribution Region or Division, as applicable.

3 (f) Incentives for Local Funding and Highway Tolling. – The Department may revise
4 highway project selection ratings based on local government funding initiatives and capital
5 construction funding directly attributable to highway toll revenue. Projects authorized for
6 construction after November 1, 2013, and contained in the 10-year Department of
7 Transportation work program are eligible for a bonus allocation under this subsection.

8 (1) Definitions. – The following definitions apply in this subsection:

9 a. Bonus allocation. – The allocation obtained as a result of local
10 government funding participation or highway tolling.

11 b. Local funding participation. – Non-State or nonfederal funds
12 committed by local officials to leverage the commitment of State or
13 federal transportation funds towards construction.

14 (2) Funds obtained from local government funding participation. – Upon
15 authorization to construct a project with funds obtained by local government
16 funding participation, the Department shall make available for allocation as
17 set forth in subdivision (4) of this section an amount equal to one-half of the
18 local funding commitment for other eligible highway projects that serve the
19 local entity or entities that provided the local funding.

20 (3) Funds obtained through highway tolling. – Upon authorization to construct a
21 project with funding from toll revenue, the Department shall make available
22 for allocation an amount equal to one-half of the project construction cost
23 derived from toll revenue bonds. The amount made available for allocation
24 to other eligible highway projects shall not exceed one hundred million
25 dollars (\$100,000,000) of the capital construction funding directly
26 attributable to the highway toll revenues committed in the Investment Grade
27 Traffic and Revenue Study. If the toll project is located in one or more
28 Metropolitan Planning Organization or Rural Transportation Planning
29 Organization boundaries, based on the boundaries in existence at the time of
30 letting of the project construction contract, the bonus allocation shall be
31 distributed proportionately to lane miles of new capacity within the
32 Organization's boundaries. The Organization shall apply the bonus allocation
33 only within those counties in which the toll project is located.

34 (4) Use of bonus allocation. – The Metropolitan Planning Organization, Rural
35 Transportation Planning Organization, or the local government may choose
36 to apply its bonus allocation in one of the three categories or in a
37 combination of the three categories as provided in this subdivision.

38 a. Statewide Strategic Mobility Projects category. – The bonus
39 allocation shall apply over the five-year period in the State
40 Transportation Improvement Program in the cycle following the
41 contractual obligation.

42 b. Regional Impact Projects category. – The bonus allocation is capped
43 at 10 percent (10%) of the regional allocation, or allocation to
44 multiple regions, made over a five-year period and shall be applied
45 over the five-year period in the State Transportation Improvement
46 Program in the cycle following the contractual obligation.

47 c. Division Needs Projects category. – The bonus allocation is capped
48 at 10 percent (10%) of the division allocation, or allocation to
49 multiple divisions, made over a five-year period and shall be applied
50 over the five-year period in the State Transportation Improvement
51 Program in the cycle following the contractual obligation.

(g) Reporting. – The Department shall publish on its Web site, in a link to the "Strategic Transportation Investments" Web site linked directly from the Department's home page, the following information in an accessible format as promptly as possible:

- (1) The quantitative criteria used in each highway and nonhighway project scoring, including the methodology used to define each criteria, the criteria presented to the Board of Transportation for approval, and any adjustments made to finalize the criteria.
- (2) The quantitative and qualitative criteria in each highway or nonhighway project scoring that is used in each region or division to finalize the local input score, and shall include distinctions between Metropolitan Planning Organization and Rural Transportation Planning Organization scoring and methodologies.
- (3) Notification of changes to the methodologies used to calculate quantitative criteria.
- (4) The final quantitative formulas, including the number of points assigned to each criteria, used in each highway and nonhighway project scoring used to obtain project rankings in the Statewide, Regional, and Division categories. If the Department approves different formulas or point assignments regionally or by division, the final scoring for each area shall be noted.
- (5) The project scorings associated with the release of the draft and final State Transportation Improvement Program."

SECTION 34.19.(b) (Effective July 1, 2019) G.S. 136-189.11(e)(2) reads as rewritten:

"(e) Authorized Formula Variance. – The Department may vary from the Formula set forth in this section if it complies with the following:

- ...
- (2) Calculation of Variance. – Each year, the Secretary shall calculate the amount of Regional Impact and Division Need funds allocated in that year to each ~~division, division and region~~, the amount of funds obligated, and the amount the obligations exceeded or were below the allocation. ~~In the first variance calculation under this subdivision following the end of fiscal year 2015-16, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous year. In the first variance calculation under this subdivision following the end of fiscal year 2016-17, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous two fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2017-18, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous three fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2018-19, the~~ The target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous ~~four~~ five fiscal years. The new target amounts shall be used to fulfill the requirements of subdivision (1) of this subsection for the next update of the Transportation Improvement Program. The adjustment to the target amount shall be allocated by Distribution Region or Division, as applicable."

1 **SECTION 34.19.(c)** Strategic Prioritization Process Reporting. – The Department
2 shall issue a draft revision to the State Transportation Improvement Program required by
3 G.S. 143B-350(f)(4) no later than January 1, 2015. The Board of Transportation shall approve
4 the revised State Transportation Improvement Program no later than July 1, 2015.

5
6 **SECONDARY ROADS CHANGES**
7

8 **SECTION 34.19.(d)** G.S. 20-85, as rewritten by Section 34.16 of this act, reads as
9 rewritten:

10 **"§ 20-85. Schedule of fees.**

11 ...
12 (a1) One dollar (\$1.00) of the fee imposed for any transaction assessed a fee under
13 subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the
14 North Carolina Highway Fund. The Division shall use the fees derived from transactions with
15 commission contract agents for the payment of compensation to commission contract agents.
16 An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under
17 subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in
18 the Department of Environment and Natural Resources. ~~An additional fifty cents (50¢) of the~~
19 ~~fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be~~
20 ~~credited as follows:~~

21 (1) ~~The first four hundred thousand dollars (\$400,000) collected shall be~~
22 ~~credited to the Reserve for Visitor Centers in the Highway Fund.~~

23 (2) ~~Any additional funds collected shall be credited to the Highway Trust Fund~~
24 ~~and, notwithstanding G.S. 136-176(b), shall be allocated and used for urban~~
25 ~~loop projects.~~

26 (a2) From the fees collected under subdivisions (a)(1) through (a)(9) of this section, the
27 Department shall annually credit the sum of four hundred thousand dollars (\$400,000) to the
28 Reserve for Visitor Centers in the Highway Fund.

29 (b) Except as otherwise provided in ~~subsection (a1)~~ subsections (a1) and (a2) of this
30 section, the fees collected under subdivisions (a)(1) through (a)(9) of this section shall be
31 credited to the North Carolina Highway Trust Fund. The fees collected under subdivision
32 (a)(10) of this section shall be credited to the Highway Fund. ~~Fifteen dollars (\$15.00) of each~~
33 ~~title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount~~
34 ~~allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5.~~

35 "

36 **SECTION 34.19.(e)** G.S. 136-44.2 reads as rewritten:

37 **"§ 136-44.2. Budget and appropriations.**

38 (a) The Director of the Budget shall include in the "Current Operations Appropriations
39 Act" an enumeration of the purposes or objects of the proposed expenditures for each of the
40 ~~construction and maintenance~~ construction, maintenance, and improvement programs for that
41 budget period for the State primary, secondary, State parks road systems, and other
42 transportation systems. The State primary system shall include all portions of the State highway
43 system located both inside and outside municipal corporate limits that are designated by N.C.,
44 U.S. or Interstate numbers. The State secondary system shall include all of the State highway
45 system located both inside and outside municipal corporate limits that is not a part of the State
46 primary system. The State parks system shall include all State parks roads and parking lots that
47 are not also part of the State highway system. The transportation systems shall also include
48 State-maintained, nonhighway modes of ~~transportation as well~~ transportation.

49 (b) All ~~construction and maintenance~~ construction, maintenance, and improvement
50 programs for which appropriations are requested shall be enumerated separately in the budget.
51 Programs that are entirely State funded shall be listed separately from those programs involving

the use of federal-aid funds. Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for ~~maintenance and construction~~ construction, maintenance, and improvement of secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the ~~construction and maintenance~~ construction, maintenance, and improvement of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

...."

SECTION 34.19.(f) (Effective July 1, 2014) G.S. 136-44.2, as rewritten by subsection (e) of this section, reads as rewritten:

"§ 136-44.2. Budget and appropriations.

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the ~~construction, maintenance, maintenance~~ and improvement programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall also include State-maintained, nonhighway modes of transportation.

(b) All ~~construction, maintenance, maintenance~~ and improvement programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. ~~Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed~~ Proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to ~~G.S. 136-44.7 and 136-44.8~~ G.S. 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for ~~construction, maintenance, maintenance~~ and improvement of secondary roads, to be allocated in accordance with ~~G.S. 136-44.5 and 136-44.6~~ G.S. 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the ~~construction, maintenance, maintenance~~ and improvement of secondary roads in the county for which they are allocated pursuant to ~~G.S. 136-44.5 and 136-44.6~~ G.S. 136-44.6.

...

(g) The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars (\$100,000) before any other allocations from the appropriations for State maintenance for ~~primary, secondary, and urban~~ primary and secondary road systems are made, based upon the same proportion as is appropriated to each system."

SECTION 34.19.(g) G.S. 136-44.2A reads as rewritten:

"§ 136-44.2A. Secondary road ~~improvement~~ construction program.

There shall be annually allocated from the Highway Fund to the Department of Transportation for secondary road ~~improvement~~ construction programs developed pursuant to ~~G.S. 136-44.7 and 136-44.8, a sum provided by law, equal to that allocation made from the Highway Fund under G.S. 136-41.1(a). In addition, as provided in G.S. 136-176(b)(4) and G.S. 20-85(b), revenue is annually allocated from the Highway Trust Fund for secondary road construction. Of the funds allocated from the Highway Fund, the sum of sixty-eight million six hundred seventy thousand dollars (\$68,670,000) shall be allocated among the counties in accordance with G.S. 136-44.5(b). All funds allocated from the Highway Fund for secondary road improvements in excess of that amount shall be allocated among the counties in accordance with G.S. 136-44.5(c). All funds allocated from the Highway Trust Fund for secondary road improvement programs shall be allocated in accordance with G.S. 136-182."~~

SECTION 34.19.(h) (Effective July 1, 2014) G.S. 136-44.2A is repealed.

SECTION 34.19.(i) G.S. 136-44.2C is repealed.

SECTION 34.19.(j) (Expires June 30, 2018) Article 2A of Chapter 136 is amended by adding a new section to read:

"§ 136-44.2D. Secondary unpaved road paving program.

The Department of Transportation shall expend funds allocated to the paving of unpaved secondary roads for the paving of unpaved secondary roads based on a statewide prioritization. The Department shall pave the eligible unpaved secondary roads that receive the highest priority ranking within this statewide prioritization. Nothing in this subsection shall be interpreted to require the Department to pave any unpaved secondary roads that do not meet secondary road system addition standards as set forth in G.S. 136-44.10 and G.S. 136-102.6. The Highway Trust Fund shall not be used to fund the paving of unpaved secondary roads.

SECTION 34.19.(k) G.S. 136-44.5 reads as rewritten:

"§ 136-44.5. Secondary roads; mileage study; allocation of funds.

(a) Before July 1, in each calendar year, the Department of Transportation shall make a study of all State-maintained unpaved and paved secondary roads in the State. The study shall determine:

- (1) The number of miles of unpaved State-maintained roads in each county eligible for paving and the total number of miles that are ineligible;
- (2) The total number of miles of unpaved State-maintained roads in the State eligible for paving and the total number of miles that are ineligible; and
- (3) The total number of paved State-maintained roads in each county, and the total number of miles of paved State-maintained roads in the State.

In this subsection, (i) ineligible unpaved mileage is defined as the number of miles of unpaved roads that have unavailable rights-of-way or for which environmental permits cannot be approved to allow for paving, and (ii) eligible unpaved mileage is defined as the number of miles of unpaved roads that have not been previously approved for paving by any funding source or has the potential to be programmed for paving when rights-of-way or environmental permits are secured. Except for federal-aid programs, the Department shall allocate all secondary road improvement funds on the basis of a formula using the study figures.

~~(b) The first sixty-eight million six hundred seventy thousand dollars (\$68,670,000) shall be allocated as follows: Each county shall receive a percentage of these funds, the percentage to be determined as a factor of the number of miles of paved and unpaved State-maintained secondary roads in the county divided by the total number of miles of paved and unpaved State-maintained secondary roads in the State, excluding those unpaved secondary roads that have been determined to be eligible for paving as defined in subsection (a) of this section. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be The amounts appropriated by law for secondary road construction, excluding unpaved secondary road funds, shall be allocated among counties based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage.~~

~~(c) Funds allocated for secondary road construction in excess of sixty-eight million six hundred seventy thousand dollars (\$68,670,000) shall be allocated to each county based on the percentage proportion that the number of miles in the county of State-maintained unpaved secondary roads bears to the total number of miles in the State of State-maintained unpaved secondary roads. In a county that has roads with eligible miles, these funds shall only be used for paving unpaved secondary road miles in that county. In a county where there are no roads eligible to be paved as defined in subsection (a) of this section, the funds may be used for improvements on the paved and unpaved secondary roads in that county. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage.~~

~~(d) Copies of the Department study of unpaved and paved State-maintained secondary roads and copies of the individual county allocations shall be made available to newspapers having general circulation in each county."~~

SECTION 34.19.(l) (Effective July 1, 2014) G.S. 136-44.5 is repealed.

SECTION 34.19.(m) G.S. 136-44.6 reads as rewritten:

"§ 136-44.6. Uniformly applicable formula for the allocation of secondary roads maintenance and improvement funds.

The Department of Transportation shall develop a uniformly applicable formula for the allocation of secondary roads maintenance and improvement funds for use in each county. The formula shall take into consideration the number of paved and unpaved miles of state-maintained secondary roads in each county and such other factors as experience may dictate. This section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."

SECTION 34.19.(n) Secondary Road Funding. – Of the funds appropriated in this act, the sum of fifteen million dollars (\$15,000,000) in nonrecurring funds for the 2013-2014 fiscal year is allocated from the Highway Fund for the secondary road construction program

under G.S. 136-44.2A, as enacted by subsection (g) of this section, and the sum of ten million dollars (\$10,000,000) in recurring funds for the 2013-2014 fiscal year is allocated from the Highway Fund for the paving of unpaved roads pursuant to G.S. 136-44.2D, as enacted by subsection (j) of this section.

SECTION 34.19.(o) G.S. 136-44.7 reads as rewritten:

"§ 136-44.7. Secondary roads; ~~annual work program.~~right-of-way acquisition.

(a) ~~The Department of Transportation shall be responsible for developing criteria for improvements and maintenance of secondary roads. The criteria shall be adopted by the Board of Transportation before it shall become effective. The Department of Transportation shall be responsible for developing annual work programs for both construction and maintenance of secondary roads in each county in accordance with criteria developed. It shall reflect the long range and immediate goals of the Department of Transportation. Projects on the annual construction program for each county shall be rated according to their priority based upon the secondary road criteria and standards which shall be uniform throughout the State. Tentative construction projects and estimated funding shall also be listed in accordance to priority. The annual construction program shall be adopted by the Board of Transportation before it shall become effective.~~

(b) ~~When a secondary road in a county is listed in the first 10 secondary roads to be paved during a year on a priority list issued by the Department of Transportation under this section, the secondary road cannot be removed from the top 10 of that list or any subsequent list until it is paved. All secondary roads in a county shall be paved, insofar as possible, in the priority order of the list. When a secondary road in the top 10 of that list is removed from the list because it has been paved, the next secondary road on the priority list shall be moved up to the top 10 of that list and shall remain there until it is paved.~~

(c) ~~When it is necessary for the Department of Transportation to acquire a right-of-way in accordance with (a) and (b) of this section in order to pave a secondary road or undertake a maintenance project, the Department shall negotiate the acquisition of the right-of-way for a period of up to six months. At the end of that period, if one or more property owners have not dedicated the necessary right-of-way and at least seventy-five percent (75%) of the property owners adjacent to the project and the owners of the majority of the road frontage adjacent to the project have dedicated the necessary property for the right-of-way and have provided funds required by Department rule to the Department to cover the costs of condemning the remaining property, the Department shall initiate condemnation proceedings pursuant to Article 9 of this Chapter to acquire the remaining property necessary for the project.~~

(d) The Division Engineer is authorized to reduce the width of a right-of-way to less than 60 feet to pave an unpaved secondary road with the allocated funds, provided that in all circumstances the safety of the public is not compromised and the minimum accepted design practice is satisfied."

SECTION 34.19.(p) G.S. 136-44.8 reads as rewritten:

"§ 136-44.8. Submission of secondary roads construction and unpaved roads paving programs to the Boards of County Commissioners.

(a) ~~The Department of Transportation shall post in the county courthouse a county map showing tentative secondary road paving projects rated according to the priority of each project in accordance with the criteria and standards adopted by the Board of Transportation. The map shall be posted at least two weeks prior to the public meeting of the county commissioners at which the Department of Transportation representatives are to meet and discuss the proposed secondary road construction program for the county as provided in subsection (c).~~

(a1) Representatives of the Department of Transportation shall provide to the board of county commissioners in each county the proposed secondary road construction program and, if applicable to that county, a list of roads proposed for the annual paving program approved by the Board of Transportation. If a paving priority list is presented, it shall include the priority

rating of each secondary road paving project included in the proposed paving program according to the criteria and standards adopted by the Board of Transportation.

~~(b) The Department of Transportation shall provide a notice to the public of the public meeting of the board of county commissioners at which the annual secondary road construction program for the county proposed by the Department is to be presented to the board and other citizens of the county as provided in subsection (c). The notice shall be published in a newspaper published in the county or having a general circulation in the county once a week for two succeeding weeks prior to the meeting. The notice shall also advise that a county map is posted in the courthouse showing tentative secondary road paving projects rated according to the priority of each project.~~

~~(c) Representatives of the Department of Transportation shall meet with the board of county commissioners at a regular or special public meeting of the board of county commissioners for each county and present to and discuss with the board of county commissioners and other citizens present, the proposed secondary road construction program for the county. The presentation and discussion shall specifically include the priority rating of each tentative secondary road paving project included in the proposed construction program, according to the criteria and standards adopted by the Board of Transportation.~~

~~At the same meeting after the presentation and discussion of the annual secondary road construction program for the county or at a later meeting, the board of county commissioners may (i) concur in the construction program as proposed, or (ii) take no action, or (iii) make recommendations for deviations in the proposed construction program, except as to paving projects and the priority of paving projects for which the board in order to make recommendations for deviations, must vote to consider the matter at a later public meeting as provided in subsection (d).~~

~~(d) The board of county commissioners may recommend deviations in the paving projects and the priority of paving projects included in the proposed secondary road construction program only at a public meeting after notice to the public that the board will consider making recommendations for deviations in paving projects and the priority of paving projects included in the proposed annual secondary road construction program. Notice of the public meeting shall be published by the board of county commissioners in a newspaper published in the county or having a general circulation in the county. After discussion by the members of the board of county commissioners and comments and information presented by other citizens of the county, the board of county commissioners may recommend deviations in the paving projects and in the paving priority of secondary road projects included in the proposed secondary road construction program. Any recommendation made by the board of county commissioners for a deviation in the paving projects or in the priority for paving projects in the proposed secondary road construction program shall state the specific reason for each such deviation recommended.~~

~~(e) The Board of Transportation shall adopt the annual secondary construction program for each county after having given the board of county commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county. However, no consideration shall be given to any recommendation by the board of county commissioners for a deviation in the paving projects or in the priority for paving secondary road projects in the proposed construction program that is not made in accordance with subsection (d).~~

~~(f) The secondary road construction program and unpaved roads paving programs adopted by the Board of Transportation shall be followed by the Department of Transportation unless changes are approved by the Board of Transportation and notice of any changes is given~~

to the board of county commissioners. The Department of Transportation shall post a copy of the adopted program, including a map showing the secondary road paving projects rated according to the approved priority of each project, at the courthouse, within 10 days of its adoption by the Board of Transportation. The board of county commissioners may petition the Board of Transportation for review of any changes to which it does not consent and the determination of the Board of Transportation shall be final. Upon request, the most recent secondary road construction and unpaved roads paving programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the annual construction program for each county available to the newspapers having a general circulation in the county."

SECTION 34.19.(q) (Effective July 1, 2014) G.S. 136-44.8, as rewritten by subsection (p) of this section, reads as rewritten:

"§ 136-44.8. Submission of unpaved secondary roads construction and unpaved roads paving programs to the Boards of County Commissioners.

(a1) ~~Representatives~~ In each county having unpaved roads programmed for paving, representatives of the Department of Transportation shall annually provide to the board of county commissioners in ~~each county~~ those counties ~~the proposed secondary road construction program and, if applicable to that county, a list of roads proposed for the annual paving program approved by the Board of Transportation. If a~~ The paving priority list is presented, it shall include the priority rating of each secondary road paving project included in the proposed paving program according to the criteria and standards adopted by the Board of Transportation.

(e) ~~The Board of Transportation shall adopt the annual secondary construction program for each county after having given the board of county commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county.~~

(f) ~~The secondary road construction and unpaved~~ secondary roads paving programs adopted by the Board of Transportation shall be followed by the Department of Transportation unless changes are approved by the Board of Transportation and notice of any changes is given to the board of county commissioners. Upon request, the most recent unpaved secondary road construction and unpaved roads paving programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the annual construction program for each affected county available to the newspapers having a general circulation in the county."

SECTION 34.19.(r) G.S. 136-182 is repealed.

STATE AID TO MUNICIPALITIES/POWELL BILL CHANGES

SECTION 34.19.(s) G.S. 136-41.1 reads as rewritten:

"§ 136-41.1. Appropriation to municipalities; allocation of funds generally; allocation to Butner.

(a) There is annually appropriated out of the State Highway Fund a sum equal to ten and four-tenths percent (10.4%) of the net amount after refunds that was produced during the fiscal year by ~~a one and three-fourths cents (1 3/4¢) tax on each gallon of motor fuel taxed the tax imposed~~ under Article 36C of Chapter 105 of the General Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. One-half of the amount appropriated shall be allocated in cash on or before October 1 of each year to the cities and towns of the State in accordance with this section. The second one-half of the amount appropriated shall be allocated in cash on or before January 1 of each year to the cities and towns of the State in accordance with this section. ~~In addition, as provided in~~

~~G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to the cities and towns of this State to be used for the same purposes and distributed in the same manner as the revenue appropriated to them under this section from the Highway Fund. Like the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund shall be based on revenue collected during the fiscal year preceding the date the distribution is made.~~

Seventy-five percent (75%) of the funds appropriated for cities and towns shall be distributed among the several eligible municipalities of the State in the percentage proportion that the population of each eligible municipality bears to the total population of all eligible municipalities according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer. This annual estimation of population shall include increases in the population within the municipalities caused by annexations accomplished through July 1 of the calendar year in which these funds are distributed. Twenty-five percent (25%) of said fund shall be distributed among the several eligible municipalities of the State in the percentage proportion that the mileage of public streets in each eligible municipality which does not form a part of the State highway system bears to the total mileage of the public streets in all eligible municipalities which do not constitute a part of the State highway system.

It shall be the duty of the mayor of each municipality to report to the Department of Transportation such information as it may request for its guidance in determining the eligibility of each municipality to receive funds under this section and in determining the amount of allocation to which each is entitled. Upon failure of any municipality to make such report within the time prescribed by the Department of Transportation, the Department of Transportation may disregard such defaulting unit in making said allotment.

The funds to be allocated under this section shall be paid in cash to the various eligible municipalities on or before October 1 and January 1 of each ~~year-year~~ as provided in this section. Provided that eligible municipalities are authorized within the discretion of their governing bodies to enter into contracts for the purpose of maintenance, repair, construction, reconstruction, widening, or improving streets of such municipalities at any time after January 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount received by such municipality during the preceding fiscal year, in anticipation of the receipt of funds under this section during the next fiscal year, to be paid for out of such funds when received.

The Department of Transportation may withhold each year an amount not to exceed one percent (1%) of the total amount appropriated for distribution under this section for the purpose of correcting errors in allocations: Provided, that the amount so withheld and not used for correcting errors will be carried over and added to the amount to be allocated for the following year.

The word "street" as used in this section is hereby defined as any public road maintained by a municipality and open to use by the general public, and having an average width of not less than 16 feet. In order to obtain the necessary information to distribute the funds herein allocated, the Department of Transportation may require that each municipality eligible to receive funds under this section submit to it a statement, certified by a registered engineer or surveyor of the total number of miles of streets in such municipality. The Department of Transportation may in its discretion require the certification of mileage on a biennial basis.

...."

SECTION 34.19.(t) G.S. 136-181 is repealed.

SECTION 34.19.(u) G.S. 136-41.3 reads as rewritten:

"§ 136-41.3. Use of funds; records and annual statement; excess accumulation of funds; contracts for maintenance, etc., of streets.

(a) Uses of Funds. – The funds allocated to cities and towns under the provisions of G.S. 136-41.2 shall be expended by said cities and towns only for the purpose of maintaining, repairing, constructing, reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality or for meeting the municipality's proportionate share of assessments levied for such purposes, or for the planning, construction and maintenance of ~~bikeways located within the rights-of-way of public streets and highways, bikeways, greenways, or for the planning, construction, and maintenance of sidewalks along public streets and highways, sidewalks.~~

(b) Records and Annual Statement. – Each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 shall maintain a separate record of accounts indicating in detail all receipts and expenditures of such funds. It shall be unlawful for any municipal employee or member of any governing body to authorize, direct, or permit the expenditure of any funds accruing to any municipality by virtue of G.S. 136-41.1 and 136-41.2 for any purpose not herein authorized. Any member of any governing body or municipal employee shall be personally liable for any unauthorized expenditures. On or before the first day of August each year, the treasurer, auditor, or other responsible official of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 shall file a statement under oath with the Secretary of Transportation showing in detail the expenditure of funds received by virtue of G.S. 136-41.1 and 136-41.2 during the preceding year and the balance on hand.

(c) Excess Accumulation of Funds Prohibited. – No funds allocated to municipalities pursuant to G.S. 136-41.1 and 136-41.2 shall be permitted to accumulate for a period greater than permitted by this section. Interest on accumulated funds shall be used only for the purposes permitted by the provisions of G.S. 136-41.3. Except as otherwise provided in this section, any municipality having accumulated an amount greater than the sum of the past 10 allocations made, shall have an amount equal to such excess deducted from the next allocation after receipt of the report required by this section. Such deductions shall be carried over and added to the amount to be allocated to municipalities for the following year. Notwithstanding the other provisions of this section, the Department shall adopt a policy to allow small municipalities to apply to the Department to be allowed to accumulate up to the sum of the past 20 allocations if a municipality's allocations are so small that the sum of the past 10 allocations would not be sufficient to accomplish the purposes of this section.

(d) Contracts for Maintenance and Construction. – In the discretion of the local governing body of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 it may contract with the Department of Transportation to do the work of maintenance, repair, construction, reconstruction, widening or improving the streets in such municipality; or it may let contracts in the usual manner as prescribed by the General Statutes to private contractors for the performance of said street work; or may undertake the work by force account. The Department of Transportation within its discretion is hereby authorized to enter into contracts with municipalities for the purpose of maintenance, repair, construction, reconstruction, widening or improving streets of municipalities. And the Department of Transportation in its discretion may contract with any city or town which it deems qualified and equipped so to do that the city or town shall do the work of maintaining, repairing, improving, constructing, reconstructing, or widening such of its streets as form a part of the State highway system.

In the case of each eligible municipality, as defined in G.S. 136-41.2, having a population of less than 5,000, the Department of Transportation shall upon the request of such municipality made by official action of its governing body, on or prior to June 1, 1953, or June 1 in any year thereafter, for the fiscal year beginning July 1, 1953, and for the years thereafter do such street construction, maintenance, or improvement on nonsystem streets as the municipality may request within the limits of the current or accrued payments made to the municipality under the provisions of G.S. 136-41.1.

1 In computing the costs, the Department of Transportation may use the same rates for
2 equipment, rental, labor, materials, supervision, engineering and other items, which the
3 Department of Transportation uses in making charges to one of its own department or against
4 its own department, or the Department of Transportation may employ a contractor to do the
5 work, in which case the charges will be the contract cost plus engineering and inspection. The
6 municipality is to specify the location, extent, and type of the work to be done, and shall
7 provide the necessary rights-of-way, authorization for the removal of such items as poles, trees,
8 water and sewer lines as may be necessary, holding the Department of Transportation free from
9 any claim by virtue of such items of cost and from such damage or claims as may arise
10 therefrom except from negligence on the part of the Department of Transportation, its agents,
11 or employees.

12 If a municipality elects to bring itself under the provisions of the two preceding paragraphs,
13 it shall enter into a two-year contract with the Department of Transportation and if it desires to
14 dissolve the contract at the end of any two-year period it shall notify the Department of
15 Transportation of its desire to terminate said contract on or before April 1 of the year in which
16 such contract shall expire; otherwise, said contract shall continue for an additional two-year
17 period, and if the municipality elects to bring itself under the provisions of the two preceding
18 paragraphs and thereafter fails to pay its account to the Department of Transportation for the
19 fiscal year ending June 30, by August 1 following the fiscal year, then the Department of
20 Transportation shall apply the said municipality's allocation under G.S. 136-41.1 to this account
21 until said account is paid and the Department of Transportation shall not be obligated to do any
22 further work provided for in the two preceding paragraphs until such account is paid.

23 Section 143-129 of the General Statutes relating to the procedure for letting of public
24 contracts shall not be applicable to contracts undertaken by any municipality with the
25 Department of Transportation in accordance with the provisions of the three preceding
26 paragraphs.

27 (e) Permitted Offsets to Funding. — The Department of Transportation is authorized to
28 apply a municipality's share of funds allocated to a municipality under the provisions of
29 G.S. 136-41.1 to any of the following accounts of the municipality with the said Department of
30 Transportation, which the municipality fails to pay:

- 31 (1) Cost sharing agreements for right-of-way entered into pursuant to
32 G.S. 136-66.3, but not to exceed ten percent (10%) of any one year's
33 allocation until the debt is repaid,
- 34 (2) The cost of relocating municipally owned waterlines and other municipally
35 owned utilities on a State highway project which is the responsibility of the
36 municipality,
- 37 (3) For any other work performed for the municipality by the Department of
38 Transportation or its contractor by agreement between the Department of
39 Transportation and the municipality, and
- 40 (4) For any other work performed that was made necessary by the construction,
41 reconstruction or paving of a highway on the State highway system for
42 which the municipality is legally responsible."

43 **SECTION 34.19.(v)** G.S. 136-41.4 reads as rewritten:

44 **"§ 136-41.4. Municipal use of allocated funds; election.**

45 (a) A municipality that qualifies for an allocation of funds pursuant to G.S. 136-41.1
46 shall have the ~~option~~ following options:

- 47 (1) ~~to accept~~ Accept all or a portion of funds allocated to the municipality, under
48 that section, for the repair, maintenance, construction, reconstruction,
49 widening, or improving of the municipality's ~~streets~~ streets.
- 50 (2) Use some or all of its allocation to match federal funds administered by the
51 Department for bicycle and pedestrian improvement projects within the

municipality's limits, or within the area of any metropolitan planning organization or rural transportation planning organization.

(3) ~~or the municipality may elect~~ Elect to have some or all of the allocation reprogrammed for any Transportation Improvement Project currently on the approved project list within the municipality's limits or within the area of any metropolitan planning organization or rural transportation planning organization.

(b) If a municipality chooses to have its allocation reprogrammed, the ~~minimum~~ amount that may be reprogrammed is an amount equal to that amount necessary to complete one full phase of the project selected by the municipality or an amount that, when added to the amount already programmed for the Transportation Improvement Project selected, would permit the completion of at least one full phase of the project. The restriction set forth in this subsection shall not apply to any bicycle or pedestrian projects."

SECTION 34.19.(w) Notwithstanding G.S. 136-41.4 or any other provision of law, the Town of Caswell Beach may expend funds allocated to it pursuant to G.S. 136-41.1 for maintenance, repair, reconstruction, or improvement of streets within the Town's corporate limits that form a part of the State highway system. For purposes of this subsection, "maintenance, repair, reconstruction, or improvement of streets" shall include drainage, curb and gutter, and other necessary appurtenances as well as bikeways or sidewalks located within the right-of-way of any State highway system component and within the corporate limits of the Town.

SECTION 34.19.(x) DOT Municipal Lane Mile Study. – The Department of Transportation shall collect lane mile data from each municipality eligible to receive funds under this section no later than December 1, 2013. The Department shall report to the Joint Legislative Transportation Oversight Committee no later than March 1, 2014, on at least three options to shift the distribution formula to include lane mile data. The report shall include advantages and disadvantages, fiscal impacts to each municipality, and any other technical considerations in making such a change. The Joint Legislative Transportation Oversight Committee and the Fiscal Research Division shall include in its recommendations to the 2014 Session of the 2013 General Assembly a new distribution formula, if the Committee finds that a new formula is beneficial and practical.

CONFORMING CHANGES

SECTION 34.19.(y) G.S. 105-187.9 reads as rewritten:
"§ 105-187.9. Disposition of tax proceeds.

...
(b) ~~(Repealed effective July 1, 2013)~~ General Fund Transfer. — In each fiscal year, the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

(1) ~~The sum of twenty-six million dollars (\$26,000,000).~~

(2) ~~In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars (\$2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections~~

under this Article increased or decreased for the most recent 12-month period for which data are available.

(e) ~~(Effective July 1, 2013) Mobility Fund Transfer. In each fiscal year, the State Treasurer shall transfer fifty-eight million dollars (\$58,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."~~

SECTION 34.19.(z) G.S. 136-18 reads as rewritten:

"§ 136-18. Powers of Department of Transportation.

The said Department of Transportation is vested with the following powers:

...

(12a) The Department of Transportation shall have such powers as are necessary to establish, administer, and receive federal funds for a transportation infrastructure banking program as authorized by the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, as amended, and the National Highway System Designation Act of 1995, Pub. L. 104-59, as amended. The Department of Transportation is authorized to apply for, receive, administer, and comply with all conditions and requirements related to federal financial assistance necessary to fund the infrastructure banking program. The infrastructure banking program established by the Department of Transportation may utilize federal and available State funds for the purpose of providing loans or other financial assistance to governmental units, including toll authorities, to finance the costs of transportation projects authorized by the above federal aid acts. Such loans or other financial assistance shall be subject to repayment and conditioned upon the establishment of such security and the payment of such fees and interest rates as the Department of Transportation may deem necessary. The Department of Transportation is authorized to apply a municipality's share of funds allocated under G.S. 136-41.1 or G.S. 136-44.20 as necessary to ensure repayment of funds advanced under the infrastructure banking program. The Department of Transportation shall establish jointly, with the State Treasurer, a separate infrastructure banking account with necessary fiscal controls and accounting procedures. Funds credited to this account shall not revert, and interest and other investment income shall accrue to the account and may be used to provide loans and other financial assistance as provided under this subdivision. The Department of Transportation may establish such rules and policies as are necessary to establish and administer the infrastructure banking program. The infrastructure banking program authorized under this subdivision shall not modify the regional distribution formula for the distribution of funds established by ~~G.S. 136-17.2A~~ G.S. 136-189.10. Governmental units may apply for loans and execute debt instruments payable to the State in order to obtain loans or other financial assistance provided for in this subdivision. The Department of Transportation shall require that applicants shall pledge as security for such obligations revenues derived from operation of the benefited facilities or systems, other sources of revenue, or their faith and credit, or any combination thereof. The faith and credit of such governmental units shall not be pledged or be deemed to have been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall

develop and adopt appropriate debt instruments for use under this subdivision. The Local Government Commission shall develop and adopt appropriate procedures for the delivery of debt instruments to the State without any public bidding therefor. The Local Government Commission shall review and approve proposed loans to applicants pursuant to this subdivision under the provisions of Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was proposed, so far as those provisions are applicable. Loans authorized by this subdivision shall be outstanding debt for the purpose of Article 10, Chapter 159 of the General Statutes.

...."

SECTION 34.19.(aa) G.S. 136-17.2A is repealed.

SECTION 34.19.(bb) G.S. 136-44.50(a) reads as rewritten:

"(a) A transportation corridor official map may be adopted or amended by any of the following:

- (1) The governing board of any local government for any thoroughfare included as part of a comprehensive plan for streets and highways adopted pursuant to G.S. 136-66.2 or for any proposed public transportation corridor included in the adopted long-range transportation plan.
- (2) The Board of Transportation, or the governing board of any county, for any portion of the existing or proposed State highway system or for any public transportation corridor, to include rail, that is in the Transportation Improvement Program.
- (3) Regional public transportation authorities created pursuant to Article 26 of Chapter 160A of the General Statutes or regional transportation authorities created pursuant to Article 27 of Chapter 160A of the General Statutes for any portion of the existing or proposed State highway system, or for any proposed public transportation corridor, or adjacent station or parking lot, included in the adopted long-range transportation plan.
- (4) The North Carolina Turnpike Authority for any project being studied pursuant to G.S. 136-89.183.
- (5) The Wilmington Urban Area Metropolitan Planning Organization for ~~any project that is within its urbanized boundary and identified in G.S. 136-179.~~ Department projects R-3300 and U-4751.

Before a city adopts a transportation corridor official map that extends beyond the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, or adopts an amendment to a transportation corridor official map outside the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, the city shall obtain approval from the Board of County Commissioners."

SECTION 34.19.(cc) G.S. 136-66.3 reads as rewritten:

"§ 136-66.3. Local government participation in improvements to the State transportation system.

...

~~(c1) No TIP Disadvantage for Participation. If a county or municipality participates in a State transportation system improvement project, as authorized by this section, or by G.S. 136-51 and G.S. 136-98, the Department shall ensure that the local government's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~

(c2) Distribution of State Funds Made Available by County or Municipal Participation. – Any State or federal funds allocated to a project that are made available by county or municipal participation in a project contained in the Transportation Improvement Program under

G.S. 143B-350(f)(4) shall ~~remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.~~ be subject to G.S. 136-189.11.

~~(e3) Limitation on Agreements. — The Department shall not enter into any agreement with a county or municipality to provide additional total funding for highway construction in the county or municipality in exchange for county or municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~

...
(e1) Reimbursement Procedure. — Upon request of the county or municipality, the Department of Transportation shall allow the local government a period of not less than three years from the date construction of ~~the project~~ a project undertaken under subsection (e) of this section is initiated to reimburse the Department their agreed upon share of the costs necessary for the project. The Department of Transportation shall not charge a local government any interest during the initial three years.

...."

SECTION 34.19.(dd) G.S. 136-89.192 reads as rewritten:

"§ 136-89.192. ~~Equity distribution~~ Applicability of formula.

Only those funds applied to a Turnpike Project from the State Highway Fund, State Highway Trust Fund, or federal-aid funds that might otherwise be used for other roadway projects within the State, and are otherwise already subject to the ~~distribution~~ formula under ~~G.S. 136-17.2A~~, G.S. 136-189.11 shall be included in the ~~distribution~~ formula.

Other revenue from the sale of the Authority's bonds or notes, project loans, or toll collections shall not be included in the ~~distribution~~ formula."

SECTION 34.19.(ee) G.S. 136-175 reads as rewritten:

"§ 136-175. Definitions.

The following definitions apply in this Article:

- ~~(1) Intrastate System. The network of major, multilane arterial highways composed of those routes, segments, or corridors listed in G.S. 136-178, and any other route added by the Department of Transportation under G.S. 136-178.~~
- (2) Transportation Improvement Program. The schedule of major transportation improvement projects required by G.S. 143B-350(f)(4).
- (3) Trust Fund. The North Carolina Highway Trust Fund."

SECTION 34.19.(ff) G.S. 136-176 reads as rewritten:

"§ 136-176. Creation, revenue sources, and purpose of North Carolina Highway Trust Fund.

(a) A special account, designated the North Carolina Highway Trust Fund, is created within the State treasury. The Trust Fund consists of the following revenue:

- (1) Motor fuel, alternative fuel, and road tax revenue deposited in the Fund under G.S. 105-449.125, 105-449.134, and 105-449.43, respectively.
- (2) Motor vehicle use tax deposited in the Fund under G.S. 105-187.9.
- (3) Revenue from the certificate of title fee and other fees payable under G.S. 20-85.
- (4) Repealed by Session Laws 2001-424, s. 27.1.
- (5) Interest and income earned by the Fund.

~~(a1) The Department shall use two hundred twenty million dollars (\$220,000,000) in fiscal year 2001-2002, two hundred twelve million dollars (\$212,000,000) in fiscal year 2002-2003, and two hundred fifty five million dollars (\$255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:~~

- ~~(1) For primary route pavement preservation. — One hundred seventy million dollars (\$170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars (\$150,000,000) in each of the fiscal years 2002-2003 and~~

2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for:

- a. Highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation; or
- b. Highway improvements that further economic development in the State and that are individually approved by the Board of Transportation.

(2) For preliminary engineering costs not included in the current year Transportation Improvement Program. Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004. If any funds allocated by this subdivision, in the cash balance of the Highway Trust Fund, remain unspent on June 30, 2008, the Department may transfer within the Department up to twenty-nine million dollars (\$29,000,000) of available funds to contract for freight transportation system improvements for the Global TransPark.

(3) For computerized traffic signal systems and signal optimization projects. Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.

(4) For public transportation twenty million dollars (\$20,000,000) in fiscal year 2001-2002, twenty-five million dollars (\$25,000,000) in fiscal year 2002-2003, and seventy-five million dollars (\$75,000,000) in fiscal year 2003-2004.

(5) For small urban construction projects. Seven million dollars (\$7,000,000) in fiscal year 2002-2003.

Funds authorized for use by the Department pursuant to this subsection shall remain available to the Department until expended.

(a2) Repealed by Session Laws 2002-126, s. 26.4(b), effective July 1, 2002.

(a3) The Department may obligate three hundred million dollars (\$300,000,000) in fiscal year 2003-2004 and four hundred million dollars (\$400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

(1) Six hundred thirty million dollars (\$630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation projects recommended by local officials and approved by the Board of Transportation.

(2) Seventy million dollars (\$70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds.

Funds authorized for obligation and use by the Department pursuant to this subsection shall remain available to the Department until expended.

(a4) Project selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3)

~~of this section shall be distributed in accordance with the distribution formula in G.S. 136-17.2A. No funds shall be expended pursuant to subsection (a3)(1) of this section on any project that does not meet Department of Transportation standards for road design, materials, construction, and traffic flow.~~

~~(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section.~~

~~(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed four and eight-tenths percent (4.8%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section sum, in the amount appropriated by law, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The rest of the funds in the Trust Fund shall be allocated and used as follows: specified in G.S. 136-189.11.~~

~~(1) Sixty one and ninety five hundredths percent (61.95%) to plan, design, and construct projects on segments or corridors of the Intrastate System as described in G.S. 136-178 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.~~

~~(2) Twenty five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.~~

~~(3) Six and one half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.~~

~~(4) Six and one half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.~~

~~The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection this section in a manner that ensures that sufficient funds are available to make the~~

1 debt service payments on bonds issued under the State Highway Bond Act of 1996 as they
2 become due.

3 ~~(b1) The Secretary may authorize the transfer of funds allocated under subdivisions (1)~~
4 ~~through (4) of subsection (b) of this section to other projects that are ready to be let and were to~~
5 ~~be funded from allocations to those subdivisions. The Secretary shall ensure that any funds~~
6 ~~transferred pursuant to this subsection are repaid promptly and in any event in no more than~~
7 ~~four years. The Secretary shall certify, prior to making any transfer pursuant to this subsection,~~
8 ~~that the transfer will not affect the delivery schedule of Highway Trust Fund projects in the~~
9 ~~current Transportation Improvement Program. No transfers shall be allowed that do not~~
10 ~~conform to the applicable provisions of the equity formula for distribution of funds,~~
11 ~~G.S. 136-17.2A. If the Secretary authorizes a transfer pursuant to this subsection, the Secretary~~
12 ~~shall report that decision to the next regularly scheduled meetings of the Joint Legislative~~
13 ~~Commission on Governmental Operations, the Joint Legislative Transportation Oversight~~
14 ~~Committee, and to the Fiscal Research Division.~~

15 **(b2) (Effective July 1, 2013)** There is annually appropriated to the North Carolina
16 Turnpike Authority from the Highway Trust Fund the sum of ~~one hundred twelve million~~
17 ~~dollars (\$112,000,000).~~ forty-nine million dollars (\$49,000,000). Of the amount allocated by
18 this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or
19 related financing costs and expenses on revenue bonds or notes issued for the construction of
20 the Triangle Expressway, and twenty-four million dollars (\$24,000,000) shall be used to pay
21 debt service or related financing expenses on revenue bonds or notes issued for the construction
22 of the ~~Monroe Connector/Bypass, twenty-eight million dollars (\$28,000,000) shall be used to~~
23 ~~pay debt service or related financing expenses on revenue bonds or notes issued for the~~
24 ~~construction of the Mid-Currituck Bridge, and thirty-five million dollars (\$35,000,000) shall be~~
25 ~~used to pay debt service or related financing expenses on revenue bonds or notes issued for the~~
26 ~~construction of the Garden Parkway-Monroe Connector/Bypass.~~ The amounts appropriated to
27 the Authority pursuant to this subsection shall be used by the Authority to pay debt service or
28 related financing costs and expenses on revenue bonds or notes issued by the Authority to
29 finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund
30 debt service reserves, operating reserves, and similar reserves in connection therewith. The
31 appropriations established by this subsection constitute an agreement by the State to pay the
32 funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4).
33 Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment
34 of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall
35 not in any manner constitute a pledge of the faith and credit and taxing power of the State, and
36 nothing contained herein shall prohibit the General Assembly from amending the
37 appropriations made in this subsection at any time to decrease or eliminate the amount annually
38 appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority
39 pursuant to this subsection are not subject to the ~~equity—~~formula in
40 ~~G.S. 136-17.2A.~~ G.S. 136-189.10.

41 ~~(c) If funds are received under 23 U.S.C. Chapter 1, Federal Aid Highways, for a~~
42 ~~project for which funds in the Trust Fund may be used, the amount of federal funds received~~
43 ~~plus the amount of any funds from the Highway Fund that were used to match the federal funds~~
44 ~~may be transferred by the Secretary of Transportation from the Trust Fund to the Highway~~
45 ~~Fund and used for projects in the Transportation Improvement Program.~~

46 (d) A contract may be let for projects funded from the Trust Fund in anticipation of
47 revenues pursuant to the cash-flow provisions of G.S. 143C-6-11 only for the two bienniums
48 following the year in which the contract is let.

49 (e) **(Effective July 1, 2013)** Subject to ~~G.S. 136-17.2A and other funding distribution~~
50 ~~formulas, funds allocated under subdivisions (1), (3), and (4) of subsection (b) of this section~~

~~may also~~ G.S. 136-189.11, funds may be used for fixed guideway projects, including providing matching funds for federal grants for fixed guideway projects."

SECTION 34.19.(gg) The following statutes are repealed:

- (1) G.S. 136-177.
- (2) G.S. 136-177.1.
- (3) G.S. 136-178.
- (4) G.S. 136-179.
- (5) G.S. 136-180.
- (6) G.S. 136-184.
- (7) G.S. 136-185.
- (8) G.S. 136-187.
- (9) G.S. 136-188.
- (10) G.S. 136-189.

TURNPIKE AUTHORITY CHANGES

SECTION 34.19.(hh) G.S. 136-89.183(a)(2) reads as rewritten:

"§ 136-89.183. Powers of the Authority.

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

...

- (2) To study, plan, develop, and undertake preliminary design work on up to ~~eight-nine~~ Turnpike Projects. At the conclusion of these activities, the Turnpike Authority is authorized to design, establish, purchase, construct, operate, and maintain the following projects:

- a. Triangle Expressway, including segments also known as N.C. 540, Triangle Parkway, and the Western Wake Freeway in Wake and Durham Counties, and Southeast Extension in Wake and Johnston Counties, except that no portion of the Southeast Extension shall be located north of an existing protected corridor established by the Department of Transportation circa 1995, except in the area of Interstate 40 East.Counties. The described segments constitute three projects.
- b. ~~Gaston East-West Connector, also known as the Garden Parkway.~~
- c. Monroe Connector/Bypass.
- d. Cape Fear Skyway.
- e. ~~A bridge of more than two miles in length going from the mainland to a peninsula bordering the State of Virginia, pursuant to G.S. 136-89.183A.~~

Any other project proposed by the Authority in addition to the projects listed in this subdivision ~~must be approved by the General Assembly prior to construction.~~subdivision requires prior consultation with the Joint Legislative Commission on Governmental Operations pursuant to G.S. 120-76.1 no less than 180 days prior to initiating the process required by Article 7 of Chapter 159 of the General Statutes.

~~A-With the exception of the four projects set forth in sub-subdivisions a. and c. of this subdivision, the Turnpike Project-projects selected for construction by the Turnpike Authority-Authority, prior to the letting of a contract for the project, shall meet the following conditions: (i) two of the projects must be ranked in the top 35 based on total score on the Department produced list entitled "Mobility Fund Project Scores", dated June 6, 2012, and, in addition, may be subject to G.S. 136-18(39a); (ii) of the projects not ranked as~~

provided in (i), one may be subject to G.S. 136-18(39a); (iii) the projects shall be included in any applicable locally adopted comprehensive transportation ~~plans and plans~~; (iv) the projects shall be shown in the current State Transportation Improvement Plan prior to the letting of a contract for the Turnpike Project Program; and (v) toll projects must be approved by all affected Metropolitan Planning Organizations and Rural Transportation Planning Organizations for tolling."

SECTION 34.19.(ii) G.S. 136-18 reads as rewritten:

"§ 136-18. Powers of Department of Transportation.

The said Department of Transportation is vested with the following powers:

...

- (39a) a. The Department of Transportation or Turnpike Authority, as applicable, may enter into a ~~partnership agreement up to three agreements~~ with a private entity as provided under subdivision (39) of this section for which the provisions of this section apply. ~~The pilot project allowed under this subdivision must be one that is a candidate for funding under the Mobility Fund, that is planned for construction through a public-private partnership, and for which a Request for Qualifications has been issued by the Department no later than June 30, 2012.~~
- b. A private entity or its contractors must provide performance and payment security in the form and in the amount determined by the Department of Transportation. The form of the performance and payment security may consist of bonds, letters of credit, parent guaranties, or other instruments acceptable to the Department of Transportation.
- c. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement entered into under this subdivision may allow the private entity to assign, transfer, sell, hypothecate, and otherwise convey some or all of its right, title, and interest in and to such agreement, and any rights and remedies thereunder, to a lender, bondholder, or any other party. However, in no event shall any such assignment create additional debt or debt-like obligations of the State of North Carolina, the Department, or any other agency, authority, commission, or similar subdivision of the State to any lender, bondholder, entity purchasing a participation in the right to receive the payment, trustee, trust, or any other party providing financing or funding of projects described in this section. The foregoing shall not preclude the Department from making any payments due and owing pursuant to an agreement entered into under this section.
- d. ~~The Department of Transportation may fix, revise, charge, and collect tolls and fees to the same extent allowed under Article 6H of Chapter 136 of the General Statutes.~~ Statutes shall apply to the Department of Transportation and to projects undertaken by the Department of Transportation under subdivision (39) of this section. The Department may assign its authority under that Article to fix, revise, charge, retain, enforce, and collect tolls and fees to the private entity.
- e. Any contract under this subdivision or under Article 6H of the Chapter for the development, construction, maintenance, or operation of a project shall provide for revenue sharing between the private

party and the Department. Excess toll revenues from a Turnpike project shall be used for the funding or financing of transportation projects within the corridor where the Turnpike Project is located. For purposes of this subdivision, the term "excess toll revenues" means those toll revenues derived from a Turnpike Project that are not otherwise used or allocated to the Authority or a private entity pursuant to this subdivision. For purposes of this subdivision, the term "corridor" means (i) the right-of-way limits of the Turnpike Project and any facilities related to the Turnpike Project or any facility or improvement necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of a Turnpike Project; (ii) the right-of-way limits of any subsequent improvements, additions, or extension to the Turnpike Project and facilities related to the Turnpike projects, including any improvements necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of those subsequent improvements, additions, or extensions to the Turnpike Project; and (iii) roads used for ingress or egress to the toll facility or roads that intersect with the toll facility, whether by ramps or separated grade facility, and located within one mile in any direction.

f. Agreements entered into under this subdivision shall comply with the following additional provisions:

1. The Department shall solicit proposals for agreements.
2. Agreement shall be limited to no more than 50 years.
3. Notwithstanding the provisions of G.S. 136-89.183(a)(5), all initial tolls or fees to be charged by a private entity shall be reviewed by the Turnpike Board. Prior to setting a toll rate, either a set rate or a minimum and maximum rate set by the private entity, the private entity shall hold a public hearing on the toll rates, in accordance with guidelines for the hearing developed by the Department. After tolls go into effect, the private entity shall report to the Turnpike Authority Board 30 days prior to any increase in tolls by the private entity.
4. Financial advisors and attorneys retained by the Department on contract to work on projects pursuant to this subsection shall be subject to State law governing conflicts of interest.
5. Sixty days prior to the signing of a concession agreement subject to this subdivision, the Department shall report to the Joint Legislative Transportation Oversight Committee on the following:
 - I. Project description.
 - II. Number of years that tolls will be in place.
 - III. Name and location of firms and parent companies, if applicable, including firm responsibility and stake, and assessment of audited financial statements.
 - IV. Analysis of firm selection criteria.
 - V. Name of any firm or individual under contract to provide counsel or financial analysis to the Department or Authority. The Department shall

disclose payments to these contractors related to completing the agreement under this subdivision.

VI. Demonstrated ability of the project team to deliver the project, by evidence of the project team's prior experience in delivering a project on schedule and budget, and disclosure of any unfavorable outcomes on prior projects.

VII. Detailed description of method of finance, including sources of funds, State contribution amounts, including schedule of availability payments and terms of debt payments.

VIII. Information on assignment of risk shared or assigned to State and private partner.

IX. Information on the feasibility of finance as obtained in traffic and revenue studies.

6. The Turnpike Authority annual report under G.S. 136-89.193 shall include reporting on all revenue collections associated with projects subject to this subdivision under the Turnpike Authority.

7. The Department shall develop standards for entering into comprehensive agreements with private entities under the authority of this subdivision and report those standards to the Joint Legislative Transportation Oversight Committee on or before October 1, 2013.

...

(43) For the purposes of financing an agreement under subdivision (39a) of this section, the Department of Transportation may act as a conduit issuer for private activity bonds to the extent the bonds do not constitute a debt obligation of the State. The issuance of private activity bonds under this subdivision and any related actions shall be governed by The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, with G.S. 159-88 satisfied by adherence to the requirements of ~~subdivisions (39) and subdivision (39a)~~ of this section."

SECTION 34.19.(jj) G.S. 136-89.183(a)(5) reads as rewritten:

"§ 136-89.183. Powers of the Authority.

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

...

(5) To fix, revise, charge, ~~retain, enforce,~~ and collect tolls and fees for the use of the Turnpike Projects. Prior to the effective date of any toll or fee for use of a Turnpike Facility, the Authority shall submit a description of the proposed toll or fee to the Board of Transportation, the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations for review.

...."

SECTION 34.19.(kk) G.S. 136-89.188 reads as rewritten:

"§ 136-89.188. Use of revenues.

(a) Revenues derived from Turnpike Projects authorized under this Article shall be used only for the following:

(1) Authority administration ~~costs;~~costs.

(2) Turnpike Project development, right-of-way acquisition, design, construction, operation, and maintenance; maintenance, reconstruction, rehabilitation, and replacement, and

(3) ~~debt~~ Debt service on the Authority's revenue bonds or related purposes such as the establishment of debt service reserve ~~funds, funds.~~

(4) Debt service, debt service reserve funds, and other financing costs related to any of the following:

a. A financing undertaken by a private entity under a partnership agreement with the entity for a Turnpike Project.

b. Private activity bonds issued under law related to a Turnpike Project.

c. Any federal or State loan, line of credit, or loan guarantee relating to a Turnpike Project.

(5) A return on investment of any private entity under a partnership agreement with the entity for a Turnpike Project.

(6) Any other uses granted to a private entity under a partnership agreement with the entity for a Turnpike Project.

(b) The Authority may use up to one hundred percent (100%) of the revenue derived from a Turnpike Project for debt service on the Authority's revenue bonds or for a combination of debt service and operation and maintenance expenses of the Turnpike Projects.

(c) The Authority shall use not more than five percent (5%) of total revenue derived from all Turnpike Projects for Authority administration costs.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, toll revenues generated from a converted segment of the State highway system previously planned for operation as a nontoll facility shall only be used for the funding or financing of the right of way acquisition, construction, expansion, operations, maintenance, and Authority administration costs associated with the converted segment or a contiguous toll facility."

SECTION 34.19.(ll) Part 1 of Article 6H of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-89.199. Designation of high-occupancy toll and managed lanes.

Notwithstanding any other provision of this Article, the Authority may designate one or more lanes of any highway, or portion thereof, within the State, including lanes that may previously have been designated as HOV lanes under G.S. 20-146.2, as high-occupancy toll (HOT) or other type of managed lanes; provided, however, that such designation shall not reduce the number of existing general purpose lanes. In making such designations, the Authority shall specify the high-occupancy requirement or other conditions for use of such lanes, which may include restricting vehicle types, access controls, or the payment of tolls for vehicles that do not meet the high-occupancy requirements or conditions for use."

SECTION 34.19.(mm) Part 2 of Article 6H of Chapter 136 of the General Statutes reads as rewritten:

"Part 2. Collection of Tolls on Turnpike Projects.

...

"§ 136-89.212. Payment of toll required for use of Turnpike project.

(a) A motor vehicle that is driven on a Turnpike project is subject to a toll imposed by the Authority for the use of the project. If the toll is an open road toll, the person who is the registered owner of the motor vehicle is liable for payment of the toll unless the registered owner establishes that the motor vehicle was in the care, custody, and control of another person when it was driven on the Turnpike project.

(b) A person establishes that a motor vehicle was in the care, custody, and control of another person when it was driven on a Turnpike project by submitting to the Authority a sworn affidavit stating one of the following:

- (1) The name and address of the person who had the care, custody, and control of the motor vehicle when it was driven. If the motor vehicle was leased or rented under a long-term lease or rental, as defined in G.S. 105-187.1, the affidavit must be supported by a copy of the lease or rental agreement or other written evidence of the agreement.
- (2) The motor vehicle was stolen. The affidavit must be supported by an insurance or police report concerning the theft or other written evidence of the theft.
- (3) The person transferred the motor vehicle to another person by sale or otherwise before it was driven on the Turnpike project. The affidavit must be supported by insurance information, a copy of the certificate of title, or other evidence of the transfer.

(c) If a person establishes that a motor vehicle was in the care, custody, and control of another person under subsection (b) of this section, the other person shall be liable for the payment of the toll, and the Authority may send a bill to collect and enforce the toll in accordance with this Article; provided, however, that such other person may contest such toll in accordance with this Article.

"§ 136-89.213. Administration of tolls and requirements for open road tolls.

(a) Administration. – The Authority is responsible for collecting tolls on Turnpike projects. In exercising its authority under G.S. 136-89.183 to perform or procure services required by the Authority, the Authority may contract with one or more providers to perform part or all of the collection functions and may enter into agreements to exchange information, including confidential information under subsection (a1) of this section, that identifies motor vehicles and their owners with one or more of the following entities: the Division of Motor Vehicles of the Department of Transportation, another state, another toll operator, ~~or a toll collection-related organization~~ organization, or a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17). Further, the Authority may assign its authority to fix, revise, charge, retain, enforce, and collect tolls and fees under this Article to a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17).

...

(b) Open Road Tolls. – If a Turnpike project uses an open road tolling system, the Authority must operate a facility that is in the immediate vicinity of the Turnpike project ~~and that accepts or provide an alternate means to accept~~ cash payment of the toll and must place signs on the Turnpike project that give drivers the following information:

- (1) Notice that the driver is approaching a highway for which a toll is required. Signs providing this information must be placed before the toll is incurred.
- (2) The methods by which the toll may be paid.
- (3) ~~Directions~~ If applicable, directions to the nearby facility that accepts cash payment of the toll.

"§ 136-89.214. Bill for unpaid open road toll.

(a) Bill. – If a motor vehicle travels on a Turnpike project that uses an open road tolling system and a toll for traveling on the project is not paid prior to travel or at the time of travel, the Authority must send a bill by first-class mail to the registered owner of the motor vehicle or the person who had care, custody, and control of the vehicle as established under G.S. 136-89.212(b) for the amount of the unpaid toll. The Authority must send the bill within 90 days after the travel occurs, or within 90 days of receipt of a sworn affidavit submitted under G.S. 136-89.212(b) identifying the person who had care, custody, and control of the motor vehicle. If a bill is not sent within the required time, the Authority waives collection of the toll. The Authority must establish a billing period for unpaid open road tolls

that is no shorter than 15 days. A bill for a billing period must include all unpaid tolls incurred by the same person during the billing period.

(b) Information on Bill. – A bill sent under this section must include all of the following information:

- (1) The name and address of the registered owner of the motor vehicle that traveled on the Turnpike ~~project~~ project or of the person identified under G.S. 136-89.212(b).
- (2) The date the travel occurred, the approximate time the travel occurred, and each segment of the Turnpike project on which the travel occurred.
- (3) An image of the registration plate of the motor vehicle, if the Authority captured an electronic image of the motor vehicle when it traveled on the Turnpike project.
- (4) The amount of the toll due and an explanation of how payment may be made.
- (5) The date by which the toll must be paid to avoid the imposition of a processing fee under G.S. 136-89.215 and the amount of the processing fee.
- (6) A statement that a vehicle owner who has unpaid tolls is subject to a civil penalty and may not renew the vehicle's registration until the tolls and civil penalties are paid.
- (7) A clear and concise explanation of how to contest liability for the toll.
- (8) If applicable, a copy of the affidavit submitted under G.S. 136-89.212(b) identifying the person with care, custody, and control of the motor vehicle.

"§ 136-89.215. Required action upon receiving bill for open road toll and processing fee for unpaid toll.

(a) Action Required. – A person who receives a bill from the Authority for an unpaid open road toll must take one of the following actions within 30 days of the date of the bill:

- (1) Pay the bill.
- (2) Send a written request to the Authority for a review of the toll.

(b) Fee. – If a person does not take one of the actions required under subsection (a) of this section within the required time, the Authority may add a processing fee to the amount the person owes. The processing fee may not exceed six dollars (\$6.00). A person may not be charged more than forty-eight dollars (\$48.00) in processing fees in a 12-month period.

The Authority must set the processing fee at an amount that does not exceed the costs of ~~collecting the unpaid toll, identifying the owner of a motor vehicle that is subject to an unpaid toll and billing the owner for the unpaid toll.~~ The fee is a receipt of the Authority and must be applied to these costs.

...."

SECTION 34.19.(nn) DOT/Southeast Extension-Triangle Expressway. – The Department of Transportation shall strive to expedite the federal environmental impact statement process to define the route for the Southeast Extension of the Triangle Expressway Turnpike Project by promptly garnering input from local officials and other stakeholders, accelerating any required State studies, promptly submitting permit applications to the federal government, working closely with the federal government during the permitting process, and taking any other appropriate actions to accelerate the environmental permitting process.

SECTION 34.19.(oo) Monitoring. – As part of its oversight of the Department of Transportation, the Joint Legislative Transportation Oversight Committee shall closely monitor the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

SECTION 34.19.(pp) G.S. 143B-350 reads as rewritten:

"§ 143B-350. Board of Transportation – organization; powers and duties, etc.

...

(b) Membership of the Board. –

- (1) Number, appointment. – The Board of Transportation shall have ~~19~~²¹ voting members. Fourteen of the members shall be division members appointed by the Governor. Five shall be at-large members appointed by the Governor. One shall be an at-large member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, and one shall be an at-large member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives. At least three members of the Board appointed by the Governor shall be registered voters of a political party other than the political party of the Governor. The Secretary of Transportation shall serve as an ex officio nonvoting member of the ~~Board~~Board with the exception set forth in subsection (f3) of this section. No more than two members of the Board appointed by the Governor may reside in the same highway division.
- (2) Division members. – One member shall be appointed from and be a resident of each of the 14 highway divisions. The Governor, in selecting division members, shall consider for appointment persons suggested by the Transportation Advisory Committees located within each division. Division members shall direct their primary effort to developing transportation policy and addressing transportation problems in the region they represent. Division members shall regularly consult with and consider the views of local government units and Transportation Advisory Committees in the region they represent.
- (3) At-large members. – Five members shall be appointed by the Governor from the State at large. At-large members appointed pursuant to this subdivision shall develop transportation policy and address transportation problems with a statewide perspective. At-large members appointed under this subdivision shall possess the following qualifications:
- One at-large member shall be a person with expertise in environmental issues affecting the State;
 - One at-large member shall be a person familiar with the State ports and aviation issues;
 - One at-large member shall be a person residing in a rural area of the State with broad knowledge of and experience in transportation issues affecting rural areas;
 - One at-large member shall be a person residing in an urban area with broad knowledge of and expertise in mass transit;
 - One at-large member shall be a person with broad knowledge of and expertise in government-related finance and accounting.
- (c) ~~Staggered Terms. – The terms of all Board members serving on the Board prior to January 15, 2001, shall expire on January 14, 2001. A new board of 19 members shall be appointed with terms beginning on January 15, 2001. The Board shall serve the following terms: division members representing divisions 1, 3, 5, 7, 9, 11, and 13 and the three at large members filling the positions designated in sub-subdivisions (b)(3)a., b., and c. of this section shall serve four year terms beginning on January 15, 2001, and four year terms thereafter; and division members representing divisions 2, 4, 6, 8, 10, 12, and 14 and the two at large members filling the positions designated in sub-subdivisions (b)(3)c. and d. of this section shall serve two year terms beginning January 15, 2001, and four year terms thereafter. The terms of~~ members shall be for four years beginning January 15, 2013, and quadrennially thereafter, except that the terms of at-large members appointed by the General Assembly shall be for two years beginning on January 15, 2013, and biennially thereafter.

(f3) There is created the Turnpike Committee of the Board of Transportation. The Committee shall consist of the Secretary of Transportation, serving as a voting member ex officio, and the following six Board members:

(1) Three division board members selected by the Secretary, one from the members representing divisions 1 through 4, one from the members representing divisions 5 through 10, and one from the members representing divisions 11 through 14.

(2) The two at-large board members appointed by the General Assembly under subdivision (b)(1) of this section.

(3) The at-large board member appointed by the Governor under sub-subdivision (b)(3)e. of this section.

The Chair of the Committee shall be the Secretary of Transportation.

...."

SECTION 34.19.(qq) The terms of the nine members of the Board of Transportation previously appointed for terms expiring January 14, 2015, expire upon appointment of their replacements as provided in this section. The Governor shall designate for each of the nine new appointments which member is being replaced.

SECTION 34.19.(rr) G.S. 136-89.182 reads as rewritten:

"§ 136-89.182. North Carolina Turnpike Authority.

(a) Creation. – There is created a body politic and corporate to be known as the "North Carolina Turnpike Authority". The Authority is constituted as a public agency, and the exercise by the Authority of the powers conferred by this Article in the construction, operation, and maintenance of toll roads and bridges shall be deemed and held to be the performance of an essential governmental function.

(b) Administrative Placement. – The Authority shall be located within the Department of Transportation and shall be subject to and under the direct supervision of the Secretary of Transportation.

(c) Authority Board. – The Turnpike Committee of the Board of Transportation shall serve ex officio as the Authority Board of the North Carolina Turnpike Authority.

~~The North Carolina Turnpike Authority shall be governed by a nine member Authority Board consisting of two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, four members appointed by the Governor, and the Secretary of Transportation. Each appointing authority shall appoint members who reside in diverse regions of the State. The Chair of the Authority shall be selected by the Authority Board.~~

~~(d) Board of Transportation Members. — Members of the North Carolina Board of Transportation may serve as members of the Authority Board.~~

~~(e) Staggered Terms. — One of the initial appointments to the Authority Board by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of the initial appointments to the Authority Board by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and three of the initial appointments of the Governor shall be appointed to terms ending January 14, 2007. One of the initial appointments to the Authority Board by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of the initial appointments to the Authority Board by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one of the initial appointments of the Governor shall be appointed to terms ending January 14, 2005. The Secretary of Transportation shall serve as an ex officio voting member of the Board. Thereafter, at the expiration of each stipulated term of office, all appointments shall be to a term of four years from the date of the expiration of the term.~~

(f) ~~Vacancies.~~ All members of the Authority Board shall remain in office until their successors are appointed and qualified. The original appointing authority may appoint a member to serve out the unexpired term of any member.

(g) ~~Removal of Board Members.~~ Each member of the Authority Board, notwithstanding subsection (e) of this section, shall serve at the pleasure of the appointing authority. The Chair of the Authority serves at the pleasure of the Authority Board.

(h) ~~Conflicts of Interest, Ethics.~~ Members of the Authority Board shall be subject to the provisions of G.S. 136-13, 136-13.1, and 136-14.

(i) ~~Compensation.~~ – The appointed members of the Authority Board shall receive no salary for their services but shall be entitled to receive per diem and travel allowances in accordance with the provisions of G.S. 138-5 and G.S. 138-6 as appropriate.

(j) ~~Bylaws.~~ – The Authority Board shall adopt, change, or amend bylaws with respect to the calling of meetings, quorums, voting procedures, the keeping of records, and other organizational, staffing, and administrative matters as the Authority Board may determine. Any bylaws, or subsequent changes or amendments to the bylaws, shall be included in the Annual Report as required by G.S. 136-89.193.

(k) ~~Executive Director and Administrative Employees.~~ Chief Administrative Officer. – The Authority Board shall appoint an Executive Director, whose salary shall be fixed by the Authority, to serve at its pleasure. The Secretary of Transportation shall designate The Executive Director shall be the Authority's chief administrative officer and officer, who shall be responsible for the daily administration of the toll roads and bridges constructed, maintained, or operated pursuant to this Article. The Executive Director or his designee shall appoint, employ, dismiss, and, within the limits approved by the Authority Board, fix the compensation of administrative employees as the Executive Director deems necessary to carry out this Article.

(l) ~~Office.~~ – The offices of the Authority may be housed in one or more facilities of the Department of Transportation."

TRANSITION STUDY AND REPORTING REQUIREMENTS

SECTION 34.19.(ss) Formula Implementation Report. – The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than August 15, 2013, on the Department's recommended formulas that will be used in the prioritization process to rank highway and nonhighway projects. The Department of Transportation's Prioritization Office shall develop the prioritization processes and formulas for all modes of transportation. The report will include a statement on the process used by the Department to develop the formulas, include a listing of external partners consulted during this process, and include feedback from its 3.0 workgroup partners on the Department's proposed recommendations. The Department shall not finalize the formula without consulting with the Joint Legislative Transportation Oversight Committee. The Joint Legislative Transportation Oversight Committee has 30 days after the report is received to meet and consult on the Department's recommendations. If no meeting occurs within 30 days after the report is received, the consultation requirement will be met. If consultation occurs and a majority of members serving on the Committee request changes to the Department's recommended formulas for highway and nonhighway modes, the Department shall review the requests and provide to the Committee its response to the requested changes no later than October 1, 2013. A final report on the highway and intermodal formulas shall be submitted to the Joint Legislative Transportation Oversight Committee by January 1, 2014.

SECTION 34.19.(tt) State Transportation Improvement Program Transition Report. – The Department of Transportation shall submit transition reports to members of the Joint Legislative Transportation Oversight Committee, House Appropriations Subcommittee on Transportation and the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research Division on March 1, 2014, and November 1, 2014. The reports shall

include information on the Department's transition to Strategic Prioritization, overview changes to the State Transportation Improvement Program (STIP) and other internal and external processes that feed into the STIP, and offer statutory and policy recommendations or items for consideration to the General Assembly that will enhance the prioritization process. The March 1, 2014, report shall also include an analysis of the distribution of tax and fee revenues between the Highway Fund and Highway Trust Fund and an analysis to determine if maintenance, construction, operations, administration, and capital expenditures are properly budgeted within the two funds and existing revenues are most effectively distributed between the two funds.

SECTION 34.19.(uu) This section shall become effective and applies as follows:

- (1) Subsections (f), (h), (l), and (q) of this section become effective July 1, 2014.
- (2) Subsection (b) of this section becomes effective July 1, 2019.
- (3) Subsection (j) of this section expires June 30, 2018.

DRIVER EDUCATION

SECTION 34.20.(a) G.S. 115C-216(g) reads as rewritten:

"(g) Fee for Instruction. – The local boards of education may charge each student participating in a driver education course a fee of up to ~~forty-five dollars (\$45.00)~~sixty-five dollars (\$65.00) to offset the costs of providing the training and instruction."

SECTION 34.20.(b) The Division of Motor Vehicles and the Department of Public Instruction shall collaborate to revise the driver knowledge test and to create a process for administration of the test and certification of passage by public schools administering driver education programs. The Division and the Department shall report to the Joint Legislative Transportation Oversight Committee, the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division no later than March 1, 2014, on their progress in meeting the requirements of this subsection.

SECTION 34.20.(c) Subsection (a) of this section becomes effective July 1, 2013, and applies to driver education courses beginning on or after that date.

ADDITIONAL ANNUAL FEE FOR ELECTRIC AND HYBRID VEHICLES

SECTION 34.21.(a) G.S. 20-87 is amended by adding the following new subdivisions to read:

- "(13) Additional fee for certain electric vehicles. – At the time of an initial registration or registration renewal, the owner of a plug-in electric vehicle that is not a low-speed vehicle and that does not rely on a nonelectric source of power shall pay a fee in the amount of one hundred dollars (\$100.00) in addition to any other required registration fees.
- (14) Additional fee for certain hybrid vehicles. – At the time of an initial registration, or registration renewal, the owner of a hybrid vehicle that is not a low-speed vehicle shall pay a fee in the amount of fifty dollars (\$50.00) in addition to any other required registration fees."

SECTION 34.21.(b) G.S. 20-4.01 reads as rewritten:

"§ 20-4.01. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

- (14) House Trailer. – Any trailer or semitrailer designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle.
- (14a) Hybrid Vehicle. – A vehicle that derives its transportation energy from electricity and from either a motor fuel (as defined in G.S. 105-449.60) or an alternative fuel (as defined in G.S. 105-449.130).

(14a)(14b) Impairing Substance. – Alcohol, controlled substance under Chapter 90 of the General Statutes, any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances.

...."

SECTION 34.21.(c) Conforming Change. – G.S. 95-111.11 reads as rewritten:

"§ 95-111.11. Operators.

...

(b) No person shall operate any amusement device equipment while under the influence of alcohol or any other impairing substance as defined by ~~G.S. 20-4.01(14a)~~ G.S. 20-4.01(14b) It shall be a violation of this subsection to knowingly permit the operation of any amusement device while the operator is under the influence of an impairing substance."

SECTION 34.21.(d) This section becomes effective January 1, 2014, and applies to initial or renewal motor vehicle registrations on or after that date.

VISITOR CENTERS FUNDING

SECTION 34.22.(a) G.S. 20-79.7(c)(2) reads as rewritten:

"(c) Use of Funds in Special Registration Plate Account. –

...

(2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of ~~one million three hundred thousand dollars (\$1,300,000)~~ one million four hundred thousand dollars (\$1,400,000) to provide operating assistance for the Visitor Centers:

- a. on U.S. Highway 17 in Camden County, (\$100,000);
- b. on U.S. Highway 17 in Brunswick County, (\$100,000);
- c. on U.S. Highway 441 in Macon County, (\$100,000);
- d. in the Town of Boone, Watauga County, (\$100,000);
- e. on U.S. Highway 29 in Caswell County, (\$100,000);
- f. on U.S. Highway 70 in Carteret County, (\$100,000);
- g. on U.S. Highway 64 in Tyrrell County, (\$100,000);
- h. at the intersection of U.S. Highway 701 and N.C. 904 in Columbus County, (\$100,000);
- i. on U.S. Highway 221 in McDowell County, (\$100,000);
- j. on Staton Road in Transylvania County, (\$100,000);
- k. in the Town of Fair Bluff, Columbus County, near the intersection of U.S. Highway 76 and N.C. 904, (\$100,000);
- l. on U.S. Highway 421 in Wilkes County, (\$100,000); and
- m. at the intersection of Interstate 73 and Interstate 74 in Randolph County, ~~(\$100,000)-(\$100,000)~~ each, for two centers."

SECTION 34.22.(b) Notwithstanding G.S. 20-79.7(c)(3), the remaining revenue in the Special Registration Plate Account appropriated to the Department of Transportation during the 2013-2015 fiscal biennium to be used for beautification of highways shall not be reduced below the amounts appropriated in the 2012-2013 fiscal year.

PART XXXV. SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE

SECTION 35.1.(a) Effective for the 2013-2015 fiscal biennium, the annual salary of the Governor set by G.S. 147-11(a) shall remain unchanged at the amount of one hundred forty-one thousand two hundred sixty-five dollars (\$141,265).

SECTION 35.1.(b) Effective for the 2013-2015 fiscal biennium, the annual salaries for members of the Council of State, payable monthly, shall remain unchanged as follows:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$124,676
Attorney General	124,676
Secretary of State	124,676
State Treasurer	124,676
State Auditor	124,676
Superintendent of Public Instruction	124,676
Agriculture Commissioner	124,676
Insurance Commissioner	124,676
Labor Commissioner	124,676

CERTAIN EXECUTIVE BRANCH OFFICIALS

SECTION 35.2. Effective for the 2013-2015 fiscal biennium, the annual salaries, payable monthly, for the following executive branch officials shall remain unchanged as follows:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	\$110,868
State Controller	155,159
Commissioner of Banks	124,676
Chair, Board of Review, Division of Employment Security	122,255
Members, Board of Review, Division of Employment Security	120,737
Chairman, Parole Commission	101,235
Members of the Parole Commission	93,464
Chairman, Utilities Commission	138,849
Members of the Utilities Commission	124,676
Executive Director, North Carolina Agricultural Finance Authority	107,915

JUDICIAL BRANCH

SECTION 35.3.(a) Effective for the 2013-2015 fiscal biennium, the annual salaries, payable monthly, for specified judicial branch officials shall remain unchanged as follows:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$142,623
Associate Justice, Supreme Court	138,896
Chief Judge, Court of Appeals	136,682
Judge, Court of Appeals	133,109
Judge, Senior Regular Resident Superior Court	129,492
Judge, Superior Court	125,875
Chief Judge, District Court	114,301
Judge, District Court	110,684
District Attorney	120,737
Administrative Officer of the Courts	128,259
Assistant Administrative Officer of the Courts	117,152
Public Defender	120,737

Director of Indigent Defense Services 124,498

SECTION 35.3.(b) Effective for the 2013-2015 fiscal biennium, the annual salaries of employees of the Judicial Department shall remain unchanged as follows:

- (1) The annual salaries of permanent full-time and part-time employees of the Judicial Department whose salaries are not itemized in this act shall remain unchanged.
- (2) Notwithstanding anything to the contrary, the annual salaries of clerks of superior court under G.S. 7A-101(a) shall not change when a county changes from one population group to another.
- (3) The annual salaries of assistant and deputy clerks of court set under G.S. 7A-102(c1) shall remain unchanged.
- (4) The annual salaries of magistrates set under G.S. 7A-171.1(a) or G.S. 7A-171.1(a1)(1) shall remain unchanged.

LEGISLATIVE BRANCH

SECTION 35.4. For the 2013-2015 fiscal biennium, the salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3, as provided in 1994 by the 1993 General Assembly. Effective for the 2013-2015 fiscal biennium, salaries in the legislative branch shall remain unchanged, as follows:

- (1) The annual salaries set by G.S. 120-37(c) for the principal clerks in each house shall remain unchanged.
- (2) The annual salaries set by G.S. 120-37(b) of the sergeant-at-arms and the reading clerk in each house shall remain unchanged.
- (3) The annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly set under G.S. 120-32 shall remain unchanged.

COMMUNITY COLLEGES PERSONNEL

SECTION 35.5.(a) The annual salaries of all community college nonfaculty and professional staff whose salaries are supported from the State's General Fund shall remain unchanged for the 2013-2015 fiscal biennium.

SECTION 35.5.(b) For the 2013-2015 fiscal biennium, the annual salaries of all community college faculty whose salaries are supported from the State's General Fund shall remain unchanged. The minimum salaries for nine-month, full-time curriculum community college faculty shall also remain unchanged as follows:

<u>Education Level</u>	<u>Minimum Salary</u>
Vocational Diploma/Certificate or Less	\$34,314
Associate Degree or Equivalent	34,819
Bachelor's Degree	37,009
Masters Degree or Education Specialist	38,952
Doctoral Degree	41,753

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

UNIVERSITY OF NORTH CAROLINA SYSTEM

SECTION 35.6.(a) The annual compensation of all University of North Carolina EPA faculty, EPA nonfaculty, SPA employees, and teachers employed by the North Carolina School of Science and Mathematics shall remain unchanged for the 2013-2015 fiscal biennium.

SECTION 35.6.(b) The annual compensation of all employees of the University of North Carolina Health Care System and the Medical Faculty Practice Plan at East Carolina University shall remain unchanged for the 2013-2015 fiscal biennium.

MOST STATE EMPLOYEES

SECTION 35.7. For the 2013-2015 fiscal biennium, the salaries in effect June 30, 2013, for the following employees shall remain unchanged, effective July 1, 2013:

- (1) Permanent full-time State officials and persons whose salaries are set in accordance with the State Personnel Act.
- (2) Permanent full-time State officials and persons in positions exempt from the State Personnel Act.
- (3) Permanent part-time State employees.
- (4) Temporary and permanent hourly State employees.

SALARY ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES ONLY/NO AUTOMATIC INCREASES

SECTION 35.8.(a) The annual compensation of all employees subject to or exempt from the State Personnel Act, including employees of local boards of education, community colleges, and The University of North Carolina, for the 2013-2015 fiscal biennium shall remain unchanged from that authorized on June 30, 2013, or the last date in pay status during the 2011- 2013 fiscal biennium, if earlier, except that an increase may be allowed during the 2013-2015 fiscal biennium under the following special circumstances:

- (1) For all State employees regardless of funding source, and for employees of the North Carolina Community College System and local school boards who are paid from State funds, salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this Part. All other salary increases are prohibited.
- (1a) For employees of the North Carolina Community College System, notwithstanding subdivision (1) of this subsection, salaries may be increased if the increase is funded from local funding sources.
- (2) For The University of North Carolina, (i) faculty using funds from the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or the University Cancer Research Fund in the case of faculty involved in cancer research supported by that fund and (ii) faculty, nonfaculty, and other employee adjustments, including retention adjustments, funded from non-State funding sources.
- (3) For employees of the judicial branch, for local supplementation as authorized by G.S. 7A-300.1.

The cumulative salary adjustment allowed under this subsection for each fiscal year during the 2013-2015 fiscal biennium may exceed ten percent (10%) of annual salary only if the adjustment is approved in advance by the Office of State Budget and Management, The University of North Carolina Board of Governors, the Board of the North Carolina Community College System, the Legislative Services Commission, the local board of education, or other authorized body as appropriate.

SECTION 35.8.(b) The automatic salary step increases for assistant and deputy clerks of superior court and magistrates are suspended for the 2013-2015 fiscal biennium.

SECTION 35.8.(c) The salary increase provisions of G.S. 20-187.3 are suspended for the 2013-2015 fiscal biennium.

SECTION 35.8.(d) During the 2013-2015 fiscal biennium, notwithstanding G.S. 53C-2-3(c), employees of the Office of the Commissioner of Banks shall not be awarded (i) compensation increases unless allowed under subdivision (1) of subsection (a) of this section or (ii) compensation bonuses.

SECTION 35.8.(e) Employees of the Lottery Commission shall not receive compensation bonuses during the 2013-2015 fiscal biennium.

MONITOR MOST SALARY INCREASES

SECTION 35.9.(a) The Office of State Budget and Management and the Office of State Personnel shall monitor jointly the compliance of the following units of government with the provisions of Section 35.8 of this act and shall submit quarterly reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division: (i) State agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the judicial branch; and (iii) The University of North Carolina and its constituent institutions.

The quarterly reports required by this section shall include the following information:

- (1) For agencies reporting through the BEACON HR/Payroll system, (i) a breakdown by action type (including, but not limited to, promotion, reallocation, career progression, salary adjustment, and any similar actions increasing employee pay) of the number and annual amount of those increases and (ii) a breakdown by action reason (including in-range higher level, acting pay, trainee adjustment, and other similar action reasons) of the number and annual amount of those action types coded as salary adjustment.
- (2) For The University of North Carolina and its constituent institutions, a breakdown of the number and annual amount of those increases categorized by the University as promotions, changes in job duties or responsibilities, Distinguished Professorships, retention pay, career progression, and any other similar actions increasing employee pay.
- (3) A summary of actions taken by the Office of State Budget and Management and the Office of State Personnel with respect to unauthorized salary increases.

SECTION 35.9.(b) The Legislative Services Officer shall report quarterly to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on compliance with Section 35.8 this act.

ESTABLISH SEVERANCE EXPENDITURE RESERVE

SECTION 35.10.(a) There are established in the Office of State Budget and Management General Fund and Highway Fund reserve budget codes for the purpose of funding severance-related obligations to State employees subject to the State Personnel Act, and employees exempt from the State Personnel Act, who are separated from service due to a reduction-in-force action. Severance-related expenditures from these reserves shall include obligations to fund:

- (1) A State employee's severance salary continuation with an age adjustment factor as authorized by G.S. 126-8.5, including employer-related contributions for social security, and
- (2) Noncontributory health premiums for up to 12 months as authorized by G.S. 135-48.40(b)(8) for employees of employing units as defined by G.S. 135-48.1(11).

SECTION 35.10.(b) The Director of the Budget shall allocate funds appropriated in Sections 2.1 and 3.1 of this act to the Severance Expenditure Reserve to public agencies to

fund severance-related obligations incurred by the agencies as a result of reduction-in-force actions that cause State-supported public employees to be terminated from public employment. Funds appropriated to the Severance Expenditure Reserve shall be expended in their entirety before funds appropriated to a public agency for State-supported personal services expenditures may be used to fund any severance-related obligations.

Funds appropriated to the Severance Expenditure Reserve may be allocated to public agencies for positions that are funded by the General Fund or Highway Fund. Funds appropriated to the Severance Expenditure Reserve may also be allocated to public agencies for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund but only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

For the purposes of this subsection, the term "public employee" means an employee of a State agency, department, or institution; The University of North Carolina; the North Carolina Community College System; or a local school administrative unit.

TEACHER SALARY SCHEDULES

SECTION 35.11.(a) The following monthly salary schedules shall apply for the 2013-2014 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 37 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a masters degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2012-2013 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2013-2014 Monthly Salary Schedule

"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0-2	\$3,080	N/A
3-5	\$3,080	\$3,450
6	\$3,122	\$3,497
7	\$3,167	\$3,547
8	\$3,303	\$3,699
9	\$3,445	\$3,858
10	\$3,580	\$4,010
11	\$3,711	\$4,156
12	\$3,816	\$4,274
13	\$3,865	\$4,329
14	\$3,914	\$4,384
15	\$3,965	\$4,441
16	\$4,015	\$4,497
17	\$4,066	\$4,554
18	\$4,118	\$4,612
19	\$4,171	\$4,672
20	\$4,226	\$4,733
21	\$4,282	\$4,796
22	\$4,337	\$4,857
23	\$4,397	\$4,925
24	\$4,456	\$4,991
25	\$4,515	\$5,057

1	26	\$4,577	\$5,126
2	27	\$4,639	\$5,196
3	28	\$4,706	\$5,271
4	29	\$4,771	\$5,344
5	30	\$4,836	\$5,416
6	31	\$4,903	\$5,491
7	32	\$4,972	\$5,569
8	33	\$5,044	\$5,649
9	34	\$5,116	\$5,730
10	35	\$5,215	\$5,841
11	36+	\$5,318	\$5,956

2013-2014 Monthly Salary Schedule

"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0-2	\$3,388	N/A
3-5	\$3,388	\$3,795
6	\$3,434	\$3,846
7	\$3,484	\$3,902
8	\$3,633	\$4,069
9	\$3,790	\$4,245
10	\$3,938	\$4,411
11	\$4,082	\$4,572
12	\$4,198	\$4,702
13	\$4,252	\$4,762
14	\$4,305	\$4,822
15	\$4,362	\$4,885
16	\$4,417	\$4,947
17	\$4,473	\$5,010
18	\$4,530	\$5,074
19	\$4,588	\$5,139
20	\$4,649	\$5,207
21	\$4,710	\$5,275
22	\$4,771	\$5,344
23	\$4,837	\$5,417
24	\$4,902	\$5,490
25	\$4,967	\$5,563
26	\$5,035	\$5,639
27	\$5,103	\$5,715
28	\$5,177	\$5,798
29	\$5,248	\$5,878
30	\$5,320	\$5,958
31	\$5,393	\$6,040
32	\$5,469	\$6,125
33	\$5,548	\$6,214
34	\$5,628	\$6,303
35	\$5,737	\$6,425
36+	\$5,850	\$6,552

SECTION 35.11.(b) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three

and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 35.11.(c) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 35.11.(d) The first step of the salary schedule for school psychologists shall be equivalent to Step 10, corresponding to 10 years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified psychologists.

SECTION 35.11.(e) Speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

SECTION 35.11.(f) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 35.11.(g) As used in this section, the term "teacher" shall also include instructional support personnel.

SECTION 35.11.(h) Public school employees and State agency employees paid on the teacher salary schedule shall not move up on salary schedules or receive automatic step increases, or other increments during the 2014-2015 Fiscal Year unless authorized by the General Assembly.

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 35.12.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2013-2014 fiscal year, commencing July 1, 2013. Provided, however, school-based administrators (i) employed during the 2012-2013 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2013-2014 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2013-2014 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-9	\$3,828	-	-	-	-
10	\$3,977	-	-	-	-
11	\$4,123	-	-	-	-
12	\$4,240	-	-	-	-
13	\$4,295	\$4,295	-	-	-
14	\$4,348	\$4,348	-	-	-
15	\$4,406	\$4,406	\$4,461	-	-
16	\$4,461	\$4,461	\$4,518	-	-
17	\$4,518	\$4,518	\$4,575	\$4,634	-
18	\$4,575	\$4,575	\$4,634	\$4,695	\$4,757
19	\$4,634	\$4,634	\$4,695	\$4,757	\$4,819
20	\$4,695	\$4,695	\$4,757	\$4,819	\$4,885
21	\$4,757	\$4,757	\$4,819	\$4,885	\$4,951
22	\$4,819	\$4,819	\$4,885	\$4,951	\$5,017
23	\$4,885	\$4,885	\$4,951	\$5,017	\$5,085
24	\$4,951	\$4,951	\$5,017	\$5,085	\$5,154
25	\$5,017	\$5,017	\$5,085	\$5,154	\$5,229
26	\$5,085	\$5,085	\$5,154	\$5,229	\$5,300
27	\$5,154	\$5,154	\$5,229	\$5,300	\$5,373
28	\$5,229	\$5,229	\$5,300	\$5,373	\$5,447
29	\$5,300	\$5,300	\$5,373	\$5,447	\$5,524
30	\$5,373	\$5,373	\$5,447	\$5,524	\$5,603
31	\$5,447	\$5,447	\$5,524	\$5,603	\$5,684
32	\$5,524	\$5,524	\$5,603	\$5,684	\$5,794
33	\$5,603	\$5,603	\$5,684	\$5,794	\$5,909
34	\$5,684	\$5,684	\$5,794	\$5,909	\$6,027
35	\$5,794	\$5,794	\$5,909	\$6,027	\$6,148
36	\$5,909	\$5,909	\$6,027	\$6,148	\$6,271
37	-	\$6,027	\$6,148	\$6,271	\$6,396
38	-	-	\$6,271	\$6,396	\$6,524
39	-	-	\$6,396	\$6,524	\$6,654
40	-	-	-	\$6,654	\$6,787
41	-	-	-	\$6,787	\$6,923
42	-	-	-	-	\$7,061

2013-2014 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-19	\$4,885	-	-	-
20	\$4,951	-	-	-
21	\$5,017	\$5,085	-	-
22	\$5,085	\$5,154	\$5,300	-
23	\$5,154	\$5,229	\$5,373	\$5,447
24	\$5,229	\$5,300	\$5,447	\$5,524
25	\$5,300	\$5,373	\$5,524	\$5,603

1	26	\$5,373	\$5,447	\$5,603	\$5,684
2	27	\$5,447	\$5,524	\$5,684	\$5,794
3	28	\$5,524	\$5,603	\$5,794	\$5,909
4	29	\$5,603	\$5,684	\$5,909	\$6,027
5	30	\$5,684	\$5,794	\$6,027	\$6,148
6	31	\$5,794	\$5,909	\$6,148	\$6,271
7	32	\$5,909	\$6,027	\$6,271	\$6,396
8	33	\$6,027	\$6,148	\$6,396	\$6,524
9	34	\$6,148	\$6,271	\$6,524	\$6,654
10	35	\$6,271	\$6,396	\$6,654	\$6,787
11	36	\$6,396	\$6,524	\$6,787	\$6,923
12	37	\$6,524	\$6,654	\$6,923	\$7,061
13	38	\$6,654	\$6,787	\$7,061	\$7,202
14	39	\$6,787	\$6,923	\$7,202	\$7,346
15	40	\$6,923	\$7,061	\$7,346	\$7,493
16	41	\$7,061	\$7,202	\$7,493	\$7,643
17	42	\$7,202	\$7,346	\$7,643	\$7,796
18	43	\$7,346	\$7,493	\$7,796	\$7,952
19	44	-	\$7,643	\$7,952	\$8,111
20	45	-	\$7,796	\$8,111	\$8,273
21	46+	-	-	\$8,273	\$8,438

SECTION 35.12.(b) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 35.12.(c) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. Provided, however, a principal who acquires an additional step for the 2013-2014 or 2014-2015 fiscal years shall not receive a corresponding increase in salary during the 2013-2015 fiscal biennium. A principal or assistant principal shall also continue to receive any additional State-funded percentage

increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 35.12.(d) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

SECTION 35.12.(e) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 35.12.(f) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

SECTION 35.12.(g) Participants in an approved full-time masters in-school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the masters program. The stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time masters in-school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 35.12.(h) During the 2013-2015 fiscal biennium, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

SECTION 35.12.(i) Public school employees and State agency employees paid on the school based administrator salary schedule shall not move up on salary schedules or receive automatic step increases, or other increments during the 2014-2015 Fiscal Year unless authorized by the General Assembly.

CENTRAL OFFICE SALARIES

SECTION 35.13.(a) The monthly salary ranges that follow, which apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers, shall remain unchanged for the 2013-2015 fiscal biennium, beginning July 1, 2013.

School Administrator I	\$3,349	\$6,281
School Administrator II	\$3,550	\$6,662
School Administrator III	\$3,769	\$7,068
School Administrator IV	\$3,920	\$7,349
School Administrator V	\$4,078	\$7,647
School Administrator VI	\$4,326	\$8,109
School Administrator VII	\$4,500	\$8,436

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee.

SECTION 35.13.(b) The monthly salary ranges that follow, which apply to public school superintendents, shall remain unchanged for the 2013-2015 fiscal biennium, beginning July 1, 2013.

Superintendent I	\$4,777	\$8,949
Superintendent II	\$5,071	\$9,490
Superintendent III	\$5,380	\$10,067
Superintendent IV	\$5,710	\$10,679
Superintendent V	\$6,060	\$11,330

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

SECTION 35.13.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

SECTION 35.13.(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this section.

SECTION 35.13.(e) The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

SECTION 35.13.(f) The salaries of all permanent, full-time personnel paid from the Central Office Allotment shall remain unchanged for the 2013-2015 fiscal biennium.

NONCERTIFIED PERSONNEL SALARIES

SECTION 35.14. The annual salary for permanent, full-time and part-time noncertified public school employees whose salaries are supported from the State's General Fund shall be remain unchanged for the 2013-2015 fiscal biennium.

SALARY-RELATED CONTRIBUTIONS

SECTION 35.15.(a) Effective for the 2013-2015 fiscal biennium, required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employee's salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital

1 medical benefits, longevity pay, unemployment compensation, accumulated leave, workers'
2 compensation, severance pay, separation allowances, and applicable disability income benefits.

3 Notwithstanding any other provision of law, an employing unit, as defined in
4 G.S. 135-48.1, that hires or has hired as an employee a retiree that is in receipt of monthly
5 retirement benefits from any retirement system supported in whole or in part by contributions
6 of the State shall enroll the retiree in the active group and pay the cost for the hospital medical
7 benefits if that retiree is employed in a position that would require the employer to pay hospital
8 medical benefits if the individual had not been retired.

9 **SECTION 35.15.(b)** Effective July 1, 2013, the State's employer contribution rates
10 budgeted for retirement and related benefits as a percentage of covered salaries for the
11 2013-2015 fiscal biennium are (i) fourteen and sixty-eight hundredths percent (14.68%) –
12 Teachers and State Employees; (ii) nineteen and sixty-eight hundredths percent (19.68%) –
13 Law Enforcement Officers; (iii) fourteen and twenty-eight hundredths percent (14.28%) – Law
14 Enforcement Officers with the Department of Public Safety; (iv) twelve and sixty-seven
15 hundredths percent (12.67%) – University Employees' Optional Retirement System; (v) twelve
16 and sixty-seven hundredths percent (12.67%) – Community College Optional Retirement
17 Program; (vi) thirty-three and forty-one hundredths percent (33.41%) – Consolidated Judicial
18 Retirement System; and (vii) five and forty hundredths percent (5.40%) – Legislative
19 Retirement System. Each of the foregoing contribution rates includes five and forty hundredths
20 percent (5.40%) for hospital and medical benefits except for the law enforcement officers with
21 the Department of Public Safety. The rate for Teachers and State Employees, State Law
22 Enforcement Officers, Law Enforcement Officers with the Department of Public Safety,
23 Community College Optional Retirement Program, and the University Employees' Optional
24 Retirement Program includes forty-three hundredths percent (0.43%) for the Disability Income
25 Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and Law
26 Enforcement Officers with the Department of Public Safety include sixteen hundredths percent
27 (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers and Law
28 Enforcement Officers with the Department of Public Safety includes five percent (5%) for
29 Supplemental Retirement Income.

30 **SECTION 35.15.(c)** Effective July 1, 2013, the maximum annual employer
31 contributions, payable monthly, by the State for each covered employee or retiree for the
32 2013-2014 fiscal year to the State Health Plan for Teachers and State Employees are (i)
33 Medicare eligible employees and retirees – four thousand one hundred eight dollars (\$4,108)
34 and (ii) non-Medicare eligible employees and retirees – five thousand two hundred eighty-five
35 dollars (\$5,285).

36 **SECTION 35.15.(d)** Effective July 1, 2014, the maximum annual employer
37 contributions, payable monthly, by the State for each covered employee or retiree for the
38 2014-2015 fiscal year to the State Health Plan for Teachers and State Employees are (i)
39 Medicare eligible employees and retirees – four thousand one hundred ninety-eight dollars
40 (\$4,198) and (ii) non-Medicare eligible employees and retirees – five thousand four hundred
41 two dollars (\$5,402).

42 43 **AMEND SALARY CONTINUATION LAWS FOR LAW ENFORCEMENT OFFICERS**

44 **SECTION 35.16.(a)** Article 12B of Chapter 143 of the General Statutes reads as
45 rewritten:

46 "Article 12B.

47 "Salary Continuation Plan for Certain State Law-Enforcement Officers.

48 **"§ 143-166.13. Persons entitled to benefits under Article.**

49 (a) The following persons who are subject to the Criminal Justice Training and
50 Standards Act are entitled to benefits under this Article:

51 (1) State Government Security Officers, Department of Administration;

- (2) State Correctional Officers, Division of Adult Correction of the Department of Public Safety;
- (3) State Probation and Parole Officers, Division of Adult Correction of the Department of Public Safety;
- (4) Sworn State Law-Enforcement Officers with the power of arrest, Division of Adult Correction of the Department of Public Safety;
- (5) Alcohol Law-Enforcement Agents, Department of Public Safety;
- (6) State Highway Patrol Officers, Department of Public Safety;
- (7) General Assembly Special Police, General Assembly;
- (8) Sworn State Law-Enforcement Officers with the power of arrest, Department of Health and Human Services;
- (9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of Public Safety;
- (10) Insurance Investigators, Department of Insurance;
- (11) State Bureau of Investigation Officers and Agents, Department of Justice;
- (12) Director and Assistant Director, License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation;
- (13) Members of License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation, designated by the Commissioner of Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
- (14) Utilities Commission Transportation Inspectors and Special Investigators;
- (15) North Carolina Ports Authority Police, Department of Transportation;
- (16) Sworn State Law-Enforcement Officers with the power of arrest, Department of Environment and Natural Resources;
- (17) Sworn State Law-Enforcement Officers with the power of arrest, Department of Public Safety.
- (18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue.
- (19) Sworn State Law-Enforcement Officers with the power of arrest, University System.

(b) The following persons are entitled to benefits under this Article regardless of whether they are subject to the Criminal Justice Training and Standards Act:

- (1) Driver License Examiners injured by accident arising out of and in the course of giving a road test, Division of Motor Vehicles, Department of Transportation;
- (2) Employees of the Division of Adult Correction of the Department of Public Safety injured by a direct and deliberate act of an offender supervised by the Division or while performing supervisory duties over offenders which place the employees at risk of such injury.

(c) As used in this Article, the term "eligible person" or "person" shall mean any individual listed under subsection (a) or (b) of this section.

"§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation Act applicable after two years; duration of payment.

The salary of any ~~of the above listed persons~~ eligible person shall be paid as long as ~~his~~ the person's employment in that position continues, notwithstanding ~~his~~ the person's total or partial incapacity to perform any duties to which ~~he~~ the person may be lawfully assigned, if that incapacity is the result of an injury ~~by accident or an occupational disease arising out of and in the course of the performance by him of his~~ or injuries due to extreme activity which occurred in the course and scope of the eligible person's official duties, except if that incapacity continues for more than two years from its inception, the person shall, during the further continuance of that incapacity, be subject to the provisions of Chapter 97 of the General

Statutes pertaining to workers' compensation. Salary paid to ~~a~~an eligible person pursuant to this Article shall cease upon the resumption of ~~his~~the person's regularly assigned duties, retirement, resignation, or death, whichever first occurs, except that temporary return to duty shall not prohibit payment of salary for a subsequent period of incapacity which can be shown to be directly related to the original injury.

"§ 143-166.15. Application of § 97-27; how payments made.

Notwithstanding the provisions of G.S. 143-166.14 of this Article, the persons entitled to benefits shall be subject to the provisions of G.S. 97-27 during the two-year period of payment of full salary. All payments of salary shall be made at the same time and in the same manner as other salaries are paid to other persons in the same department.

"§ 143-166.16. Effect on workers' compensation and other benefits; application of § 97-24.

The provisions of G.S. 143-166.14 shall be in lieu of all compensation provided for the first two years of incapacity by G.S. 97-29 and 97-30, but shall be in addition to any other benefits or compensation to which such person shall be entitled under the provisions of the Workers' Compensation Act. The provisions of G.S. 97-24 will commence at the end of the two-year period for which salary is paid pursuant to G.S. 143-166.14.

"§ 143-166.17. Period of incapacity not charged against sick leave or other leave.

The period for which the salary of any person is paid pursuant to G.S. 143-166.14 while ~~he~~the person is incapacitated as a result of an injury ~~by accident or an occupational disease arising out of and in the course of the performance by him of his or~~ injuries due to extreme activity which occurred in the course and scope of the eligible person's official duties, shall not be charged against any sick or other leave to which ~~he~~the person shall be entitled under any other provision of law.

"§ 143-166.18. Report of incapacity.

Any person designated in G.S. 143-166.13, who, as a result of an injury ~~by accident arising out of and in the course of the performance by him of his or~~ injuries due to extreme activity which occurred in the course and scope of the eligible person's official duties, is totally or partially incapacitated to perform any duties to which ~~he~~the person may be lawfully assigned, shall report the incapacity as soon as practicable in the manner required by the secretary or other head of the department to which the agency is assigned by statute.

"§ 143-166.19. Determination of cause and extent of incapacity; hearing before Industrial Commission; appeal; effect of refusal to perform duties.

Upon the filing of the report, the secretary or other head of the department or, in the case of the General Assembly, the Legislative Services Officer, shall determine the cause of the incapacity and to what extent the claimant may be assigned to other than ~~his~~the claimant's normal duties. The finding of the secretary or other head of the department shall determine the right of the claimant to benefits under this Article. Notice of the finding shall be filed with the North Carolina Industrial Commission. ~~Unless the claimant, within 30 days after he receives notice, files with the North Carolina Industrial Commission, upon the form it shall require, a request for a hearing, the finding of the secretary or other department head shall be final. The finding of the secretary or other department head shall be final unless the claimant, within 30 days of receipt of the notice, files a request for a hearing with the North Carolina Industrial Commission using a form required by the Commission.~~ Upon the filing of a request, the North Carolina Industrial Commission shall proceed to hear the matter in accordance with its regularly established procedure for hearing claims filed under the Worker's Compensation Act, and shall report its findings to the secretary or other head of the department. From the decision of the North Carolina Industrial Commission, an appeal shall lie as in other matters heard and determined by the Commission. Any person who refuses to perform any duties to which ~~he~~the person may be properly assigned as a result of the finding of the secretary, other head of the

department or of the North Carolina Industrial Commission shall be entitled to no benefits pursuant to this Article as long as the refusal continues.

"§ 143-166.20. Subrogation.

The same rights and remedies set forth in G.S. 97-10.2 shall apply in all third party liability cases occurring under this Article, including cases involving the right of the affected State agency to recover the salary paid to an injured officer during ~~his~~the officer's period of disability."

SECTION 35.16.(b) This section becomes effective October 1, 2013, and applies to incapacity commencing on or after that date.

SEPARATE INSURANCE BENEFITS PLAN ASSETS/PAYMENT OF HEALTH INSURANCE PREMIUMS FOR LAW ENFORCEMENT OFFICERS

SECTION 35.17.(a) G.S. 143-166.60 is amended by adding a new subsection to read:

"(d1) In addition to the benefits provided under subsection (d) of this section, the assets of the Plan may be used to pay the employer health insurance contributions and contribution rates on behalf of law enforcement officers, as defined in G.S. 135-1(11c), employed by the State and former law enforcement officers receiving a retirement allowance from the Teachers' and State Employees' Retirement System."

SECTION 35.17.(b) During the 2013-2015 fiscal biennium, the Department of Public Safety shall report monthly to the State Health Plan for Teachers and State Employees the total amount of employer premiums due on behalf of sworn law enforcement officers employed by the Department. The Plan shall reduce the total premiums the Department of Public Safety owes by this amount, and the Department of State Treasurer shall transfer the same amount from the Separate Insurance Benefit Plan established under G.S. 143-166.60 to the Plan.

SECTION 35.17.(c) For each fiscal year of the 2013-2015 fiscal biennium, the Department of State Treasurer shall calculate the total compensation for which the Department of Public Safety has paid retirement contributions on behalf of sworn law enforcement officers. The Department of State Treasurer shall multiply this total compensation by five and forty hundredths percent (5.40%) for months during the 2013-2014 fiscal year and five and fifty-one hundredths percent (5.51%) for months during the 2014-2015 fiscal year and shall transfer the resulting amount from the Separate Insurance Benefit Plan established under G.S. 143-166.60 to the Retiree Health Benefit Fund established under G.S. 135-7(f).

PART XXXVI. CAPITAL APPROPRIATIONS

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 36.1. The appropriations made by the 2013 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings and land for State government purposes.

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 36.2.(a) There is appropriated from the General Fund for the 2013-2015 fiscal biennium the following amounts for capital improvements:

Capital Improvements – General Fund	2013-2014	2014-2015
Department of Administration		
Sandhills State Veterans Facility – Committal		
Enclosure	\$ 125,000	-

1	Goldsboro State Veterans' Cemetery	600,000	-
2			
3	Department of Agriculture and Consumer Services		
4	Agricultural Water Resources Assistance Program	500,000	-
5			
6	Department of Environment and Natural Resources		
7	Water Resources Development Projects	6,917,000	5,000,000
8			
9	Department of Public Safety		
10	National Guard	5,000,000	3,250,000
11			
12	The University of North Carolina System		
13	Appalachian State University – Health Sciences		
14	Building Advance Planning	2,000,000	-
15	University of North Carolina Asheville – Land Purchases	2,000,000	-
16			
17	TOTAL CAPITAL IMPROVEMENTS –		
18	GENERAL FUND	\$ 17,142,000	8,250,000

19 **SECTION 36.2.(b)** Funds appropriated in subsection (a) of this section for the
20 Agricultural Water Resources Assistance Program shall revert in accordance with Section 13.2
21 of this act.

22 **SECTION 36.2.(c)** Funds appropriated in subsection (a) of this section for the
23 Sandhills State Veterans Facility – Committal Enclosure shall be used to match non-State
24 funds. The total project cost authorized is three hundred thousand dollars (\$300,000).

25 **SECTION 36.2.(d)** Funds appropriated in subsection (a) of this section for the
26 Goldsboro State Veterans' Cemetery shall be used to pay for environmental, architectural, and
27 engineering costs associated with constructing a State Veterans' Cemetery in Goldsboro. The
28 State shall establish, own, operate, maintain, expand, and improve a State Veterans' Cemetery
29 in Goldsboro in accordance with 38 C.F.R. Part 39 unless subdivision (1) or (2) of subsection
30 (e) of this section is true.

31 **SECTION 36.2.(e)** Any unspent and unencumbered funds appropriated in
32 subsection (a) of this section for the Goldsboro State Veterans' Cemetery shall revert to the
33 General Fund three years after the effective date of this act if on that date any of the following
34 are true:

- 35 (1) The State has not received federal grant funds in an amount that, when added
36 to the funds appropriated in subsection (a) of this section, is sufficient to pay
37 for the cost of completing the State Veterans' Cemetery authorized in that
38 subsection.
- 39 (2) Land in Wayne County sufficient in size and quality to build the State
40 Veterans' Cemetery described in subsection (a) of this section has not been
41 conveyed to the State by the County or some other party.
- 42 (3) Any of the funds are not required to complete the Goldsboro State Veterans'
43 Cemetery.

44 **SECTION 36.2.(f)** G.S. 65-41 reads as rewritten:
45 **"§ 65-41. Land acquisition.**

46 The State may accept land for the establishment of not more than ~~three~~four veterans
47 cemeteries."

49 **WATER RESOURCES DEVELOPMENT PROJECTS**

50 **SECTION 36.3.(a)** The Department of Environment and Natural Resources shall
51 allocate funds for water resources projects during the 2013-2015 biennium in accordance with

the schedule that follows. The amounts set forth in the schedule include funds appropriated in this act for water resources projects and funds carried forward from previous fiscal years in accordance with subsection (b) of this section. These funds will provide a State match for an estimated twenty-one million two hundred sixty thousand dollars (\$21,260,000) in federal funds in the 2013-2014 fiscal year and will provide a State match for additional federal funds in the 2014-2015 fiscal year.

Name of Project	2013-2015
(1) B. Everett Jordan Lake Water Supply Storage A	\$ 200,000
(2) Wilmington Harbor Deepening (75/25)	2,266,000
(3) Morehead City Harbor Maintenance	-
(4) Wilmington Harbor Maintenance (Disposal Area 8 & 10)	2,000,000
(5) Wilmington Harbor Improvements Feasibility (50/50)	500,000
(6) Planning Assistance to Communities (50/50)	25,000
(7) Manteo Old House Channel Cap Sec. 204 (65/35)	1,500,000
(8) Wrightsville Beach Coastal Storm Damage Reduction Project (65/35)(Full Project)	1,077,000
(9) Ocean Isle Beach Coastal Storm Damage Reduction Project (65/35)(Full Project)	1,453,000
(10) Carolina Beach Coastal Storm Damage Reduction Project (65/35)(40% project)	215,000
(11) Kure Beach Coastal Storm Damage Reduction Project (65/35)(40% project)	188,000
(12) Surf City/NTB Coastal Storm Damage Reduction Study-PED (75/25)	37,000
TOTALS	\$ 9,461,000

SECTION 36.3.(b) It is the intent of the General Assembly that funds carried forward from previous fiscal years be used to supplement the eleven million nine hundred seventeen thousand dollars (\$11,917,000) appropriated for water resources development projects in Section 36.2(a) of this act. Therefore, the following funds carried forward from previous fiscal years shall be used for the following projects:

Name of Project	Amount Carried Forward
(1) Wilmington Harbor Maintenance (Disposal Area 8 & 10)	\$ 1,200,000
(2) Wilmington Harbor Improvements Feasibility (50/50)	57,000
(3) Manteo Old House Channel Cap Sec. 204 (65/35)	1,250,000
(4) Surf City/NTB Coastal Storm Damage Reduction Study-PED (75/25)	37,000
TOTALS	\$ 2,544,000

SECTION 36.3.(c) Subject to the limitations imposed by Section 36.2(a) of this act, the Department of Environment and Natural Resources may determine which projects listed in subsection (a) of this section shall receive an allocation of State funds in each fiscal year of the biennium.

SECTION 36.3.(d) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2013-2015 fiscal biennium, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.

(2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in the 2013-2015 fiscal biennium.

(3) State-local water resources development projects.

Funds subject to this subsection that are not expended or encumbered for the purposes set forth in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of the 2014-2015 fiscal year.

SECTION 36.3.(e) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports also shall show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 36.3.(f) Notwithstanding any provision of law to the contrary, funds appropriated for a water resources development project shall be used to provide no more than fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applies to funds appropriated in this act and to funds appropriated prior to the 2013-2015 fiscal biennium that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds for water resources development projects. The limitation on fund usage contained in this subsection applies only to projects in which a local government or local governments participate.

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 36.4.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	Amount of Non-General Fund Funding Authorized for FY 2013-2014
Department of Environment and Natural Resources	
Zoo Ocelot	\$ 642,000
Zoo Storage Facility	490,000
Aquariums – Exhibit Improvements & Interior Renovations at Roanoke Island	5,000,000
Department of Public Safety	
Tabor Correctional Visitor Registration Center	121,754
Correction Enterprise Storage Buildings	75,000
NC National Guard	
Albemarle Readiness Center	410,000
Fort Fisher Training Site	1,138,000
Fort Bragg Regional Training Inst.	250,000
USPFO Administration Building	350,000
Camp Butner West Perimeter Road	495,000
J4 Annex Motor Pool New Latrine	30,000
High Point Readiness Center Maintenance Shop	70,000

1	Camp Butner Classroom Building Phase 1 Design	50,000
2		
3	Department of Transportation	
4	Lexington Equipment Shop	2,288,000
5	Division 2 Equipment Shop	7,044,300
6	Clay County Equipment Shop	1,210,000
7	Halifax County Salt Storage Shed	186,000
8	Lake Junaluska Salt Storage Shed	266,000
9	Nantahala Salt Storage Shed	35,000
10	Currituck Ferry Welcome Center	1,200,000
11	McDowell County Maintenance/Bridge Maintenance Assembly Office	1,500,000
12	Huntersville Satellite Maintenance Facility	96,300
13	Elizabeth City District/Resident Engineers Office	1,000,000
14	Southport Dormitory	862,000
15	Asheboro Maintenance Warehouse and Sign Subshop	489,000
16	Hatteras Toll Booth	76,000
17	Graham County Maintenance Assembly	704,000
18	Division 8 Office	141,000
19		
20	Wildlife Resources Commission	
21	Land Purchases	3,750,000
22	Table Rock Hatchery Building Replacement	500,000
23	Construction of New Fishing Access Areas	240,000
24	Construction of New Boating Access Areas	800,000
25	Construction of New Shooting Ranges	1,500,000
26	New Cold Water Hatchery – Advance Planning	100,000
27	Holly Shelter Game Lands – Maintenance Building Replacement	250,000
28	Sandhills Depot – Building Replacement	600,000
29	Renovations to Existing BAAs	800,000
30	ADA Initiative of Existing BAAs	280,000
31	Infrastructure R&R	1,500,000
32	Sandhills Depot Shop and Storage Building	435,000
33	Holly Shelter Shop and Secure Storage Building	250,000
34	Tiffany Depot Storage Shed and Shop	165,000

TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL**PROJECTS AUTHORIZED****\$37,389,354**

SECTION 36.4.(b) From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2013-2014 fiscal year and the sum of thirty thousand dollars (\$30,000) for the 2014-2015 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, and environmental studies, and for the management of the plant conservation program preserves owned by the Department.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 36.5.(a) Of the funds in the Reserve for Repairs and Renovations for the 2013-2014 and the 2014-2015 fiscal year, the following allocations shall be made to the following agencies for repairs and renovations pursuant to G.S. 143C-4-3:

- (1) Forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina.
- (2) Fifty-four percent (54%) shall be allocated to the Office of State Budget and Management.

The Office of State Budget and Management shall consult with or report to the Joint Legislative Commission on Governmental Operations, as appropriate, in accordance with G.S. 143C-4-3(e). The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations in accordance with G.S. 143C-4-3(d).

SECTION 36.5.(b) Notwithstanding G.S. 143C-4-3(d), of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used each fiscal year by the Board of Governors for the installation of fire sprinklers in university residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the university's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

- (1) The safety and well-being of the residents of campus housing programs.
- (2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.
- (3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund or from bonds or certificates of participation supported by the General Fund since 1996.
- (4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
- (5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports also shall include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

SECTION 36.5.(c) Notwithstanding G.S. 143C-4-3(d), of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used each fiscal year by the Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

SECTION 36.5.(d) G.S. 143C-4-3(b), as rewritten by Section 6.12(l) of this act, reads as rewritten:

"(b) Use of Funds. – The funds in the Repairs and Renovations Reserve shall be used only for the repair and renovation of (i) State facilities and related infrastructure that are supported from the General Fund-Fund or (ii) State Information Technology Services facilities and related infrastructure. Funds from the Repairs and Renovations Reserve shall be used only for the following types of projects:

- (1) Roof repairs and replacements;
- (2) Structural repairs;
- (3) Repairs and renovations to meet federal and State standards;

- (4) Repairs to electrical, plumbing, and heating, ventilating, and air-conditioning systems;
- (5) Improvements to meet the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., as amended;
- (6) Improvements to meet fire safety needs;
- (7) Improvements to existing facilities for energy efficiency;
- (8) Improvements to remove asbestos, lead paint, and other contaminants, including the removal and replacement of underground storage tanks;
- (9) Improvements and renovations to improve use of existing space;
- (10) Historical restoration;
- (11) Improvements to roads, walks, drives, utilities infrastructure; and
- (12) Drainage and landscape improvements.

Funds from the Repairs and Renovations Reserve shall not be used for new construction or the expansion of the building area (sq. ft.) of an existing facility unless required in order to comply with federal or State codes or standards."

PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

SECTION 36.6. The appropriations made by the 2013 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects, including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2013 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2013 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

REPORTING ON CAPITAL PROJECTS

SECTION 36.7.(a) Definitions. – The following definitions apply in this section:

- (1) Capital project. – Any capital improvement, as that term is defined in G.S. 143C-1-1, that is not complete by the effective date of this section and that is funded in whole or in part with State funds, including receipts, non-General Fund sources, or statutorily or constitutionally authorized indebtedness of any kind. This term includes only projects with a total cost of one hundred thousand dollars (\$100,000) or more.

(2) Construction phase. – The status of a particular capital project as described using the terms customarily employed in the design and construction industries.

(3) New capital project. – A capital project that is authorized in this act or subsequent to the effective date of this act.

SECTION 36.7.(b) Reporting. – The following reports are required:

(1) By October 1, 2013, and every six months thereafter, each State agency shall report on the status of agency capital projects to the Joint Legislative Commission on Governmental Operations and to the Joint Legislative Oversight Committee on Capital Improvements.

(2) By October 1, 2013, and quarterly thereafter, each State agency shall report on the status of agency capital projects to the Fiscal Research Division and to the Office of State Budget and Management.

SECTION 36.7.(c) The reports required by subsection (b) of this section shall include at least the following information about every agency capital project:

(1) The current construction phase of the project.

(2) The anticipated time line from the current construction phase to project completion.

(3) Information about expenditures that have been made in connection with the project, regardless of source of the funds expended.

(4) Information about the adequacy of funding to complete the project, including estimates of how final expenditures will relate to initial estimates of expenditures, and whether or not scope reductions will be necessary in order to complete the project within its budget.

(5) For new capital projects only, an estimate of the operating costs for the project for the first five fiscal years of its operation.

SECTION 36.7.(d) In addition to the other reports required by this section, on October 1, 2013, and every six months thereafter, the Office of State Construction shall report on the status of the Facilities Condition Assessment Program (FCAP) to the Joint Legislative Commission on Governmental Operations. The report shall include (i) summary information about the average length of time that passes between FCAP assessments for an average State building; (ii) detailed information about when the last FCAP assessment was for each State building complex; and (iii) detailed information about the condition and repairs and renovations needs of each State building complex.

SECTION 36.7.(e) In addition to the other reports required by this section, on October 1, 2013, and quarterly thereafter, the State Construction Office shall report to the General Assembly on the status of plan review, approval, and permitting for each State capital improvement project and community college capital improvement project over which the Office exercises plan review, approval, and permitting authority. Each report shall include (i) summary information about the workload of the Office during the previous quarter, including information about the average length of time spent by the State Construction Office on each major function it performs that is related to capital project approval and (ii) detailed information about the amount of time spent engaged in those functions for each project that the State Construction Office worked on during the previous quarter.

REQUIRE PRIOR LEGISLATIVE AUTHORIZATION FOR SALES, LEASES, OR RENTALS OF CERTAIN PROPERTY BELOW FAIR MARKET VALUE

SECTION 36.8. G.S. 146-29.1 is amended by adding the following new subsections to read:

"(f) If the fair market value of State-owned real property exceeds one million dollars (\$1,000,000), a gift of any interest in the property or a sale, lease, or rental of any interest in the property for below fair market value shall not be effective until the later of the following:

(1) If a bill that specifically disapproves the transaction is introduced in either house of the General Assembly before the 31st legislative day of the next regular session of the General Assembly that begins at least 25 days after the date that the agreement making the transfer is entered into, the earlier of (i) the day that an unfavorable final action is taken on the bill or (ii) the day that the General Assembly adjourns without ratifying the bill.

(2) The 31st legislative day of the session of the General Assembly described in subdivision (1) of this section, if a bill disapproving the transaction is not introduced before that day.

(f1) For the purpose of subsection (f) of this section:

(1) "Next regular session" means:

a. For odd-numbered years its initial convening.

b. For even-numbered years the first reconvening of the regular session as provided in the joint resolution setting the date for reconvening.

(2) "Adjourns" means:

a. For odd-numbered years the date the General Assembly adjourns by joint resolution for a period of more than 30 days.

b. For even-numbered years the date of sine die adjournment.

(f2) If the transaction is approved under subsection (f) of this section, but the agreement provides a later effective date, then it takes effect on the date specified in the agreement.

(f3) Nothing in subsection (f) of this section restricts the General Assembly from enacting a law specifically approving the transaction.

(g) If the General Assembly ratifies a disapproving bill, the disapproved transaction shall not be effective unless it is vetoed by the Governor and the veto is not overridden, and in such case the transaction is effective upon sine die adjournment of that regular session.

The terms of any agreement to transfer an interest in real property under this section are deemed to incorporate the provisions of subsections (f) through (f2) of this section, and any transaction that does not comply with these subsections is void."

AUTHORIZE UNC CARRYFORWARD FUNDS TO BE USED FOR REPAIRS AND RENOVATIONS

SECTION 36.9. Notwithstanding any other provision of law, for purposes of G.S. 143C-8-12, the term "non-General Fund money" includes funds carried forward from one fiscal year to another pursuant to G.S. 116-30.3. However, these funds shall only be used for projects listed in G.S. 143C-4-3(b). This section shall expire on June 30, 2014.

LIMIT UNC REPAIRS AND MAINTENANCE EXEMPTION

SECTION 36.10. G.S. 116-13.1(c) reads as rewritten:

"(c) Approval of Certain Repair and Maintenance Projects. – Notwithstanding G.S. 143C-8-7, the chancellor of a constituent institution may approve the expenditure of available operating funds in an amount not to exceed one million dollars (\$1,000,000) per project ~~for repairs to institution facilities, renovations to institution facilities, maintenance of those facilities, and related equipment purchases for projects that are of a type listed in G.S. 143C-4-3(b) and that are for State facilities and related infrastructure that are supported from the General Fund.~~ Funds contractually obligated to an approved project shall not revert at the end of the fiscal year and will remain available to fund the completion of the project. Projects approved pursuant to this subsection shall in all other respects accord with applicable laws governing capital improvement projects. The chancellor of a constituent institution shall

report the approval of an expenditure under this subsection to the Office of State Budget and Management and to the Fiscal Research Division of the Legislative Services Commission within 60 days of the approval."

NATIONAL GUARD PROJECTS

SECTION 36.11.(a) The Department of Public Safety shall allocate funds for National Guard capital projects during the 2013-2015 fiscal biennium in accordance with the schedule that follows. These funds will provide a State match for an estimated twenty-one million dollars (\$21,000,000) in federal funds. The projects authorized, the allocation of State funds for each project, and the total project cost authorized for each project are as follows:

	Name of Project	State Fund Allocation	Total Project Cost
(1)	Wilmington Building Expansion/Rehab	\$ 375,000	\$ 1,125,000
(2)	Wilmington Site Expansion/Rehab	250,000	1,250,000
(3)	Nashville Building Expansion/Rehab	375,000	1,125,000
(4)	Nashville Site Expansion/Rehab	250,000	1,250,000
(5)	Clinton Building Expansion/Rehab	375,000	1,125,000
(6)	Clinton Site Expansion/Rehab	250,000	1,250,000
(7)	Salisbury Building Expansion/Rehab	375,000	1,125,000
(8)	Salisbury Site Expansion/Rehab	250,000	1,250,000
(9)	Parkton Building Expansion/Rehab	375,000	1,125,000
(10)	Parkton Site Expansion/Rehab	250,000	1,250,000
(11)	Benson Building Expansion/Rehab	375,000	1,125,000
(12)	Benson Site Expansion/Rehab	250,000	1,250,000
(13)	Charlotte Building Expansion/Rehab	375,000	1,125,000
(14)	Asheboro Site Expansion/Rehab	250,000	1,250,000
(15)	Winston-Salem Building Expansion/Rehab	375,000	1,125,000
(16)	Winston-Salem Site Expansion/Rehab	250,000	1,250,000
(17)	Concord Building Expansion/Rehab	375,000	1,125,000
(18)	Concord Site Expansion/Rehab	250,000	1,250,000
(19)	Burlington Site Expansion/Rehab	375,000	1,125,000
(20)	Albemarle Site Expansion/Rehab	375,000	1,125,000
(21)	Belmont Building Rehab	375,000	1,125,000
(22)	Beulaville Building Expansion/Rehab	375,000	1,125,000
(23)	Boone Building Expansion/Rehab	375,000	1,125,000
(24)	Dunn Building Expansion/Rehab	375,000	1,125,000
(25)	Durham Building Expansion/Rehab	375,000	1,125,000
TOTALS		\$ 8,250,000	29,250,000

SECTION 36.11.(b) Subject to the limitations imposed by Section 36.2(a) of this act, the Adjutant General of the National Guard may determine which projects listed in subsection (a) of this section shall receive an allocation of State funds in each fiscal year of the biennium.

SECTION 36.11.(c) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Adjutant General of the National Guard may adjust the allocations among projects as needed. However, State funds shall not be allocated to a project in excess of the maximum amount of State funds authorized to be allocated to the project under subsection (a) of this section. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2013-2015 fiscal biennium, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) Future project feasibility studies.
- (2) Survey, testing, and permitting.

(3) Planning and execution for reversion of facilities no longer in use.

SECTION 36.11.(d) No later than June 1, 2015, and every two years thereafter, the Department shall report on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) The status of all projects listed in this section.

(2) The estimated total cost of each project.

(3) The date that work on each project began or is expected to begin.

(4) The date that work on each project was completed or is expected to be completed.

(5) The actual cost of each project, including federal matching funds.

(6) Facilities planned for closure or reversion.

(7) A list of projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 36.11.(e) Chapter 127A of the General Statutes is amended by adding a new Article to read:

"Article 17.

"Armory and Facility Development Projects and Plan.

"§ 127A-210. Armory and facility development project plan.

(a) Plan Prepared. – No later than July 1 of each year, the Department of Public Safety shall prepare a statewide plan for armories for a period of seven years into the future. The plan shall be known as the Armory and Facilities Development Plan. If the plan differs from the Armory and Facilities Development Plan adopted for the preceding calendar year, the Department shall indicate the changes and the reasons for such changes. The Department shall submit the plan to the Director of the Budget for review.

(b) Projects Listed. – The plan shall list the following armory and facilities projects based on their status as of May 1 of the year in which the plan is prepared:

(1) Projects approved by the Congress of the United States but for which federal funds have not been appropriated.

(2) Projects for which the Congress of the United States has appropriated funds.

(c) Project Priorities and Funding Recommendations. – The Department shall assign a priority to each project within each of the two categories listed under subsection (b) of this section, either by giving the project a number with "1" assigned to the highest priority, or by recommending no funding. The Department shall state its reasons for recommending the funding, deferral, or elimination of a project. The Department shall determine the priority of a project based on the following criteria: federal requirements, a project's proximity to transportation infrastructure and other critical State and federal assets, and a project's ability to further the mission of the National Guard.

(d) Distribution of the Plan. – The Director of the Budget shall provide copies of the plan to the General Assembly along with the recommended biennial budget and the recommended revised budget for the second year of the biennium.

(e) Budget Recommendations. – The Director of the Budget shall determine which projects, if any, will be included in the recommended biennial budget and in the recommended revised budget for the second year of the biennium. The budget document transmitted to the General Assembly shall identify the projects or types of projects recommended for funding.

(f) Definitions. – For purposes of this section, the terms "armory," "armory site," and "facilities" shall have the same meaning as in G.S. 127A-161."

SECTION 36.11.(f) G.S. 127A-169 reads as rewritten:

"§ 127A-169. Unexpended portion of State appropriation.

1 The unexpended portion of any appropriation from the General Fund of the State for the
2 purposes set out in this ~~Article, Article, or in Article 17 of this Chapter~~, remaining at the end of
3 any biennium, shall not revert to the General Fund of the State, but shall constitute part of a
4 permanent fund to be expended from time to time in the manner and for the purposes set out in
5 this Article."
6

7 **TWO-THIRDS BONDS ACT OF 2013**

8 **SECTION 36.12.(a)** Short Title. – This section may be cited as the "Two-Thirds
9 Bonds Act of 2013."

10 **SECTION 36.12.(b)** Findings and Determinations. – It is the intent and purpose of
11 the General Assembly by this section to provide for the issuance of general obligation bonds or
12 notes of the State in order to provide funds for the cost of State capital facilities.

13 **SECTION 36.12.(c)** Definitions. – The following definitions apply in this section
14 unless the context otherwise requires:

15 (1) Bonds. – Bonds issued under this section.

16 (2) Cost. – The term includes all of the following:

- 17 a. The cost of constructing, reconstructing, renovating, repairing,
18 enlarging, acquiring, and improving State capital facilities, including
19 the acquisition of land, rights-of-way, easements, franchises,
20 equipment, machinery, furnishings, and other interests in real or
21 personal property acquired or used in connection with a State capital
22 facility.
- 23 b. The cost of engineering, architectural, and other consulting services
24 as may be required.
- 25 c. Administrative expenses and charges.
- 26 d. The cost of providing personnel to ensure effective project
27 management.
- 28 e. The cost of bond insurance, investment contracts, credit enhancement
29 and liquidity facilities, interest-rate swap agreements or other
30 derivative products, financial and legal consultants, and related costs
31 of bond and note issuance, to the extent and as determined by the
32 State Treasurer.
- 33 f. Finance charges, reserves for debt service and other types of reserves
34 required pursuant to the terms of any bond or note or related
35 documents, interest before and during construction or acquisition of a
36 State capital facility and, if considered advisable by the State
37 Treasurer, for a period not exceeding two years after the estimated
38 date of completion of construction or acquisition.
- 39 g. The cost of bond insurance, investment contracts, credit enhancement
40 facilities and liquidity facilities, interest-rate swap agreements or
41 other derivative products, financial and legal consultants, and related
42 costs of the incurrence or issuance of any bond or note.
- 43 h. The cost of reimbursing the State for any payments made for any cost
44 described in this subdivision.
- 45 i. Any other costs and expenses necessary or incidental to the purposes
46 of this section.

47 (3) Credit facility. – An agreement entered into by the State Treasurer on behalf
48 of the State with a bank, savings and loan association or other banking
49 institution, an insurance company, reinsurance company, surety company or
50 other insurance institution, a corporation, investment banking firm or other
51 investment institution, or any financial institution or other similar provider

of a credit facility, which provider may be located within or without the United States, such agreement providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of such agreement.

(4) Notes. – Notes issued under this section.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne by any bonds or notes, including:

- a. A provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible.
- b. A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time.
- c. Such other provisions as the State Treasurer may determine to be consistent with this section and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(6) State. – The State of North Carolina, including any State agency.

(7) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

SECTION 36.12.(d) Authorization of Bonds and Notes. – The State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell at one time or from time to time general obligation bonds of the State to be designated "State of North Carolina General Obligation Bonds," with any additional designations as may be determined, or notes of the State, in the aggregate principal amount of one hundred million dollars (\$100,000,000), this amount being not in excess of two-thirds of the amount by which the State's outstanding indebtedness was reduced during the biennium ended June 30, 2013, for the purpose of providing funds, with any other available funds, for the purposes authorized by this section.

If the one hundred million dollar (\$100,000,000) maximum principal amount of bonds and notes authorized by this section shall be in excess of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the biennium ended June 30, 2013, then the maximum amount of bonds and notes authorized in this section is reduced by such excess.

SECTION 36.12.(e) Uses of Bond and Note Proceeds. – The proceeds of bonds and notes shall be used to finance the capital facility costs of repairing and renovating State facilities and related infrastructure as provided in this section.

The proceeds of bonds and notes may be used with any other moneys made available by the General Assembly for the capital facility costs of repairing and renovating State facilities and related infrastructure, including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this section is ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this section shall be disbursed for the purposes provided in this section upon warrants drawn on the State Treasurer by the State Controller,

1 which warrants shall not be drawn until requisition has been approved by the Director of the
2 Budget and which requisition shall be approved only after full compliance with the State
3 Budget Act, Chapter 143C of the General Statutes.

4 The Office of State Budget and Management shall provide semiannual reports to the
5 Chairs of the Senate Appropriations/Base Budget Committee and the House of Representatives
6 Appropriations Committee, and to the Fiscal Research Division on the expenditure of moneys
7 authorized by this section. The reports shall continue until the completion of the projects
8 provided for in this section.

9 **SECTION 36.12.(f) Allocation of Proceeds.** – The proceeds of bonds and notes
10 shall be allocated to the Reserve for Repairs and Renovations and reallocated and expended
11 pursuant to Section 36.5 of this act.

12 **SECTION 36.12.(g) Issuance of Bonds and Notes.** –

13 (1) Terms and conditions. – Bonds or notes may bear a date or dates, may be
14 serial or term bonds or notes, or any combination thereof, may mature in
15 such amounts and at such time or times, not exceeding 40 years from their
16 date or dates, may be payable at such place or places, either within or
17 without the United States of America, in such coin or currency of the United
18 States of America as at the time of payment is legal tender for payment of
19 public and private debts, may bear interest at such rate or rates, which may
20 vary from time to time, and may be made redeemable before maturity, at the
21 option of the State or otherwise as may be provided by the State, at such
22 price or prices, including a price less than or greater than the face amount of
23 the bonds or notes, and under such terms and conditions, all as may be
24 determined by the State Treasurer, by and with the consent of the Council of
25 State.

26 (2) Signatures; form and denomination; registration. – Bonds or notes may be
27 issued in certificated or uncertificated form. If issued in certificated form,
28 bonds or notes shall be signed on behalf of the State by the Governor or shall
29 bear the Governor's facsimile signature, shall be signed by the State
30 Treasurer or shall bear the State Treasurer's facsimile signature, and shall
31 bear the Great Seal of the State, or a facsimile of the Seal shall be impressed
32 or imprinted thereon. If bonds or notes bear the facsimile signatures of the
33 Governor and the State Treasurer, the bonds or notes shall also bear a
34 manual signature which may be that of a bond registrar, trustee, paying
35 agent, or designated assistant of the State Treasurer. Should any officer
36 whose signature or facsimile signature appears on bonds or notes cease to be
37 such officer before the delivery of the bonds or notes, the signature or
38 facsimile signature shall nevertheless have the same validity for all purposes
39 as if the officer had remained in office until delivery. Bonds or notes may
40 bear the facsimile signatures of persons who at the actual time of the
41 execution of the bonds or notes shall be the proper officers to sign any bond
42 or note, although at the date of the bond or note, such persons may not have
43 been such officers. The form and denomination of bonds or notes, including
44 the provisions with respect to registration of the bonds or notes and any
45 system for their registration, shall be as the State Treasurer may determine in
46 conformity with this section.

47 (3) Manner of sale; expenses. – Subject to the approval by the Council of State
48 as to the manner in which bonds or notes shall be offered for sale, whether at
49 public or private sale, whether within or without the United States, and
50 whether by publishing notices in certain newspapers and financial journals,
51 mailing notices, inviting bids by correspondence, negotiating contracts of

1 purchase or otherwise, the State Treasurer is authorized to sell bonds or
2 notes at one time or from time to time at any rates of interest, which may
3 vary from time to time, and at any prices, including a price less than or
4 greater than the face amount of the bonds or notes, as the State Treasurer
5 may determine. All expenses incurred in the preparation, sale, and issuance
6 of bonds or notes shall be paid by the State Treasurer from the proceeds of
7 bonds or notes or other available moneys.

8 (4) Notes; repayment. –

9 a. By and with the consent of the Council of State, the State Treasurer
10 is hereby authorized to borrow money and to execute and issue notes
11 of the State for the same, but only in the following circumstances and
12 under the following conditions:

- 13 1. For anticipating the sale of bonds, the issuance of which the
14 Council of State has approved, if the State Treasurer
15 considers it advisable to postpone the issuance of the bonds;
- 16 2. For the payment of interest on or any installment of principal
17 of any bonds then outstanding, if there are not sufficient
18 funds in the State treasury with which to pay the interest or
19 installment of principal as they respectively become due;
- 20 3. For the renewal of any loan evidenced by notes authorized in
21 this section;
- 22 4. For the purposes authorized in this section; and
- 23 5. For refunding bonds or notes as authorized in this section.

24 b. Funds derived from the sale of bonds or notes may be used in the
25 payment of any bond anticipation notes issued under this section.
26 Funds provided by the General Assembly for the payment of interest
27 on or principal of bonds shall be used in paying the interest on or
28 principal of any notes and any renewals thereof, the proceeds of
29 which shall have been used in paying interest on or principal of the
30 bonds.

31 (5) Refunding bonds and notes. – By and with the consent of the Council of
32 State, the State Treasurer is authorized to issue and sell refunding bonds and
33 notes pursuant to the provisions of the State Refunding Bond Act for the
34 purpose of refunding bonds or notes issued pursuant to this section. The
35 refunding bonds and notes may be combined with any other issues of State
36 bonds and notes similarly secured. Refunding bonds or notes may be issued
37 at any time prior to the final maturity of the debt obligation to be refunded.
38 The proceeds from the sale of any refunding bonds or notes shall be applied
39 to the immediate payment and retirement of the bonds or notes being
40 refunded or, if not required for the immediate payment of the bonds or notes
41 being refunded, the proceeds shall be deposited in trust to provide for the
42 payment and retirement of the bonds or notes being refunded and to pay any
43 expenses incurred in connection with the refunding. Money in a trust fund
44 may be invested in (i) direct obligations of the United States government, (ii)
45 obligations the principal of and interest on which are guaranteed by the
46 United States government, (iii) obligations of any agency or instrumentality
47 of the United States government if the timely payment of principal and
48 interest on the obligations is unconditionally guaranteed by the United States
49 government, or (iv) certificates of deposit issued by a bank or trust company
50 located in the State if the certificates are secured by a pledge of any of the
51 obligations described in (i), (ii), or (iii) above having an aggregate market

value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable or, if presently redeemable, have not been called for redemption.

(6) Tax exemption. – Bonds and notes shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance or gift taxes, income taxes on the gain from the transfer of bonds or notes, and franchise taxes. The interest on bonds or notes is not subject to taxation as income.

(7) Investment eligibility. – Bonds and notes are securities in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, all insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Bonds and notes are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may hereafter be authorized by law.

(8) Faith and credit. – The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State expressly reserves the right to amend any provision of this section to the extent it does not impair any contractual right of a bond owner.

(9) Other agreements. – The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest-rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with issuance, incurrence, carrying, or securing of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond or note issue under this section as the State Treasurer considers necessary.

SECTION 36.12.(h) Variable Rate Demand Bonds and Notes. – In fixing the details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State;

(2) Be additionally supported by a credit facility;

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity;

(4) Bear interest at a rate or rates that may vary for any period of time, as may be provided in the proceedings providing for the issuance of the bonds or

notes, including, without limitation, such variations as may be permitted pursuant to a par formula; and

- (5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes during the term of such credit facility shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the State executed by the State Treasurer.

SECTION 36.12.(i) Interpretation of Section. –

- (1) Additional method. – The foregoing sections of this section shall be deemed to provide an additional and alternative method for the doing of the things authorized under it and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing.
- (2) Statutory references. – References in this section to specific sections or Chapters of the General Statutes or to specific acts are intended to be references to such sections, Chapters, or acts as they may be amended from time to time by the General Assembly.
- (3) Broad construction. – This section, being necessary for the health and welfare of the people of the State, shall be broadly construed to effect the purposes thereof.
- (4) Inconsistent provisions. – Insofar as the provisions of this section are inconsistent with the provisions of any general, special, or local laws, or parts thereof, the provisions of this section shall be controlling.
- (5) Severability. – If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

SECTION 36.12.(j) Effective Date. – This section is effective when it becomes law.

PART XXXVII. FINANCE PROVISIONS

SECTION 37.0. This section is reserved.

PART XXXVIII. MISCELLANEOUS PROVISIONS

STATE BUDGET ACT APPLIES

SECTION 38.1. The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

MOST TEXT APPLIES ONLY TO THE 2013-2015 FISCAL BIENNIUM

SECTION 38.2. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual

provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium.

EFFECT OF HEADINGS

SECTION 38.3. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act except for effective dates referring to a part.

COMMITTEE REPORT

SECTION 38.4.(a) The Senate Appropriations/Base Budget Committee Report on the Continuation, Expansion, and Capital Budgets dated May 21, 2013, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 38.4.(b) The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2013-2015 biennial budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted a recommended continuation budget to the General Assembly on March 15 and 18, 2013, in the document "State of North Carolina Recommended Continuation Budget and Fund Purpose Statements, 2013-2015" and in the Budget Support Document for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

SECTION 38.4.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

SEVERABILITY CLAUSE

SECTION 38.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 38.6. Except as otherwise provided, this act becomes effective July 1, 2013.