

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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6

HOUSE BILL 97

Committee Substitute Favorable 5/18/15

Committee Substitute #2 Favorable 5/20/15

Committee Substitute #3 Favorable 5/20/15

Committee Substitute #4 Favorable 5/21/15

Fifth Edition Engrossed 5/22/15

Senate Appropriations Committee Substitute with Amendments Adopted 6/16/15

Senate Pensions & Retirement and Aging Committee Substitute Adopted 6/16/15

Short Title: 2015 Appropriations Act.

(Public)

Sponsors:

Referred to:

February 24, 2015

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 OF ACT

SECTION 1.1. This act shall be known as the "Current Operations and Capital
Improvements Appropriations Act of 2015."

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's departments, institutions, and agencies, and for other purposes as
enumerated, are made for the fiscal biennium ending June 30, 2017, according to the following
schedule:

Current Operations – General Fund

FY 2015-2016

FY 2016-2017

EDUCATION



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1			
2	Community Colleges System Office	1,051,528,672	1,050,528,672
3			
4	Department of Public Instruction	8,282,418,560	8,382,532,357
5			
6	University of North Carolina – Board of Governors		
7	Appalachian State University	127,701,024	127,694,714
8	East Carolina University		
9	Academic Affairs	210,407,112	210,739,558
10	Health Affairs	73,527,686	73,527,686
11	Elizabeth City State University	33,759,228	30,759,228
12	Fayetteville State University	48,741,530	48,741,530
13	North Carolina A&T State University	90,898,021	90,898,021
14	North Carolina Central University	82,132,848	82,132,848
15	North Carolina State University		
16	Academic Affairs	392,256,502	392,249,291
17	Agricultural Extension	38,595,927	38,595,927
18	Agricultural Research	53,099,332	53,099,332
19	University of North Carolina at Asheville	37,592,283	37,592,283
20	University of North Carolina at Chapel Hill		
21	Academic Affairs	251,265,861	251,265,861
22	Health Affairs	186,779,905	186,779,905
23	AHEC	47,182,678	47,182,678
24	University of North Carolina at Charlotte	198,971,605	198,971,605
25	University of North Carolina at Greensboro	143,459,427	143,459,427
26	University of North Carolina at Pembroke	53,184,870	53,192,105
27	University of North Carolina at School of the Arts	28,669,298	28,669,298
28	University of North Carolina at Wilmington	101,627,684	101,473,413
29	Western Carolina University	85,805,817	85,805,817
30	Winston-Salem State University	64,619,124	64,619,124
31	General Administration	37,256,706	37,256,706
32	University Institutional Programs	82,284,833	111,221,371
33	Related Educational Programs	108,168,501	108,168,501
34	North Carolina School of Science & Math	19,833,370	19,834,570
35	Aid to Private Institutions	117,219,754	115,219,754
36			
37	Total University of North Carolina –		
38	 Board of Governors	2,715,040,926	2,739,150,553
39			
40	HEALTH AND HUMAN SERVICES		
41			
42	Department of Health and Human Services		
43	Central Management and Support	116,500,781	130,139,186
44	Division of Aging and Adult Services	42,845,788	42,845,788
45	Division of Services for the Blind, Deaf,		
46	and Hard of Hearing	8,098,207	8,098,207
47	Division of Child Development and Early Education	233,900,693	237,476,515
48	Health Service Regulation	15,462,135	14,902,628
49	Division of Medical Assistance	3,761,598,331	3,910,621,818
50	Division of Mental Health, Developmental Disabilities,		
51	and Substance Abuse Services	519,096,709	502,439,890

1	NC Health Choice	13,373,219	1,590,592
2	Division of Public Health	137,337,977	139,261,609
3	Division of Social Services	181,783,263	184,883,263
4	Division of Vocational Rehabilitation	37,752,132	37,752,132
5	Total Health and Human Services	5,067,749,235	5,210,011,628
6			
7	NATURAL AND ECONOMIC RESOURCES		
8			
9	Department of Agriculture and Consumer Services	112,339,862	114,625,261
10			
11	Department of Commerce		
12	Commerce	58,030,891	57,512,842
13	Commerce State-Aid	3,405,472	1,155,472
14			
15	Department of Cultural Resources		
16	Cultural Resources	134,129,484	140,169,029
17	Roanoke Island Commission	517,384	517,384
18			
19	Wildlife Resources Commission	10,501,493	10,426,493
20			
21	Department of Environment and Natural Resources	111,377,775	100,246,626
22			
23	Department of Labor	15,472,917	15,472,917
24			
25	JUSTICE AND PUBLIC SAFETY		
26			
27	Department of Public Safety	1,828,196,520	1,840,640,544
28			
29	Judicial Department	480,029,282	479,474,050
30			
31	Judicial Department – Indigent Defense	115,738,069	115,748,013
32			
33	Department of Justice	52,295,684	51,405,759
34			
35			
36	GENERAL GOVERNMENT		
37			
38	Department of Administration	60,353,742	58,381,592
39			
40	Office of Administrative Hearings	5,117,214	5,117,214
41			
42	Department of State Auditor	11,739,374	11,891,894
43			
44	Office of State Controller	22,700,620	22,700,620
45			
46	State Board of Elections	6,603,243	6,503,243
47			
48	General Assembly	53,019,670	53,019,670
49			
50	Office of the Governor	5,580,229	5,580,229
51			

1	Office of the Governor – Special Projects	2,000,000	2,000,000
2			
3	Office of State Budget and Management		
4	Office of State Budget and Management	7,242,104	7,242,104
5	OSBM – Reserve for Special Appropriations	1,550,000	1,500,000
6			
7	Housing Finance Agency	9,118,739	9,818,739
8			
9	Department of Insurance	38,381,581	38,381,581
10			
11	Office of Lieutenant Governor	676,874	676,874
12			
13	Military and Veterans Affairs	9,525,132	7,815,123
14			
15	Department of Revenue	79,810,071	79,952,920
16			
17	Department of Secretary of State	11,713,470	11,713,470
18			
19	Department of State Treasurer		
20	State Treasurer	11,045,175	10,699,175
21	State Treasurer – Retirement for Fire and Rescue		
22	Squad Workers	20,664,274	20,664,274
23			
24	RESERVES, ADJUSTMENTS, AND DEBT SERVICE		
25			
26	Contingency and Emergency Fund	5,000,000	5,000,000
27			
28	Salary Adjustment Fund	34,000,000	34,000,000
29			
30	OSHR Minimum of Market Adjustment	0	12,000,000
31			
32	Job Development Investment Grants (JDIG)	57,816,215	71,728,126
33			
34	One North Carolina Fund	6,995,976	9,000,000
35			
36	Information Technology Reserve	20,585,787	19,230,683
37			
38	Information Technology Fund	22,381,854	22,381,854
39			
40	Film and Entertainment Grant Fund	10,000,000	10,000,000
41			
42	Workers' Compensation Reserve	5,000,000	(10,000,000)
43			
44	State Emergency Response and Disaster Relief Fund	10,000,000	0
45			
46	Site Infrastructure Development Fund	13,000,000	0
47			
48	Debt Service		
49	General Debt Service	713,159,643	676,849,215
50	Federal Reimbursement	1,616,380	1,616,380
51			

1	TOTAL CURRENT OPERATIONS –		
2	GENERAL FUND	21,295,169,593	21,515,082,580
3			
4	GENERAL FUND AVAILABILITY STATEMENT		
5	SECTION 2.2.(a) The General Fund availability used in developing the 2015-2017		
6	fiscal biennial budget is shown below.		
7		FY 2015-2016	FY 2016-2017
8	Unappropriated Balance Remaining from Previous Year	2,033,330	43,297,632
9	Anticipated Over Collections FY 2014-15	400,000,000	0
10	Anticipated Reversions from FY 2014-15		
11	(OSBM Estimate, May 12, 2015)	226,734,550	0
12	Other Reversions	27,343,020	0
13	Revenue Adjustment as per S.L. 2015-2	(1,000,000)	0
14	Less Earmarkings of Year End Fund Balance		
15	Savings Reserve	(500,000,000)	0
16	Repairs and Renovations	(155,110,900)	0
17			
18	Beginning Unreserved Fund Balance	0	43,297,632
19			
20	Revenues Based on Existing Tax Structure	20,981,400,000	21,592,400,000
21			
22	Non-tax Revenues		
23	Investment Income	17,100,000	17,400,000
24	Judicial Fees	227,800,000	225,500,000
25	Disproportionate Share	139,000,000	139,000,000
26	Insurance	78,400,000	79,600,000
27	Master Settlement Agreement (MSA)	137,500,000	137,500,000
28	Other Non-Tax Revenues	168,000,000	168,800,000
29	Highway Fund Transfer	215,900,000	215,900,000
30	Subtotal Non-tax Revenues	983,700,000	983,700,000
31			
32	Total General Fund Availability	21,965,100,000	22,619,397,632
33			
34	Adjustments to Availability: 2015 Session		
35	Tax Reductions	(72,700,000)	(421,100,000)
36	Renewable Energy Safe Harbor (S.L. 2015-11)	0	(36,700,000)
37	Realign Judicial Fees	25,000,000	25,000,000
38	MSA Funds to Golden L.E.A.F.	(20,075,000)	(20,075,000)
39	End Highway Fund Transfer to General Fund	(215,900,000)	(215,900,000)
40	Department of Justice Tobacco Settlement	2,194,000	0
41	Transfer to Medicaid Transformation Reserve	(185,604,653)	(185,604,653)
42	Transfer from DPS Enterprise Resource Planning		
43	System IT Fund	9,000,000	0
44	Transfer from Federal Insurance Contributions Act		
45	(FICA) Fund	4,296,802	641,628
46	Transfer from Statewide Automated Fingerprint		
47	Identification System Fund	333,557	0
48	Transfer from E-Commerce Fund	1,257,140	0
49	Adjustment of Transfer from Department of State		
50	Treasurer	375,262	369,262
51	Adjustment of Transfer from Insurance Regulatory		

1	Fund	85,217	85,217
2	Subtotal Adjustments to Availability: 2015 Session	(451,737,675)	(853,283,546)
3			
4	Revised General Fund Availability	21,513,362,325	21,766,114,086
5			
6	Less General Fund Appropriations	(21,470,064,693)	(21,520,170,080)
7			
8	Unappropriated Balance Remaining	43,297,632	245,944,006
9			

10 **SECTION 2.2.(b)** G.S. 105-164.44D is repealed.

11 **SECTION 2.2.(c)** Notwithstanding the provisions of G.S. 143C-4-3(a), the State
 12 Controller shall transfer a total of one hundred fifty-five million one hundred ten thousand nine
 13 hundred dollars (\$155,110,900) from the unreserved fund balance to the Repairs and
 14 Renovations Reserve on June 30, 2015. Funds transferred under this section to the Repairs and
 15 Renovations Reserve are appropriated for the 2015-2016 fiscal year and shall be used in
 16 accordance with G.S. 143C-4-3. This subsection becomes effective June 30, 2015.

17 **SECTION 2.2.(d)** Notwithstanding G.S. 143C-4-2, the State Controller shall
 18 transfer a total of five hundred million dollars (\$500,000,000) from the unreserved fund
 19 balance to the Savings Reserve Account on June 30, 2015. This transfer is not an
 20 "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North
 21 Carolina Constitution. This subsection becomes effective June 30, 2015.

22 **SECTION 2.2.(e)** Funds reserved in the Medicaid Transformation Reserve
 23 established in Section 12H.24(w) of this act do not constitute an "appropriation made by law,"
 24 as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

25 **SECTION 2.2.(e1)** Funds reserved by section 2.2 of S.L. 2014-100 in the Medicaid
 26 Contingency Reserve established in Section 12H.38 of that act do not constitute an
 27 "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North
 28 Carolina Constitution.

29 **SECTION 2.2.(f)** Notwithstanding any other provision of law to the contrary,
 30 effective June 30, 2015, the following amounts shall be transferred to the State Controller to be
 31 deposited in the appropriate budget code as determined by the State Controller. These funds
 32 shall be used to support the General Fund appropriations as specified in this act for the
 33 2015-2016 fiscal year.

35	Budget	Fund		FY 2015-2016
36	Code	Code	Description	Amount
37	24100	2514	E-Commerce Fund	\$ 1,257,140
38	24160	2000	NC FICA Account	4,296,802
39	23002	2910	Statewide Automated Fingerprint	
40			Identification System Fund	333,557
41	24554	2004	DPS – Enterprise Resource Planning	
42			System IT Fund	9,000,000
43				

44 **SECTION 2.2.(g)** Notwithstanding any other provision of law to the contrary,
 45 effective June 30, 2016, the following amounts shall be transferred to the State Controller to be
 46 deposited in the appropriate budget code as determined by the State Controller. These Funds
 47 shall be used to support the General Fund appropriations as specified in this act for the
 48 2016-2017 fiscal year.

50	Budget	Fund		FY 2016-2017
51	Code	Code	Description	Amount

1	Total Highway Fund Appropriations	\$ 1,907,397,744	\$ 1,924,759,406
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2
3 **HIGHWAY FUND/AVAILABILITY STATEMENT**

4 **SECTION 3.2.** The Highway Fund availability used in developing the 2015-2017
5 fiscal biennial budget is shown below:

6			
7	Highway Fund Availability Statement	FY 2015-2016	FY 2016-2017
8	Unreserved Fund Balance	\$ 0	\$ 0
9	Estimated Revenue	1,969,300,000	1,934,200,000
10	Adjustment to Revenue Availability:		
11	Motor Fuel Tax (Shallow Draft Navigation		
12	Channel Dredging and Lake Maintenance Fund)	157,517	152,333
13	Motor Fuel Tax (Wildlife Resources Fund)	157,517	152,333
14	Motor Fuel Tax (Noncommercial Leaking		
15	Petroleum Underground Storage Tank		
16	Cleanup Fund)	0	1,540,000
17	Motor Fuel Tax Distribution	(94,510,000)	(91,400,000)
18	Division of Motor Vehicles Fee Adjustments	30,822,710	78,644,740
19	Special Registration Plate Account	1,470,000	1,470,000
20			
21	Revised Total Highway Fund Availability	\$ 1,907,397,744	\$ 1,924,759,406

22			
23	Unappropriated Balance	\$ 0	\$ 0

24
25 **PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

26
27 **HIGHWAY TRUST FUND APPROPRIATIONS**

28 **SECTION 4.1.** Appropriations from the State Highway Trust Fund for the
29 maintenance and operation of the Department of Transportation and for other purposes as
30 enumerated are made for the fiscal biennium ending June 30, 2017, according to the following
31 schedule:

32			
33	Current Operations – Highway Trust Fund	FY 2015-2016	FY 2016-2017
34			
35	Program Administration	\$ 35,064,813	\$ 35,064,813
36	Turnpike Authority	49,000,000	49,000,000
37	Transfer to Highway Fund	400,000	400,000
38	Debt Service	48,619,701	61,012,229
39	Strategic Prioritization Funding Plan for		
40	Transportation Investments	1,185,145,486	1,189,802,958
41			
42	Total Highway Trust Fund Appropriations	\$ 1,318,230,000	\$ 1,335,280,000

43
44 **HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

45 **SECTION 4.2.** The Highway Trust Fund availability used in developing the
46 2015-2017 fiscal biennial budget is shown below:

47			
48	Highway Trust Fund Availability	FY 2015-2016	FY 2016-2017
49	Unreserved Fund Balance	\$ 0	\$ 0
50	Estimated Revenue	1,215,900,000	1,221,200,000
51	Adjustment to Revenue Availability:		

1	Motor Fuel Tax Distribution	94,510,000	91,400,000
2	Motor Fuel Tax (Noncommercial Leaking Petroleum		
3	Underground Storage Tank Cleanup Fund)	0	660,000
4	Division of Motor Vehicles Fee Adjustments	3,650,000	12,020,000
5	Highway Use Tax Adjustments	4,170,000	10,000,000
6			
7	Total Highway Trust Fund Availability	\$ 1,318,230,000	\$ 1,335,280,000
8			
9	Unappropriated Balance	\$ 0	\$ 0

PART V. OTHER APPROPRIATIONS

CASH BALANCES AND OTHER APPROPRIATIONS

SECTION 5.1.(a) Cash balances, federal funds, departmental receipts, grants, and gifts from the General Fund, revenue funds, enterprise funds, and internal service funds are appropriated for the 2015-2017 fiscal biennium as follows:

- (1) For all budget codes listed in "The Governor's Recommended Budget, the State of North Carolina 2015-2017" and in the Budget Support Document, fund balances and receipts are appropriated up to the amounts specified, as adjusted by the General Assembly, for the 2015-2016 fiscal year and the 2016-2017 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 2015-2016 fiscal year and the 2016-2017 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 2015-2016 fiscal year and the 2016-2017 fiscal year.

SECTION 5.1.(b) Receipts collected in a fiscal year in excess of the amounts appropriated by this section shall remain unexpended and unencumbered until appropriated by the General Assembly, 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 in 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.

OTHER RECEIPTS FROM PENDING GRANT AWARDS

SECTION 5.1A.(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 5.1A.(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.

EDUCATION LOTTERY FUNDS/EXPENSES OF THE LOTTERY/LIMIT ON REGIONAL OFFICES

SECTION 5.2.(a) The appropriations made from the Education Lottery Fund for the 2015-2017 fiscal biennium are as follows:

	FY 2015-2016	FY 2016-2017
Noninstructional Support Personnel	\$ 345,571,558	\$ 361,666,883
Prekindergarten Program	75,535,709	75,535,709
Public School Building Capital Fund	100,100,000	100,000,000
Scholarships for Needy Students	30,450,000	30,450,000
UNC Need-Based Financial Aid	10,744,733	10,744,733
TOTAL	\$ 562,402,000	\$ 578,397,325

SECTION 5.2.(b) The Education Lottery Fund availability used in developing the 2015-2017 biennial budget is shown below:

AVAILABILITY	FY 2015-2016	FY 2016-2017
Revenue Based on Existing Policies	\$ 528,902,000	\$ 533,397,325
Revenue from E-Instant Games	2,000,000	13,500,000
Revenue from Additional Advertising	31,500,000	31,500,000
TOTAL	\$ 562,402,000	\$ 578,397,325

SECTION 5.2.(c) Notwithstanding G.S. 18C-164, the Office of State Budget and Management shall not transfer funds to the Education Lottery Reserve Fund for either year of the 2015-2017 fiscal biennium.

SECTION 5.2.(d) G.S. 18C-162(a) reads as rewritten:

"§ 18C-162. Allocation of revenues.

(a) The Commission shall allocate revenues to the North Carolina State Lottery Fund in order to increase and maximize the available revenues for education purposes, and to the extent practicable, shall adhere to the following guidelines:

- (1) At least fifty percent (50%) of the total annual revenues, as described in this Chapter, shall be returned to the public in the form of prizes.
- (2) At least thirty-five percent (35%) of the total annual revenues, as described in this Chapter, shall be transferred as provided in G.S. 18C-164.
- (3) No more than eight percent (8%) of the total annual revenues, as described in this Chapter, shall be allocated for payment of expenses of the Lottery. Advertising expenses shall not exceed ~~one percent (1%)~~ one and one-half percent (1.5%) of the total annual revenues.

(4) No more than seven percent (7%) of the face value of tickets or shares, as described in this Chapter, shall be allocated for compensation paid to lottery game retailers."

SECTION 5.2.(e) Of the funds appropriated in this section to the Public School Building Capital Fund for the 2015-2016 fiscal year, the Office of State Budget and Management shall use up to one hundred thousand dollars (\$100,000) to contract with an outside entity (i) to perform an independent assessment of school construction needs in local school administrative units in the 50 counties determined under the low-wealth school funding formula to have the lowest ability to pay for school facilities and (ii) to determine which of those units have the highest facility needs in relation to their capacity to raise revenue to meet those needs.

The Office of State Budget and Management shall report the results of this study to the Joint Legislative Commission on Governmental Operations prior to January 1, 2016.

SECTION 5.2.(f) The Lottery Commission shall maintain eight regional offices or claims centers, one of which shall be located in each of the regional Prosperity Zones established in G.S. 143B-28.1. As soon as it is practicable to do so, the Lottery Commission shall co-locate its regional offices or claims centers with the regional offices of the Prosperity Zones.

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, 2017, as follows:

	FY 2015-2016	FY 2016-2017
School Technology Fund	\$18,000,000	\$18,000,000
State Public School Fund	124,362,790	124,362,790
Total Appropriation	\$142,362,790	\$142,362,790

SECTION 5.3.(b) Excess receipts realized in the Civil Penalty and Forfeiture Fund in each year of the 2015-2017 fiscal biennium are appropriated to the School Technology Fund.

INDIAN GAMING EDUCATION REVENUE FUND

SECTION 5.4. Notwithstanding G.S. 143C-9-7, there is appropriated from the Indian Gaming Education Revenue Fund to the Department of Public Instruction, Textbooks and Digital Resources Allotment, the sum of six million dollars (\$6,000,000) for the 2015-2016 fiscal year and the sum of six million dollars (\$6,000,000) for the 2016-2017 fiscal year.

MODIFY ELEMENTS OF CASH MANAGEMENT PLAN

SECTION 5.5. G.S. 147-86.11(e) reads as rewritten:

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

- ...
- (4) Unpaid billings due to a State agency other than amounts owed by patients to the University of North Carolina Health Care System, East Carolina University's Division of Health Sciences, ~~or by~~ customers of the North Carolina Turnpike Authority, ~~or the North Carolina Department of Transportation~~ shall be turned over to the Attorney General for collection no more than 90 days after the due date of the billing, except that a State agency need not turn over to the Attorney General unpaid billings of less than five hundred dollars (\$500.00), or (for institutions where applicable) amounts

1 owed by all patients which are less than the federally established deductible
2 applicable to Part A of the Medicare program, and instead may handle these
3 unpaid bills pursuant to agency debt collection procedures.

4 ...

5 (4b) The North Carolina Turnpike Authority and the North Carolina Department
6 of Transportation may turn over to the Attorney General for collection
7 amounts owed to the North Carolina Turnpike ~~Authority~~ Authority or the
8 North Carolina Department of Transportation.

9"

10 11 **PART VI. GENERAL PROVISIONS**

12 13 **CONTINGENCY AND EMERGENCY FUND LIMITATION**

14 **SECTION 6.1.** For the 2015-2017 fiscal biennium and notwithstanding the
15 provisions of G.S. 143C-4-4(b), funds appropriated to the Contingency and Emergency Fund
16 may be used only for expenditures required (i) by a court or Industrial Commission order or (ii)
17 to respond to events as authorized under G.S. 166A-19.40(a) of the North Carolina Emergency
18 Management Act. These funds shall not be used for other statutorily authorized purposes or for
19 any other contingencies and emergencies.

20 21 **ESTABLISHING OR INCREASING FEES**

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

25 **SECTION 6.2.(b)** Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an
26 emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized
27 by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter
28 150B of the General Statutes.

29 30 **STATE AGENCIES/REPORTS ON LEGISLATIVE LIAISONS AND SALARY** 31 **INFORMATION**

32 **SECTION 6.4.** By September 1, 2015, the Office of State Budget and Management
33 shall report the following information to the chairs of the House of Representatives
34 Appropriations Committee, the chairs of the Senate Appropriations/Base Budget Committee,
35 and to the Fiscal Research Division:

- 36 (1) Legislative liaisons. -
37 a. The number of legislative liaisons designated by each Department or
38 Commission.
39 b. For each individual, the position name, position number, salary, the
40 amount of time spent lobbying legislators or legislative employees
41 for legislative action, and whether lobbying is the individual's
42 principal duty such that the individual is required to file a registration
43 statement with the Secretary of State.
44 c. An explanation of why each legislative liaison is needed.
45 d. A description of any other responsibilities or duties performed by
46 each legislative liaison.
- 47 (2) Public Information Officer (PIO) and staff reporting to PIO. -
48 a. The number of individuals designated by the Department or
49 Commission to serve as a Public Information Officer, and the
50 number of staff reporting to each PIO.
51 b. For each individual, the position name, position number, and salary.

- 1 c. The duties and responsibilities of each individual in his or her role as
2 a Public Information Officer or staff to a PIO.
3 d. An explanation of why each Public Information Officer and staff to
4 each PIO is needed.
5 (3) Salary reserve and lapsed salaries. -
6 a. The amount of salary reserve, by source, remaining in each fund
7 code on June 30 of fiscal year 2013-2014 and fiscal year 2014-2015.
8 b. The amount of lapsed salaries generated in fiscal year 2013-2014 and
9 fiscal year 2014-2015.
10 c. The Department's or Commission's policy on the use of salary
11 reserve and lapsed salaries.
12

13 **COMPENSATION FOR RESEARCH AND DEVELOPMENT**

14 **SECTION 6.11.(a)** Any contract entered into by a State agency for the
15 development, design, creation, or testing of a new curriculum, technology system or platform,
16 or other product shall contain a provision specifying how the State of North Carolina will be
17 appropriately compensated from the proceeds of the contractor's future revenue, use, and sales
18 related to the curriculum, information technology system or platform, or other product in
19 recognition of the State's investment of time, resources, expertise, knowledge, and data.

20 **SECTION 6.11.(b)** The Office of the Attorney General shall develop the necessary
21 contract language to effectuate the requirement in subsection (a) of this section and shall ensure
22 that the language is incorporated into the State's template for contracts, as appropriate.
23

24 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

25 **SECTION 6.17.** All funds appropriated by this act into reserves may be expended
26 only for the purposes for which the reserves were established.
27

28 **CLARIFY THE CONSULTATION REQUIREMENT BEFORE THE JOINT** 29 **LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS WHEN A** 30 **STATE AGENCY ESTABLISHES OR INCREASES A FEE OR CHARGE**

31 **SECTION 6.18.** G.S. 12-3.1(a) reads as rewritten:

32 "(a) Authority. – Only the General Assembly has the power to authorize an agency to
33 establish or increase a fee or charge for the rendering of any service or fulfilling of any duty to
34 the public. In the construction of a statute, unless that construction would be inconsistent with
35 the manifest intent of the General Assembly or repugnant to the context of the statute, the
36 legislative grant of authority to an agency to adopt rules shall not be construed as a grant of
37 authority to the agency to establish by rule a fee or a charge for the rendering of any service or
38 fulfilling of any duty to the public, unless the statute expressly provides for the grant of
39 authority to establish a fee or charge for that specific service. Notwithstanding any other law, a
40 rule adopted by an agency to establish or increase a fee or charge shall not go into effect until
41 the agency has consulted with the Joint Legislative Commission on Governmental Operations
42 on the amount and purpose of the fee or charge to be established or increased. Where a rule
43 provides for a periodic automatic adjustment to a fee, the agency that adopts the rule is not
44 required to consult with the Commission every time the fee automatically adjusts. The agency
45 shall submit a request for consultation to all members of the Commission, the Commission
46 Assistant, and the Fiscal Research Division of the General Assembly on the same date the
47 notice of text of the rule is published. The request for consultation shall consist of a written
48 report stating (i) the amount of the current fee or charge, if applicable, (ii) the amount of the
49 proposed new or increased fee or charge, (iii) the statutory authority for the fee or charge, and
50 (iv) a detailed explanation of the need for the establishment or increase of the fee or charge."
51

EMERGENCY AND DISASTER RESPONSE FUNDING CHANGES

SECTION 6.19.(a) G.S. 166A-19.40 reads as rewritten:

"§ 166A-19.40. Use of contingency and emergency funds.

(a) ~~Use of Funds for Relief and Assistance.~~ Contingency and Emergency Funds. – The Governor may use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of an emergency and may reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of the emergency so requires and the contingency and emergency funds are insufficient or inappropriate funds:

(1) As necessary and appropriate to provide relief and assistance from the effects of an emergency.

(2) As necessary and appropriate for National Guard training in preparation for emergencies, with the concurrence of the Council of State.

~~(b) Use of Funds for National Guard Training.~~ In preparation for a state of emergency, with the concurrence of the Council of State, the Governor may use contingency and emergency funds as necessary and appropriate for National Guard training in preparation for emergencies.

(c) Use of Other Funds. – The Governor may reallocate such other funds as may reasonably be available within the appropriations of the various departments when all of the following conditions are satisfied:

(1) The severity and magnitude of the emergency so requires.

(2) Contingency and emergency funds are insufficient or inappropriate.

(3) A state of emergency has been declared pursuant to G.S. 166A-19.20(a).

(4) Funds in the State Emergency Response and Disaster Relief Account are insufficient."

SECTION 6.19.(b) G.S. 166A-19.42 reads as rewritten:

"§ 166A-19.42. State Emergency Response and Disaster Relief Account.

(a) Account Established. – There is established a State Emergency Response and Disaster Relief Account as a reserve in the General Fund. Any funds appropriated to the Account shall remain available for expenditure as provided by this section, unless directed otherwise by the General Assembly.

(b) Use of Funds. – The Governor may spend funds from the Account for the following purposes:

(1) To cover the start-up costs of State Emergency Response Team operations for an emergency that poses an imminent threat of a Type I, Type II, or Type III disaster.

(2) To cover the cost of first responders to a Type I, Type II, or Type III disaster and any related supplies and equipment needed by first responders that are not provided for under subdivision (1) of this subsection.

(3) To provide relief and assistance in accordance with G.S. 166A-19.41 from the effects of an emergency.

~~All other types of emergency assistance authorized by this Part shall continue to be financed by the funds made available under G.S. 166A-19.41.~~

...."

SECTION 6.19.(c) G.S. 166A-19.3 reads as rewritten:

"§ 166A-19.3. Definitions.

The following definitions apply in this Article:

(1) Account. – The State Emergency Response and Disaster Relief Account established in G.S. 166A-19.42.

...."

CONTINUATION REVIEW OF CERTAIN FUNDS/PROGRAMS/DIVISIONS

SECTION 6.20.(a) It is the intent of the General Assembly to review the funds, agencies, divisions, and programs financed by transfers from the Highway Fund. This process is known as the Continuation Review Program. The Continuation Review Program is intended to assist the General Assembly in determining whether to continue, reduce, or eliminate transfers from the Highway Fund for the funds, agencies, divisions, and programs subject to continuation review.

SECTION 6.20.(b) The Appropriations/Base Budget Committee of the Senate and the Appropriations Committee of the House of Representatives may review the transfers from the Highway Fund for the funds, programs, and divisions listed in this section and shall determine whether to continue, reduce, or eliminate transfers from the Highway Fund for the funds, programs, and divisions, subject to the Continuation Review Program. The Fiscal Research Division may issue instructions to the State departments and agencies subject to continuation review regarding the expected content and format of the reports required by this section. The following funds, agencies, divisions, and programs are subject to continuation review as provided in this section:

- (1) Department of Agriculture and Consumer Services – Gasoline and Oil Inspection.
- (2) Department of Environment and Natural Resources –
 - a. Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.
 - b. Division of Air Quality Inspection and Maintenance Fees.
 - c. Division of Air Quality Water and Air Quality Account.
 - d. Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund.
 - e. Mercury Pollution Prevention Account.
- (3) Department of Health and Human Services – Forensic Test for Alcohol Branch.
- (4) Department of Insurance –
 - a. Rescue Squad Workers' Relief Fund.
 - b. Volunteer Rescue/EMS Grant Program.
 - c. State Fire Protection.
- (5) Department of Public Safety –
 - a. Highway Patrol Motor Carrier Safety Assistance Program.
 - b. Inmate Road Squads and Litter Crews.
- (6) Office of State Controller – Funding transferred for BEACON support.
- (7) Wildlife Resources Commission – Boating Account.

SECTION 6.20.(c) The continuation review reports required in this section shall include the following information:

- (1) A description of the fund, agency, division, or program mission, goals, and objectives, including statutorily required functions and functions performed without specific statutory authority.
- (2) The performance measures for the fund, agency, division, or program and the problem or need addressed.
- (3) The extent to which the fund, agency, division, or program objectives and performance measures have been achieved.
- (4) A detailed accounting of all sources of funds for the fund, agency, division, or program.
- (5) Recommendations for statutory, budgetary, or administrative changes needed to improve efficiency and effectiveness of services delivered to the public, including recommendations regarding whether to transfer the

1 program to the Division of Motor Vehicles or to elsewhere in the
2 Department of Transportation.

- 3 (6) The consequences of discontinuing funding or of continuing funding with a
4 source other than a transfer from the Highway Fund.
5 (7) Recommendations for improving services or reducing costs or duplication.
6 (8) The identification of policy issues that should be brought to the attention of
7 the General Assembly.
8 (9) Other information necessary to fully support the General Assembly's
9 Continuation Review Program along with any information included in
10 instructions from the Fiscal Research Division.

11 **SECTION 6.20.(d)** State departments and agencies identified in subsection (b) of
12 this section shall submit a report of the preliminary findings of the continuation review to the
13 Fiscal Research Division no later than December 1, 2015, and shall submit a final report to the
14 Fiscal Research Division no later than April 1, 2016.

15
16 **LRC STUDY ON METHODS FOR INCREASING TRANSFERS TO THE SAVINGS
17 RESERVE ACCOUNT**

18 **SECTION 6.21.(a)** The Legislative Research Commission (LRC) shall study
19 methods for increasing the amount of funds transferred to the Savings Reserve Account. As
20 part of its study, the LRC shall do all of the following:

- 21 (1) Examine potential costs and benefits of requiring one or more of the
22 following to be transferred periodically to the Savings Reserve Account:
23 a. Growth in General Fund revenue in excess of a benchmark growth
24 rate.
25 b. A particular percentage or dollar amount of General Fund revenue
26 each fiscal year.
27 c. Some portion of growth in the sources of revenue identified pursuant
28 to subdivision (2) of this subsection each fiscal year.
29 d. Interest earned on special funds.
30 (2) Identify specific sources of State revenue that are especially volatile.
31 (3) Consider how the timing of transfers to the Savings Reserve Account affects
32 the amount transferred and the stability of the General Fund.
33 (4) Determine the appropriate target balance of the Savings Reserve Account, if
34 different from the goal set forth in G.S. 143C-4-2.
35 (5) Any other matters the Commission deems relevant to its efforts to increase
36 the amount of funds in the Savings Reserve Account.

37 **SECTION 6.21.(b)** The LRC shall report its findings, together with any proposed
38 legislation, to the 2016 Regular Session of the 2015 General Assembly upon its convening.

39
40 **REQUIRE SETTLEMENT FUNDS IN EXCESS OF TEN MILLION DOLLARS TO BE
41 DEPOSITED IN THE SAVINGS RESERVE ACCOUNT**

42 **SECTION 6.22.(a)** G.S. 114-2.4A reads as rewritten:

43 **"§ 114-2.4A. Disposition of funds received by the State or a State agency from a
44 settlement or other final order or judgment of the court.**

45 ...
46 (c) Exception. – Subsections ~~(b) and (e)~~ (b), (e), and (h) of this section shall not apply
47 to funds received by the Department of Health and Human Services to the extent those funds
48 represent the recovery of previously expended Medicaid funds.

49 ...
50 (h) Recoveries in Excess of Ten Million Dollars. – Whenever the State or a State
51 agency receives funds from a particular settlement or other final order or judgment of the court

1 in excess of ten million dollars (\$10,000,000) in any fiscal year, the State Controller shall
2 transfer the excess to the Savings Reserve Account. For purposes of determining whether funds
3 received from a settlement or other final order or judgment of the court are subject to this
4 section:

- 5 (1) The amount of funds to be considered shall be net of any funds distributed to
6 the parties set forth in sub-subdivisions (b)(1)a. through c. of this section.
- 7 (2) Payments to more than one State agency shall be aggregated for purposes of
8 determining the amount of the funds.

9 (i) Subsection (h) Does Not Apply to Master Settlement Agreement. – Subsection (h)
10 of this section does not apply to funds received from or in connection with the Master
11 Settlement Agreement as described in S.L. 1999-2."

12 **SECTION 6.22.(b)** G.S. 114-2.4A(h), as enacted by subsection (a) of this section,
13 does not apply to funds received from or in connection with the following settlements:

- 14 (1) Settlement funds received by the State pursuant to the Consent Judgment in
15 *U.S. v. Bank of America*, Civil Action No. 12-CV-0361, dated April 4, 2012.
- 16 (2) Settlement funds received by the State pursuant to the settlement agreement
17 in *North Carolina ex rel. Cooper v. The McGraw-Hill Companies, Inc., and*
18 *Standard & Poor's Financial Services LLC*, No. 13CVS 001703.

19
20 **REQUIRE TRANSFER OF SAVINGS FROM THE REFINANCING OF CERTAIN**
21 **STATE DEBT TO BE TRANSFERRED TO THE SAVINGS RESERVE**

22 **SECTION 6.23.(a)** Article 1 of Chapter 142 of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 142-15.4. Savings from refinancing of general obligation bonds to be placed in the**
25 **Savings Reserve Account.**

26 Whenever general obligation bonds issued or incurred by the State are refinanced:

- 27 (1) The General Assembly shall not reduce the funds appropriated for servicing
28 the refinanced debt during the fiscal biennium in which the refinancing
29 occurs.
- 30 (2) The State Controller shall, in conjunction with the State Treasurer,
31 periodically transfer the savings resulting from the refinancing of the debt to
32 the Savings Reserve Account established pursuant to G.S. 143C-4-2 during
33 the fiscal biennium in which the refinancing occurs.
- 34 (3) The Director of the Budget shall, in the fiscal biennium immediately
35 following the refinancing, adjust the amount of debt service funded in the
36 base budget so that it aligns with actual debt service needs."

37 **SECTION 6.23.(b)** Article 9 of Chapter 142 of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 142-96. Savings from refinancing of special indebtedness to be placed in the Savings**
40 **Reserve Account.**

41 Whenever special indebtedness issued or incurred pursuant to this Article is refinanced:

- 42 (1) The General Assembly shall not reduce the funds appropriated for servicing
43 the refinanced debt during the fiscal biennium in which the refinancing
44 occurs.
- 45 (2) The State Controller shall, in conjunction with the State Treasurer,
46 periodically transfer the savings resulting from the refinancing of the debt to
47 the Savings Reserve Account established pursuant to G.S. 143C-4-2 during
48 the fiscal biennium in which the refinancing occurs.
- 49 (3) The Director of the Budget shall, in the fiscal biennium immediately
50 following the refinancing, adjust the amount of debt service funded in the
51 base budget so that it aligns with actual debt service needs."

1 **SECTION 6.23.(c)** This section becomes effective July 1, 2015, and applies to
2 indebtedness issued, incurred, or refinanced on or after that date.

3
4 **MSA CHANGES**

5 **SECTION 6.24.(a)** Section 6 of S.L. 1999-2, as amended by Section 6.11(d) of
6 Session Law 2011-145, Section 7(b) of Session Law 2011-391, and Section 6.4(b) of S.L.
7 2013-360, reads as rewritten:

8 "**SECTION 6.(a)** ~~The~~ It is the intent of the General Assembly that the funds under the
9 Master Settlement Agreement, which is incorporated into the Consent Decree, shall be credited
10 to the Settlement Reserve Fund. ~~be allocated as follows:~~

11 (1a) Fourteen and six-tenths percent (14.6%) to The Golden L.E.A.F.
12 (Long-Term Economic Advancement Foundation), Inc., a nonprofit
13 corporation.

14 (1b) Eighty-five and four-tenths percent (85.4%) shall be credited to the
15 Settlement Reserve Fund.

16 (b) Any monies paid into the North Carolina State Specific Account from the Disputed
17 Payments Account on account of the Non-Participating Manufacturers that would have been
18 transferred to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc.,
19 shall be deposited in the Settlement Reserve Fund."

20 **SECTION 6.24.(b)** The Attorney General shall take all necessary actions to notify
21 the court in the action entitled *State of North Carolina v. Philip Morris Incorporated*, et al., 98
22 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North
23 Carolina, and the administrators of the State Specific Account established under the Master
24 Settlement Agreement of this action by the General Assembly regarding redirection of
25 payments set forth in subsection (a) of this section.

26 **SECTION 6.24.(c)** G.S. 66-290 reads as rewritten:

27 **"§ 66-290. Definitions.**

28 As used in this Article:

29 ...

30 (10) "Units sold" means the number of individual cigarettes sold in the State by
31 the applicable tobacco product manufacturer (whether directly or through a
32 distributor, retailer, or similar intermediary or intermediaries) during the
33 year in question, ~~as measured by excise taxes collected by the State on packs~~
34 ~~(or "roll-your-own" tobacco containers).~~ on which the State has authority
35 under federal law to impose excise or similar taxes or to collect escrow. The
36 term does not include cigarettes sold (i) on a federal installation in a
37 transaction that is exempt from state taxation under federal law or (ii) on a
38 Native American tribe's reservation to a consumer who is an adult enrolled
39 member of that tribe in a transaction that is exempt from state taxation under
40 federal law. The Secretary of Revenue shall promulgate such rules as are
41 necessary to ascertain the amount of State excise tax paid on the cigarettes of
42 such tobacco product manufacturer for each year. In lieu of adopting rules,
43 the Secretary of Revenue may issue bulletins or directives requiring
44 taxpayers to submit to the Department of Revenue the information necessary
45 to make the required determination under this subdivision."

46 **SECTION 6.24.(d)** G.S. 66-291 reads as rewritten:

47 **"§ 66-291. Requirements.**

48 ...

49 (c) Each tobacco product manufacturer that elects to place funds into escrow pursuant
50 to this section shall annually certify to the Attorney General that it is in compliance with this
51 section. The Attorney General may bring a civil action on behalf of the State against any

1 tobacco product manufacturer or joint and severally liable importer that fails to place into
2 escrow the funds required under this section. Any tobacco product manufacturer that fails in
3 any year to place into escrow the funds required under this section shall:

4"

5 **SECTION 6.24.(e)** G.S. 66-293 reads as rewritten:

6 **"§ 66-293. Sale of certain cigarettes prohibited.**

7 (a) Civil Penalty. – It is unlawful for a person required to pay taxes pursuant to Part 2 or
8 3 of Article 2A of Chapter 105 of the General Statutes to sell or deliver cigarettes belonging to
9 a brand family of a nonparticipating manufacturer if the sale of the cigarettes is subject to such
10 taxes unless the cigarettes are included on the compliant nonparticipating manufacturer's list
11 prepared and made public by the Office of the Attorney General under G.S. 66-294.1 as of the
12 date the person sells or delivers the cigarettes. It is not a violation of this subsection if the brand
13 family was on the compliant nonparticipating manufacturer's list when the person purchased the
14 cigarettes and the person sold or delivered the cigarettes within ~~60~~30 days of the purchase. The
15 Attorney General may impose a civil penalty on a person that it finds violates this subsection.
16 The amount of the penalty may not exceed the greater of five hundred percent (500%) of the
17 retail value of the cigarettes sold or five thousand dollars (\$5,000).

18 (b) Contraband. – Cigarettes described in subsection (a) of this section are contraband
19 and may be seized by a law enforcement officer. The procedure for seizure and disposition of
20 this contraband is the same as the procedure under G.S. 105-113.31 and G.S. 105-113.32 for
21 non-tax-paid cigarettes."

22 **SECTION 6.24.(f)** G.S. 66-294(b) is amended by adding a new subdivision to
23 read:

24 **"§ 66-294. Duties of manufacturers.**

25 ...

26 (b) Nonparticipating Manufacturers. – A nonparticipating manufacturer must:

27 ...

28 (7) Notwithstanding any other provision of law, if a newly qualified
29 nonparticipating manufacturer is to be listed in the North Carolina Tobacco
30 Directory (the Directory), or if the Attorney General reasonably determines
31 that any nonparticipating manufacturer who has filed a certification pursuant
32 to G.S. 66-291, et seq., poses an elevated risk for noncompliance with this
33 Article, neither such nonparticipating manufacturer nor any of its brand
34 families shall be included in the Directory unless and until such
35 nonparticipating manufacturer, or its United States importer that undertakes
36 joint and several liability for the manufacturer's performance in accordance
37 with G.S. 66-291, et seq., has posted a bond in accordance with this section.

38 The bond shall be posted by a corporate surety located within the United
39 States in a form and manner acceptable to the Attorney General, or a cash
40 equivalent posted by the nonparticipating manufacturer, in an amount equal
41 to the greater of fifty thousand dollars (\$50,000) or the greatest amount of
42 escrow the manufacturer in either its current or predecessor form was
43 required to deposit as a result of its highest calendar year's sales in North
44 Carolina or greatest quarterly escrow deposit depending on the
45 manufacturer's required escrow deposit frequency. The bond or its cash
46 equivalent shall be posted at least 10 days in advance of each calendar year
47 or quarter depending on the manufacturer's required escrow deposit
48 frequency. The bond shall be written in favor of North Carolina and such
49 bond or cash equivalent shall be conditioned on the performance by the
50 nonparticipating manufacturer or its United States importer that undertakes
51 joint and several liability for the manufacturer's performance in accordance

1 with G.S. 66-294.2, of all of its duties and obligations under this Article
 2 during the year in which the certification is filed and the next succeeding
 3 calendar year. The bond may be drawn upon by the Attorney General to
 4 cover unsatisfied escrow obligations, penalties, and any other liability under
 5 the tobacco laws of the State.

6 Some factors, though not exclusive, which the Attorney General may
 7 consider in determining whether any nonparticipating manufacturer or
 8 importer poses an elevated risk of noncompliance are (i) the nonparticipating
 9 manufacturer or any affiliate thereof or importer has illegally failed to satisfy
 10 an escrow obligation with respect to any state in the past; (ii) any state has
 11 removed the nonparticipating manufacturer or its brand families or an
 12 affiliate or any of the affiliate's brand families from the state's tobacco
 13 directory for noncompliance with the state's laws; (iii) any state has pending
 14 litigation against, or an unsatisfied judgment against the nonparticipating
 15 manufacturer or any affiliate thereof or importer for escrow or penalties
 16 related to noncompliance with state escrow laws; (iv) the nonparticipating
 17 manufacturer sells its cigarettes or tobacco products directly to consumers
 18 via remote or other non-face-to-face means; (v) a state or federal court has
 19 determined that the nonparticipating manufacturer or importer has violated
 20 any tobacco tax or tobacco control law or engaged in unfair business practice
 21 or unfair competition; or (vi) the nonparticipating manufacturer or importer
 22 fails to submit or complete any required forms, documents, certifications or
 23 notices, in a timely manner or, to the satisfaction of the Attorney General."

24 **SECTION 6.24.(g)** G.S. 66-294.1 reads as rewritten:

25 **"§ 66-294.1. Duties of Attorney General.**

26 ...
 27 (b) Supplemental Lists. – The Office of the Attorney General must supplement the
 28 annual lists as necessary to reflect additions to or deletions of manufacturers and brand
 29 families. The Attorney General shall delete a nonparticipating manufacturer and its brand
 30 families from the list if it determines that the manufacturer fails to comply with the duties listed
 31 in G.S. 66-294. The Attorney General must add a nonparticipating manufacturer and its brand
 32 families to the list if it determines all of the following:

- 33 (1) The nonparticipating ~~manufacturer~~ manufacturer, as well as any joint and
 34 severally liable importer, has submitted an application under G.S. 66-294,
 35 and it is found to be complete and accurate.
 36 (2) The Office of the Attorney General has approved the manufacturer's escrow
 37 agreement.
 38 (3) The manufacturer has made any past due payments owed to its escrow
 39 account for any of its listed brand families.
 40 (4) The manufacturer has resolved any outstanding penalty demands or
 41 adjudicated penalties for its listed brand families.

42"
 43 **SECTION 6.24.(h)** Part 2 of Article 37 of Chapter 66 of the General Statutes is
 44 amended by adding a new section to read:

45 **"§ 66-294.2 Joint and several liability of importers of cigarettes manufactured by**
 46 **nonparticipating manufacturers located outside the United States.**

47 For each nonparticipating manufacturer located outside the United States, each importer
 48 into the United States of any such nonparticipating manufacturer's brand families that are or are
 49 intended to be sold in North Carolina shall bear joint and several liability with such
 50 nonparticipating manufacturer for deposit of all escrow due under this Article and payment of
 51 all penalties imposed and shall so designate in a form prepared and provided by the Attorney

1 General and shall appoint and continually maintain a process service agent with the Secretary
2 of State and the Office of the Attorney General."

3 **SECTION 6.24.(i)** G.S. 105-259(b) reads as rewritten:

4 **"§ 105-259. Secrecy required of officials; penalty for violation.**

5 ...

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

12 ...

13 (40a) To furnish a data clearinghouse the information required to be released in
14 accordance with the State's agreement under the December 2012 Term Sheet
15 Settlement, as finalized by the State in the NPM Adjustment Settlement
16 Agreement, concerning annual tobacco product sales by a nonparticipating
17 manufacturer. Such information released to a data clearinghouse may be
18 released to parties to the NPM Adjustment Settlement Agreement provided
19 confidentiality protections are agreed to by the parties and overseen and
20 enforced by this State's applicable court for enforcement of the Master
21 Settlement Agreement for (i) any state information constituting confidential
22 tax information or otherwise confidential under state law and (ii)
23 manufacturer information designated confidential. The following definitions
24 apply in this subdivision:

- 25 a. Data clearinghouse. – Defined in the Term Sheet Settlement and in
26 the NPM Adjustment Settlement Agreement.
- 27 b. Master Settlement Agreement. – Defined in G.S. 66-290.
- 28 c. Nonparticipating manufacturer. – Defined in G.S. 66-292.
- 29 d. NPM Adjustment Settlement Agreement. – The final executed
30 settlement document resulting from the 2012 Term Sheet Settlement.
- 31 e. Participating manufacturer. – Defined in G.S. 66-292.
- 32 f. Term Sheet Settlement. – The settlement agreement entered into in
33 December 2012 by the State and certain participating manufacturers
34 under the Master Settlement Agreement.

35"

37 **ALIGN AGENCY BUDGETS TO ACTUAL EXPENDITURES**

38 **SECTION 6.25.(a)** Elimination of Certain Vacant Positions. – Notwithstanding
39 G.S. 143C-6-4, and except as otherwise provided in subsection (d) of this section, each State
40 agency, in conjunction with the Office of State Budget and Management, shall do all of the
41 following:

- 42 (1) Abolish all positions that have been vacant for more than 12 months as of
43 April 17, 2015, other than those positions required to exist as part of the
44 State's maintenance of effort requirements related to a federal grant that
45 cannot be addressed with other State funds, or for which the Director of the
46 Budget provides an exception, in the Director's sole discretion. This
47 requirement shall apply regardless of the source of funding for affected
48 positions.
- 49 (2) Fund objects or line items in the certified budget for recurring obligations
50 that have been funded from nonrecurring sources in two or more of the
51 previous three fiscal years. The amount funded shall not exceed the average

1 amount expended for each object or line item during the previous three fiscal
2 years.

3 (3) Fund objects or line items in the following priority order if funds generated
4 pursuant to subdivision (1) of this subsection are insufficient to adequately
5 fund all of the objects and line items described in subdivision (2) of this
6 subsection:

7 a. Fund legal obligations of the agency that have been funded with
8 lapsed salaries in prior years.

9 b. Fund operational requirements directly related to the health, safety,
10 or well-being of individuals in the care or custody of the State that
11 have been funded with lapsed salaries in prior years.

12 c. Fund legal obligations of the agency or operational requirements
13 directly related to the health, safety, or well-being of individuals in
14 the care or custody of the State that have been funded with other
15 nonrecurring sources in prior years.

16 d. Fund operational deficiencies where the obligation cannot be reduced
17 and where no other source of funding exists and failure to fund will
18 result in operational disruptions or unfunded liabilities at fiscal
19 year-end.

20 (4) Adjust the appropriate objects or line items in the next recommended base
21 budget submitted pursuant to G.S. 143C-3-5 to reflect the actions taken
22 pursuant to this subsection.

23 **SECTION 6.25.(b)** Use of Savings. – Any General Fund savings generated
24 pursuant to subdivision (1) of subsection (a) of this section that are not used to fund objects or
25 line items pursuant to subdivision (2) of subsection (a) of this section shall be transferred on a
26 nonrecurring basis by June 30, 2016, to the Savings Reserve Account established in
27 G.S. 143C-4-2. Savings generated by eliminating positions funded in whole or in part from
28 federal funds or other dedicated receipts that are not used to fund objects or line items pursuant
29 to subdivision (2) of subsection (a) of this section shall be reflected as savings to the respective
30 funding source.

31 **SECTION 6.25.(c)** Reporting. – No later than December 1, 2015, the Office of
32 State Budget and Management shall report to the Fiscal Research Division on the
33 implementation of this section. The report shall include all of the following, by budget code
34 and fund code:

35 (1) A list of positions abolished pursuant to subdivision (1) of subsection (a) of
36 this section.

37 (2) A list of positions that were exempted from being abolished pursuant to
38 subdivision (1) of subsection (a) of this section.

39 (3) A list of objects or line items funded pursuant to subdivision (2) of
40 subsection (a) of this section and the associated amount for each object or
41 line item.

42 (4) The amount of lapsed salaries transferred to the Savings Reserve Account
43 and used for other purposes pursuant to subsection (b) of this section.

44 (5) The amount and disposition of savings from the Highway Fund, federal
45 funds, and other non-State agency dedicated receipt sources.

46 (6) A list of objects or line items that were not funded because the funds
47 generated pursuant to subdivision (1) of this subsection were insufficient.

48 **SECTION 6.25.(d)** Section Inapplicable to Certain Vacant Positions. – This
49 section shall not apply to vacant positions (i) within the Department of Transportation or (ii)
50 reclassified pursuant to Section 30.18(e) of this act.
51

CAP STATE FUNDED PORTION OF NONPROFIT SALARIES

SECTION 6.26. No more than one hundred twenty thousand dollars (\$120,000) in State funds may be used for the annual salary of any individual employee of a nonprofit organization receiving State funds. For the purposes of this section, the term "State funds" means funds as defined in G.S. 143C-1-1(d)(25) and any interest earnings that accrue from those funds.

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 2015-2016	FY 2016-2017
General Fund Appropriation for IT Fund	\$22,381,854	\$22,381,854

Appropriations are made from the Information Technology Fund for the 2015-2017 fiscal biennium as follows:

Criminal Justice Information Network	\$193,085	\$193,085
Center for Geographic Information and Analysis	\$503,810	\$503,810
Enterprise Security Risk Management	\$871,497	\$871,497
Staffing and Strategic Projects	\$7,573,903	\$7,573,903
First Net (State Match)	\$140,000	\$140,000
Enterprise Project Management Office	\$1,501,234	\$1,501,234
IT Strategy and Standards	\$865,326	\$865,326
State Portal	\$233,510	\$233,510
Process Management	\$398,234	\$398,234
IT Consolidation	\$1,000,000	\$1,000,000
Government Data Analytics Center	\$9,101,255	\$9,101,255

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 Committee on Information Technology, and the Fiscal Research Division.

INFORMATION TECHNOLOGY INTERNAL SERVICE FUND

SECTION 7.2.(a) IT Internal Service Fund. – For the 2015-2016 fiscal year, receipts for the IT Internal Service Fund shall not exceed one hundred eighty-one million eight hundred thirty-five thousand nine hundred thirteen dollars (\$181,835,913). For fiscal year 2016-2017, receipts for the Internal Service Fund shall not exceed one hundred eighty-eight million two hundred seventy-four thousand five hundred five dollars (\$188,274,505). For each year of the 2015-2017 fiscal biennium, receipts may be increased for specific purposes to a maximum of one hundred ninety-five million dollars (\$195,000,000), following consultation with the Joint Legislative Commission on Governmental Operations each time a requirement

1 for an increase is identified. Rates approved by the Office of State Budget and Management
2 (OSBM) to support the IT Internal Service Fund shall be based on this fund limit. In the event
3 the Fund exceeds the required limit, rates shall be adjusted within 30 days. The Internal Service
4 Fund may also collect in each year of the 2015-2017 fiscal biennium two hundred nineteen
5 thousand seven hundred ninety-one dollars (\$219,791) to fund Workers' Compensation and up
6 to one million five hundred forty-nine thousand seven hundred twenty-nine dollars
7 (\$1,549,729) over the biennium to fund FirstNet.

8 **SECTION 7.2.(b)** For the 2016-2017 fiscal year, budget requirements and
9 associated rates shall be developed based on actual service costs for fiscal year 2014-2015.
10 These budget requirements and associated rates shall be developed and reported to the Joint
11 Legislative Oversight Committee on Information Technology and the Fiscal Research Division
12 by October 1, 2015.

13 **SECTION 7.2.(c)** Receipts collected for IT Internal Service Fund services shall
14 only be used for the specific purposes for which they were collected and are hereby
15 appropriated for those purposes. Funds collected for information technology equipment and
16 fixtures shall be separately maintained and accounted for by the Office of Information
17 Technology Services, and such funds shall be used only for the replacement of the fixtures and
18 equipment for which the funds were collected. By October 1, 2015, the Office of Information
19 Technology Services shall report to the Joint Legislative Oversight Committee on Information
20 Technology and the Fiscal Research Division on the means and methods by which it is in
21 compliance with the requirements of this subsection.

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

28 **SECTION 7.2.(e)** Of the funds carried forward from fiscal year 2014-2015 to
29 fiscal year 2015-2016, the sum of five million dollars (\$5,000,000) shall be used during the
30 2015-2017 fiscal biennium to offset any shortfalls in agency budgets resulting from rate
31 increases that cause an agency to be unable to pay an IT Internal Service fund bill. The State
32 Chief Information Officer shall ensure that the offsetting funding does not come from federal
33 receipts that the Department of Information Technology has collected or from federal funding
34 intended for any State program or project.

35 **SECTION 7.2.(f)** The State Chief Information Officer shall identify IT
36 Restructuring savings of at least nine million one hundred four thousand ten dollars
37 (\$9,104,010) in fiscal year 2015-2016 and savings of at least twenty million one hundred four
38 thousand ten dollars (\$20,104,010) in fiscal year 2016-2017. As savings are accrued, the
39 OSBM shall reduce the IT Internal Service Fund and agency budgets to reflect the savings,
40 adjusting for actual indirect costs and overhead related to the savings. These accrued savings
41 shall be used for the development of an Enterprise Resource Planning (ERP) system for the
42 State. In order to ensure an effective implementation of the ERP system, all State agencies shall
43 fully cooperate and coordinate with the ERP Provisional Oversight Committee, which is
44 comprised of the Secretary of Information Technology (Chair), State Controller, and State
45 Budget Director. All State agencies shall also fully cooperate and coordinate with any future
46 ERP governance bodies, the Department, and the OSBM and provide data for all statewide
47 ERP-related activities.

48 **SECTION 7.2.(g)** Statewide information technology procurement shall be funded
49 through a combination of administrative fees as part of the IT Supplemental Staffing contract,
50 as well as fees charged to agencies using the services of the Statewide Information Technology
51 Procurement Office. The Department shall provide to the OSBM a fee schedule to allow cost

1 recovery. If an agency fails to pay for services within 30 days of billing, OSBM shall transfer
2 the unpaid amount to the State Information Technology Procurement Office, following
3 notification of the affected agency.
4

5 **INFORMATION TECHNOLOGY RESERVE**

6 **SECTION 7.3.(a)** The appropriations from the Information Technology Reserve
7 Fund for the 2015-2017 fiscal biennium are as follows:

	FY 2015-2016	FY 2016-2017
8 Government Data Analytics Center	\$8,200,000	\$8,200,000
9 Improve Efficiency and Customer		
10 Service through IT Modernization	\$8,255,891	\$8,183,212
11 NC Connect/Digital Infrastructure	\$429,438	\$688,061
12 IT Restructuring	\$3,238,804	\$2,029,509
13 Maintenance Management System Replacement	\$173,180	\$129,901
14 Law Enforcement Information Exchange	\$288,474	-

15
16
17 **SECTION 7.3.(b)** Of the funds appropriated for Information Technology
18 Modernization, the sum of five hundred fifty-two thousand eight hundred seventy-four dollars
19 (\$552,874) for fiscal year 2015-2016 and five hundred twenty-eight thousand seventy-four
20 dollars (\$528,074) for fiscal year 2016-2017 shall be transferred to the Department of Revenue
21 to fund four security positions. The security positions shall include a Security Design Engineer,
22 a Security Impact Analyst, and two Security Specialists.

23 **SECTION 7.3.(c)** The funds appropriated for Maintenance Management System
24 Replacement shall be transferred to the Department of Administration to support the acquisition
25 of a cloud-based facilities management system. The system shall include core system
26 functionality consisting of maintenance, inventory, and utility management systems. The
27 system shall also include three additional modules for system failure alerts, automation of
28 utility bills, and the extension of maintenance management to mobile devices.

29 **SECTION 7.3.(d)** Funds appropriated to the Information Technology Reserve
30 Fund shall be spent only as specified in this section unless a change is approved by the State
31 Chief Information Officer after consultation with the Office of State Budget and Management.
32 An authorized change may not result in any degradation to the information technology
33 operations or projects listed in this section for which the funds were originally appropriated.
34 Any changes to the specified uses for the funds shall be reported immediately, in writing, to the
35 chairs of the Joint Legislative Oversight Committee on Information Technology, the chairs of
36 the House Appropriations Committee on Information Technology, and the Fiscal Research
37 Division.

38 **SECTION 7.3.(e)** The Office of State Budget and Management shall establish a
39 fund code for the Information Technology Reserve Fund and shall create budget codes within
40 the fund code for each specific appropriation to the Fund. The Office of State Budget and
41 Management shall manage the fund code separately from other funding for the Department of
42 Information Technology as created by this act.
43

44 **INFORMATION TECHNOLOGY ENTERPRISE ARCHITECTURE**

45 **SECTION 7.4.(a)** By April 15, 2016, the Department of Information Technology,
46 as enacted by this act, shall develop an information technology enterprise architecture for State
47 government.

48 **SECTION 7.4.(b)** The completed State information technology enterprise
49 architecture developed pursuant to this section shall be provided to the Joint Legislative
50 Oversight Committee on Information Technology and the Fiscal Research Division. This

1 architecture, along with State and agency business plans, shall be incorporated into a biennial
2 State Information Technology Plan (State IT Plan).

3 4 **DEPARTMENT OF INFORMATION TECHNOLOGY PERFORMANCE MEASURES**

5 **SECTION 7.11.(a)** On or before September 1, 2015, the State Chief Information
6 Officer shall establish specific, quantifiable performance measures for each function performed
7 by the Department of Information Technology (Department) created by this act. These
8 performance measures shall be based on industry standards and best practices in other states for
9 performance of each function and shall include measurable objectives for improved
10 performance. The objectives shall include specific time lines for achieving the performance
11 measures and metrics for gauging intended performance. Service level agreements (SLAs) shall
12 also be established. The Department shall post the performance measures and SLAs on the
13 Department's Internet Web site. The Department shall provide monthly updates to its Web site
14 to report on their progress toward achieving performance measures and report whether or not
15 SLAs have been met for each agency during the previous month. Any plans developed by the
16 Department shall include mitigation strategies to resolve any failure to meet established
17 performance measures.

18 **SECTION 7.11.(b)** On or before September 1, 2015, the State Chief Information
19 Officer shall report to the Joint Legislative Oversight Committee on Information Technology
20 and the Fiscal Research Division on the establishment of performance measures and SLAs. The
21 report shall identify (i) the methodology used to determine the performance measures and
22 SLAs, (ii) assumptions made in determining the performance measures and SLAs, (iii)
23 potential factors that could impact the achievement of performance measures and SLAs, and
24 (iv) the sources of statistical and cost data and processes utilized to assure accuracy.

25 For any month that the Department does not meet a performance measure or SLA,
26 the Department shall report to the Joint Legislative Oversight Committee on Information
27 Technology and the Fiscal Research Division on the reason the performance measure or SLA
28 was not achieved, what corrective action is being taken, and when the Department expects to
29 achieve the performance measure or SLA.

30 31 **ELECTRONIC FORMS AND DIGITAL SIGNATURES**

32 **SECTION 7.13.(a)** The State Chief Information Officer (State CIO) shall
33 implement a digital forms program for State agencies that provides for the acquisition and use
34 of information technologies that enable electronic review, submission, maintenance, or
35 disclosure of information as a replacement substitute for paper documents and hardcopy forms.
36 In developing this capability, the State shall implement a citizen-friendly electronic forms
37 processing solution that does all of the following:

- 38 (1) Allows form data to be saved locally and submitted electronically.
- 39 (2) Supports interactive forms on desktop and mobile devices.
- 40 (3) Enables forms to be electronically routed through a workflow.
- 41 (4) Provides for the encryption of confidential and sensitive documents.
- 42 (5) Provides for digital signatures through the use of x.509 digital certificates,
43 where applicable, to enable and ensure submitter identity, submitted form
44 information, and acceptance of forms terms and requirements.

45 If practicable, this program shall be made available to all State agencies, departments, and
46 institutions; local political subdivisions of the State; The University of North Carolina and its
47 constituent institutions; community colleges; and local school administrative units.

48 **SECTION 7.13.(b)** By October 1, 2015, the State CIO shall provide a completed
49 plan for the program to the Joint Legislative Oversight Committee on Information Technology
50 and the Fiscal Research Division. This plan shall include a priority list for implementing digital

1 identities and associated certificates, specific electronic forms, a time line for each
2 implementation, and costs associated with the program.

4 STATE INFORMATION TECHNOLOGY BUDGETING

5 SECTION 7.16.(a) The Administration and Finance Division of the Department of
6 Information Technology (DIT), as created by this act, shall work with the Office of State
7 Budget and Management (OSBM), the Office of the State Controller, and participating
8 agencies to institute a process to oversee and manage State agency information technology
9 funding. This joint effort shall include implementing a process for the following:

- 10 (1) Developing State agency information technology budgets.
- 11 (2) Determining what participating and separate agency information technology
12 funding will transition to DIT and what will remain with the agencies.
- 13 (3) Developing a plan to transfer appropriate funding to DIT in coordination
14 with other State budget requirements.
- 15 (4) Developing rates and chargebacks for support provided to agencies.
- 16 (5) Identifying anticipated information technology cost savings.
- 17 (6) Identifying any rule or statutory changes required to facilitate information
18 technology budgeting oversight and management.

19 By October 1, 2015, the OSBM and DIT shall report jointly to the Joint Legislative
20 Oversight Committee on Information Technology and Fiscal Research Division on the
21 development of the information technology budgeting process and any anticipated cost savings.

22 SECTION 7.16.(b) The OSBM and DIT shall identify anticipated information
23 technology cost savings projected for the 2017-2019 fiscal biennium, with documentation as to
24 the specific sources and amounts of those savings, and shall report that information to the Joint
25 Legislative Oversight Committee on Information Technology and Fiscal Research Division by
26 December 1, 2015.

28 STATE AGENCY BUDGETARY TRANSPARENCY/EXPENDITURES ONLINE

29 SECTION 7.17.(a) In coordination with the State Controller and the Office of
30 State Budget and Management (OSBM), the State Chief Information Officer (State CIO) shall
31 prioritize Digital Commons Information Technology Modernization funding to establish a State
32 budget transparency Internet Web site to provide information on budget expenditures for each
33 State agency for each fiscal year beginning 2015-2016. The Internet Web site shall be fully
34 functional by April 1, 2016. The Internet Web site shall be user-friendly with easy-to-use
35 search features and data provided in formats that can be readily downloaded and analyzed by
36 the public. The Internet Web site shall include budgeted amounts and actual expenditures for
37 each agency budget code. The information provided shall include receipts and expenditures
38 from and to all sources, including vendor payments, updated on a monthly basis.

39 SECTION 7.17.(b) Each State agency shall work with the State CIO, the State
40 Controller, and the OSBM to ensure that complete and accurate budget and spending
41 information is provided in a timely manner as directed by the State CIO. Each State agency
42 Internet Web site shall include a hyperlink to the State's budget transparency Internet Web site.

44 MULTIYEAR IT CONTRACTS

45 SECTION 7.18. Notwithstanding the cash management provisions of
46 G.S. 147-86.11, the Department of Information Technology, as created by this act, may procure
47 information technology goods and services for periods up to a total of three years where the
48 terms of the procurement contracts require payment of all or a portion of the contract price at
49 the beginning of the contract agreement. All of the following conditions shall be met before
50 payment for these agreements may be disbursed:

- 1 (1) Any advance payment can be accomplished within the IT Internal Service
2 Fund budget.
- 3 (2) The State Controller receives conclusive evidence that the proposed
4 agreement would be more cost-effective than a multiyear agreement that
5 complies with G.S. 147-86.11.
- 6 (3) The procurement complies in all other aspects with applicable statutes and
7 rules.
- 8 (4) The proposed agreement contains contract terms that protect the financial
9 interest of the State against contractor nonperformance or insolvency
10 through the creation of escrow accounts for funds, source codes, or both, or
11 by any other reasonable means that have legally binding effect.

12 The Office of State Budget and Management shall ensure the savings from any authorized
13 agreement shall be included in the IT Internal Service Fund rate calculations before approving
14 annual proposed rates. Any savings resulting from the agreements shall be returned to agencies
15 included in the contract in the form of reduced rates.

17 INFORMATION TECHNOLOGY SECURITY/TWO-FACTOR AUTHENTICATION

18 **SECTION 7.19.(a)** The State CIO shall develop and implement a plan to provide a
19 standardized, statewide two-factor authentication system. Development of the plan shall be
20 accomplished in coordination with the Criminal Justice Information Network Board of
21 Directors. On or before January 15, 2016, the State CIO shall provide the completed two-factor
22 authentication plan to the Joint Legislative Oversight Committee on Information Technology
23 and the Fiscal Research Division.

24 **SECTION 7.19.(b)** Funding appropriated to the Information Technology Reserve
25 for two-factor authentication, along with any remaining funding from prior appropriations for
26 authentication, shall be used to support implementation of the plan.

28 DATA SECURITY STUDY

29 **SECTION 7.20.** The Joint Legislative Oversight Committee on Information
30 Technology shall study liability issues associated with data security in both the public and
31 private sectors. The Committee shall report its findings and any legislative proposals pertaining
32 to liability issues associated with data security to the General Assembly on or before April 1,
33 2016.

35 LAW ENFORCEMENT INFORMATION EXCHANGE

36 **SECTION 7.21.** Funds appropriated in this act for the Law Enforcement
37 Information Exchange shall be allocated to the Criminal Justice Information Network Board of
38 Directors to be used to map the records management systems of law enforcement agencies in
39 the State to allow these agencies to interface with the Law Enforcement Information Exchange.

41 ENTERPRISE RESOURCE PLANNING

42 **SECTION 7.22.(a)** In coordination with the Office of the State Controller (OSC)
43 and the Office of State Budget and Management (OSBM), the Department of Information
44 Technology (DIT) shall establish a program to plan, develop, and implement an enterprise
45 resource planning (ERP) system for the State using funds identified from information
46 technology restructuring savings. The funds shall be maintained at OSBM and shall be used to
47 support the development, implementation, and operation of the ERP system.

48 **SECTION 7.22.(b)** Beginning October 1, 2015, and quarterly thereafter, the DIT,
49 in conjunction with OSC and OSBM, shall report to the Joint Legislative Oversight Committee
50 on Information Technology and the Fiscal Research Division on the status of the program. The
51 report shall include all of the following:

- 1 (1) A detailed listing of current, completed, and potential future projects.
- 2 (2) The amount of funding identified from restructuring savings since the
- 3 inception of the program.
- 4 (3) The uses of the identified funding.
- 5 (4) The costs of current, completed, and potential future projects.
- 6 (5) The status of planning and implementation of each project.
- 7 (6) Identification of any issues associated with the program.

8

9 STATE BROADBAND PLAN

10 **SECTION 7.23.(a)** The State CIO shall develop a State broadband plan that
11 includes:

- 12 (1) Information regarding the availability and functionality of broadband
- 13 throughout the State and an evaluation of the current deployment of
- 14 broadband service.
- 15 (2) A strategy to support the affordability of broadband service as well as
- 16 maximum utilization of broadband infrastructure, including potential
- 17 partnerships and sources of funding to support the effort.
- 18 (3) Analysis of means, methods, and best practices to establish universal
- 19 broadband access across the State.

20 In developing the State broadband plan, the State CIO shall coordinate with other
21 State agencies in order to maximize the effectiveness and efficiency of available resources.

22 **SECTION 7.23.(b)** For the 2015-2017 fiscal biennium, by October 1, 2015, and
23 then quarterly thereafter, the State CIO shall provide a report to the Joint Legislative Oversight
24 Committee on Information Technology and the Fiscal Research Division on the development
25 and implementation of the State broadband plan.

26

27 STATE PORTAL/ECONOMIC DEVELOPMENT/BUSINESS WEB SITE PLAN

28 **SECTION 7.24.(a)** In coordination with appropriate State agencies, departments,
29 and institutions as part of the State portal planning and development, the State Chief
30 Information Officer (State CIO) shall develop and implement a plan to establish an Internet
31 Web site for businesses operating, or considering operating, within North Carolina, which shall
32 include all of the following:

- 33 (1) The capabilities necessary to complete required business transactions
- 34 electronically, to include the availability of electronic forms and digital
- 35 signatures.
- 36 (2) How the State CIO will ensure secure access to any and all information and
- 37 services required to facilitate the operation of businesses within the State.
- 38 (3) Potential sources of funding to support the development and implementation
- 39 of the Web site.

40 **SECTION 7.24.(b)** On or before December 1, 2015, the State CIO shall provide
41 the completed plan to the Joint Legislative Oversight Committee on Information Technology
42 and the Fiscal Research Division. On or before December 1, 2015, and then at least
43 semiannually for the duration of the 2015-2017 fiscal biennium, the State CIO shall provide
44 progress reports regarding the establishment and use of the business Internet Web site to the
45 Joint Legislative Oversight Committee on Information Technology and the Fiscal Research
46 Division.

47

48 AGENCY USE OF ENTERPRISE ACTIVE DIRECTORY

49 **SECTION 7.25.** On or before July 1, 2016, all State agencies identified as
50 principal departments under G.S. 143B-6 shall become direct members of and shall use the
51 Enterprise Active Directory. A principal department may submit to the State Chief Information

1 Officer a written request to deviate from certain requirements of the Enterprise Active
2 Directory, provided that any deviation shall be consistent with available funding and shall be
3 subject to any terms and conditions specified by the State Chief Information Officer.
4

5 **STUDY STATE AGENCY USE OF UTILITY-BASED COMPUTING**

6 **SECTION 7.26.(a)** The Department of Information Technology (Department) shall
7 study the use of and cost savings associated with the adoption of utility-based cloud computing
8 services by State agencies. For the purposes of this section, "utility-based computing" means
9 the process of providing computing service through an on-demand, pay-per-use billing method,
10 metering the offered services. At a minimum, the review conducted by the Department shall:

- 11 (1) Evaluate the actual and potential usefulness of commercial cloud computing
12 services by State agencies and whether expedited transition to cloud
13 computing would offer significant savings to State agencies.
- 14 (2) Evaluate how giving State agencies the ability to purchase information
15 technology (IT) services in a utility-based model would result in savings
16 from paying for only the IT services consumed.
- 17 (3) Identify the capabilities required to implement utility-based computing,
18 storage, and applications, including a rate structure.

19 **SECTION 7.26.(b)** By October 1, 2015, the State Chief Information Officer shall
20 make a written report to the Joint Legislative Oversight Committee on Information Technology
21 on the results of the DIT review of utility-based computing.
22

23 **STATE FUNDED IT CONTRACTS**

24 **SECTION 7.27.** For all information technology contracts that receive any State
25 funds, State agencies and vendors shall immediately provide copies of contract documents and
26 any subsequent amendments, modifications, or other changes upon request of the Joint
27 Legislative Oversight Committee on Information Technology or the Fiscal Research Division.
28

29 **PART VII-A. ESTABLISH DEPARTMENT OF INFORMATION TECHNOLOGY**

30 **ESTABLISH DEPARTMENT OF INFORMATION TECHNOLOGY**

31 **SECTION 7A.1.(a)** The Department of Information Technology is established in
32 this Part as a single, unified cabinet-level department that consolidates information technology
33 functions, powers, duties, obligations, and services existing within the principal departments.
34 Notwithstanding G.S. 143B-9 and G.S. 143B-10, and except as otherwise provided in this act,
35 all information technology functions, powers, duties, obligations, and services vested in the
36 State entities listed in G.S. 143B-6 are transferred to, vested in, and consolidated within the
37 Department of Information Technology. The head of the Department of Information
38 Technology is the State Chief Information Officer, who shall be known as the State CIO. The
39 powers and duties of the deputy chief information officers, directors, and divisions of the
40 Department shall be subject to the direction and control of the State CIO. Upon the
41 establishment of the Department of Information Technology, the Governor shall appoint a State
42 CIO in accordance with G.S. 143B-9.
43

44 **SECTION 7A.1.(b)** The following transfers from the Office of Information
45 Technology Services are made to the Department of Information Technology created by this
46 act:

- 47 (1) A Type I transfer, as defined in G.S. 143A-6, of the:
 - 48 a. Office of the State Chief Information Officer.
 - 49 b. Office of Information Technology Services.
- 50 (2) A Type II transfer, as defined in G.S. 143A-6, of the:
 - 51 a. 911 Board.

- b. Criminal Justice Information Network.
- c. Government Data Analytics Center.
- d. North Carolina Geographic Information Coordinating Council and the Center for Geographic Information and Analysis.

SECTION 7A.1.(c) G.S. 143B-2 reads as rewritten:

"§ 143B-2. Interim applicability of the Executive Organization Act of 1973.

The Executive Organization Act of 1973 shall be applicable only to the following named departments:

...

(11) Department of Information Technology."

SECTION 7A.1.(d) G.S. 143B-6 reads as rewritten:

"§ 143B-6. Principal departments.

In addition to the principal departments enumerated in the Executive Organization Act of 1971, all executive and administrative powers, duties, and functions not including those of the General Assembly and its agencies, the General Court of Justice and the administrative agencies created pursuant to Article IV of the Constitution of North Carolina, and higher education previously vested by law in the several State agencies, are vested in the following principal departments:

...

(12) Department of Information Technology."

STATUTORY CHANGES CREATING THE DEPARTMENT OF INFORMATION TECHNOLOGY

SECTION 7A.2.(a) Article 3D of Chapter 147 of the General Statutes is repealed.

SECTION 7A.2.(b) Chapter 143B of the General Statutes is amended by adding a new Article to read:

"Article 14.

"Department of Information Technology.

"Part 1. General Provisions.

"§ 143B-1300. Definitions; scope; exemptions.

(a) Definitions. – The following definitions apply in this Article:

(1) CGIA. – Center for Geographic Information and Analysis.

(2) CJIN. – Criminal Justice Information Network.

(3) Cooperative purchasing agreement. – An agreement between a vendor and one or more states or state agencies providing that the parties may collaboratively or collectively purchase information technology goods and services in order to increase economies of scale and reduce costs.

(4) Department. – The Department of Information Technology.

(5) Distributed information technology assets. – Hardware, software, and communications equipment not classified as traditional mainframe-based items, including personal computers, local area networks, servers, mobile computers, peripheral equipment, and other related hardware and software items.

(6) Exempt agencies. – An entity designated as exempt in Part 1 of this Article.

(7) GDAC. – Government Data Analytics Center.

(8) GICC. – North Carolina Geographic Information Coordinating Council.

(9) Information technology or IT. – Set of tools, processes, and methodologies, including, but not limited to, coding and programming, data communications, data conversion, data analysis, architecture, planning, storage and retrieval, systems analysis and design, systems control, mobile applications, and associated equipment employed to collect, process, and

1 present information to support the operation of an organization. The term
2 also includes office automation, multimedia, telecommunications, and any
3 personnel and support personnel required for planning and operations.

4 (10) Information technology security incident. – A computer-, network-, or
5 paper-based activity that results directly or indirectly in misuse, damage,
6 denial of service, compromise of integrity, or loss of confidentiality of a
7 network, computer, application, or data.

8 (11) Local government entity. – A local political subdivision of the State,
9 including a city, a county, a local school administrative unit as defined in
10 G.S. 115C-5, or a community college.

11 (12) Participating agency. – Any agency that has transferred its information
12 technology personnel, operations, projects, assets, and funding to the
13 Department of Information Technology. The State CIO shall be responsible
14 for providing all required information technology support to participating
15 agencies.

16 (13) Separate agency. – Any agency that has maintained responsibility for its
17 information technology personnel, operations, projects, assets, and funding.
18 The agency head shall work with the State CIO to ensure that the agency has
19 all required information technology support.

20 (14) State agency or agency. – Any agency, department, institution, commission,
21 committee, board, division, bureau, office, unit, officer, or official of the
22 State. The term does not include the legislative or judicial branches of
23 government or The University of North Carolina.

24 (15) State Chief Information Officer or State CIO. – The head of the Department,
25 who is a Governor's cabinet level officer.

26 (b) Exemptions. – Except as otherwise specifically provided by law, the provisions of
27 this Chapter do not apply to the General Assembly, the Judicial Department, or The University
28 of North Carolina and its constituent institutions. The General Assembly, the Judicial
29 Department, or The University of North Carolina and its constituent institutions may elect to
30 participate in the information technology programs, services, or contracts offered by the
31 Department, including information technology procurement, in accordance with the statutes,
32 policies, and rules of the Department. Such an election must be made in writing, as follows:

33 (1) For the General Assembly, by the Legislative Services Commission.

34 (2) For the Judicial Department, by the Chief Justice.

35 (3) For The University of North Carolina, by the Board of Governors.

36 (4) For the constituent institutions of The University of North Carolina, by the
37 respective boards of trustees.

38 (c) Deviations. – Any State agency may apply in writing to the State Chief Information
39 Officer for approval to deviate from the provisions of this Chapter. If granted by the State Chief
40 Information Officer, any deviation shall be consistent with available appropriations and shall be
41 subject to such terms and conditions as may be specified by the State CIO.

42 (d) Review. – Notwithstanding subsection (b) of this section, any State agency shall
43 review and evaluate any deviation authorized and shall, in consultation with the Department of
44 Information Technology, adopt a plan to phase out any deviations that the State CIO
45 determines to be unnecessary in carrying out functions and responsibilities unique to the
46 agency having a deviation. The plan adopted by the agency shall include a strategy to
47 coordinate its general information processing functions with the Department of Information
48 Technology in the manner prescribed by this act, and provide for its compliance with policies,
49 procedures, and guidelines adopted by the Department of Information Technology. Any agency
50 receiving a deviation shall submit its plan to the Office of State Budget and Management as
51 directed by the State Chief Information Officer.

"§ 143B-1301. Powers and duties of the Department; cost-sharing with exempt entities.

(a) The Department shall have the following powers and duties:

- (1) Provide information technology support to executive branch agencies.
- (2) Provide such information technology support to local government entities and others, as may be required.
- (3) Plan and coordinate information technology efforts with State agencies, nonprofits, and private organizations, as required.
- (4) Establish a consistent process for planning, maintaining, and acquiring the State's information technology resources. This includes responsibility for developing and administering a comprehensive long-range plan to ensure the proper management of the State's information technology resources.
- (5) Develop standards and accountability measures for information technology projects, including criteria for effective project management.
- (6) Set technical standards for information technology, review and approve information technology projects and budgets, establish information technology security standards, provide for the procurement of information technology resources, and develop a schedule for the replacement or modification of information technology systems.
- (7) Implement enterprise procurement processes and develop metrics to support this process.
- (8) Manage the information technology funding for State agencies, to include the Information Technology Fund for statewide information technology efforts and the Information Technology Internal Service Fund for agency support functions.
- (9) Support, maintain, and develop metrics for the State's technology infrastructure and facilitate State agencies' delivery of services to citizens.
- (10) Operate as the State enterprise organization for information technology governance.
- (11) Advance the State's technology and data management capabilities.
- (12) Prepare and present the Department's budget in accordance with Chapter 143C of the General Statutes, the State Budget Act.
- (13) Obtain, review, and maintain, on an ongoing basis, records of the appropriations, allotments, expenditures, revenues, grants, and federal funds for each State agency for information technology.
- (14) Adopt rules for the administration of the Department and implementing this Article, pursuant to the Administrative Procedures Act, Chapter 150B of the General Statutes.
- (15) Require reports by State agencies, departments, and institutions about information technology assets, systems, personnel, and projects and prescribing the form of such reports.
- (16) Prescribe the manner in which information technology assets, systems, and personnel shall be provided and distributed among agencies, to include changing the distribution when the State CIO determines that is necessary.
- (17) Prescribe the manner of inspecting or testing information technology assets, systems, or personnel to determine compliance with information technology plans, specifications, and requirements.
- (18) Submit all rates and fees for common, shared, and State government-wide technology services provided by the Department to the Office of State Budget and Management for approval.
- (19) Establish and operate centers of expertise for specific information technologies and services to serve two or more agencies on a cost-sharing

1 basis, if the State CIO, after consultation with the Office of State Budget and
2 Management, decides it is advisable from the standpoint of efficiency and
3 economy to establish these centers and services.

4 (20) Charge each State agency for which services are performed its proportionate
5 part of the cost of maintaining and operating the shared centers and services,
6 subject to approval by the Office of State Budget and Management.

7 (21) Require any State agency served to transfer to the Department ownership,
8 custody, or control of information-processing equipment, supplies, and
9 positions required by the shared centers and services.

10 (22) Identify and develop projects to facilitate the consolidation of information
11 technology equipment, support, and projects.

12 (23) Identify agency to serve as the lead for an enterprise effort, when
13 appropriate.

14 (24) Develop performance standards for shared services in coordination with
15 supported State agencies, and publish performance reports on the
16 Department Web site.

17 (25) Adopt plans, policies, and procedures for the acquisition, management, and
18 use of information technology resources in State agencies to facilitate more
19 efficient and economic use of information technology in the agencies.

20 (26) Develop and manage career progressions and training programs to
21 efficiently implement, use, and manage information technology resources
22 throughout State government.

23 (27) Provide local government entities with access to the Department's services as
24 authorized in this section for State agencies. Access shall be provided on the
25 same cost basis that applies to State agencies.

26 (28) Support the operation of the CGIA, GICC, GDAC, CJIN, and 911 Board.

27 (29) Provide geographic information systems services through the Center for
28 Geographic Information and Analysis on a cost recovery basis. The
29 Department and the Center for Geographic Information and Analysis may
30 contract for funding from federal or other sources to conduct or provide
31 geographic information systems services for public purposes.

32 (30) Support the development, implementation, and operation of an Education
33 Community of Practice.

34 (b) Cost-Sharing with Other Branches. – Notwithstanding any other provision of law to
35 the contrary, the Department shall provide information technology services on a cost-sharing
36 basis to exempt agencies, upon request.

37 **"§ 143B-1302. State CIO duties and Departmental administration.**

38 (a) State CIO. – The State CIO is the head of the Department and a member of the
39 Governor's cabinet. The State CIO shall be qualified by education and experience for the office.
40 The State CIO shall be appointed by and serve at the pleasure of the Governor. The salary of
41 the State CIO shall be set by the Governor. The State CIO shall receive longevity pay on the
42 same basis as is provided to employees of the State who are subject to the North Carolina
43 Human Resources Act.

44 (b) Administration. – The Department shall be managed under the administration of the
45 State CIO. The State CIO shall have the power and duty to do all of the following:

46 (1) Ensure that executive branch agencies receive all required information
47 technology support in an efficient and timely manner.

48 (2) Ensure that such information technology support is provided to local
49 government entities and others, as appropriate.

50 (3) As required, plan and coordinate information technology efforts with State
51 agencies, nonprofits, and private organizations.

- 1 (4) Ensure the security of State information technology systems and networks,
2 as well as associated data, developing standardized systems and processes.
- 3 (5) Prepare and present the Department's budget in accordance with Chapter
4 143C of the General Statutes, the State Budget Act.
- 5 (6) Establish rates for all goods and services provided by the Department within
6 required schedules.
- 7 (7) Identify and work to consolidate duplicate information technology
8 capabilities.
- 9 (8) Identify and develop plans to increase State data center efficiencies,
10 consolidating assets in State-managed data centers.
- 11 (9) Plan for and manage State network development and operations.
- 12 (10) Centrally classify, categorize, manage, and protect the State's data.
- 13 (11) Obtain, review, and maintain, on an ongoing basis, records of the
14 appropriations, allotments, expenditures, and revenues of each State agency
15 for information technology.
- 16 (12) Be responsible for developing and administering a comprehensive
17 long-range plan to ensure the proper management of the State's information
18 technology resources.
- 19 (13) Set technical standards for information technology, review and approve
20 information technology projects and budgets, establish information
21 technology security standards, provide for the procurement of information
22 technology resources, and develop a schedule for the replacement or
23 modification of information technology systems.
- 24 (14) Require reports by State departments, institutions, or agencies of information
25 technology assets, systems, personnel, and projects; prescribe the form of
26 such reports; and verify the information when the State CIO determines
27 verification is necessary.
- 28 (15) Prescribe the manner in which information technology assets, systems, and
29 personnel shall be provided and distributed among agencies.
- 30 (16) Establish and maintain a program to provide career management for
31 information technology professionals.
- 32 (17) Prescribe the manner of inspecting or testing information technology assets,
33 systems, or personnel to determine compliance with information technology
34 plans, specifications, and requirements.
- 35 (18) Supervise and support the operations of the CGIA, GICC, GDAC, CJIN, and
36 911 Board.
- 37 (19) Oversee and coordinate an Education Community of Practice.

38 (c) Budgetary Matters. – The Department's budget shall incorporate information
39 technology costs and anticipated expenditures of State agencies identified as principal
40 departments in G.S. 143B-6, together with all divisions, boards, commissions, or other State
41 entities for which the principal departments have budgetary authority.

42 (d) Cost-Sharing with Other Branches. – Notwithstanding any other provision of law,
43 the Department shall provide information technology services on a cost-sharing basis to the
44 judicial branch as requested by the Chief Justice and to the General Assembly and its agencies
45 as requested by the Legislative Services Commission.

46 **"§ 143B-1303. Divisions and units of the Department.**

47 (a) The Department shall be organized into at least the following divisions and units:

- 48 (1) Statewide Information Technology Division.
- 49 (2) Shared Services Division.
- 50 (3) Administrative and Finance Division.

1 (b) Statewide Information Technology Division. – There is hereby created within the
2 Department the Statewide Information Technology Division. The functions of the Statewide
3 Information Technology Division shall include, but are not limited to, the following:

- 4 (1) Statewide strategic planning.
- 5 (2) Statewide information technology procurement.
- 6 (3) Information technology project management.
- 7 (4) Statewide information technology strategies and standards (enterprise
8 architecture).
- 9 (5) Data analytics.
- 10 (6) Digital support to include Web support, mobile support, and social media
11 support (State portal).
- 12 (7) Solution architecture.
- 13 (8) Requirements analysis.

14 (c) Shared Services Division. – There is hereby created within the Department the
15 Shared Services Division. The Shared Services Division shall provide services to State
16 agencies as well as local government entities on a cost recovery basis. These services include
17 the following:

- 18 (1) Network Infrastructure.
- 19 (2) Hosting Infrastructure.
- 20 (3) Telephony and call center services.
- 21 (4) Client computing.
- 22 (5) Electronic mail.
- 23 (6) Identity Management.
- 24 (7) Quality assurance testing.
- 25 (8) Document management.
- 26 (9) Project management staffing.
- 27 (10) Primary and secondary data centers operation.

28 (d) Administration and Finance Division. – There is hereby created within the
29 Department the Administration and Finance Division. The Administration and Finance
30 Division shall provide:

- 31 (1) Financial management services, including handling the Department's
32 budgeting, accounting, purchasing, rate-setting, and billing functions.
- 33 (2) Agency information management, including asset management, agency IT
34 security, billing systems, and Department-specific tools and applications.
- 35 (3) Administrative support.
- 36 (4) Facilities management.
- 37 (5) Internal auditing.
- 38 (6) Boards administration.

39 (e) Education Community of Practice. – There is established an Education Community
40 of Practice to promote collaboration and create efficiencies between and among The University
41 of North Carolina system, the North Carolina Community Colleges System Office, the
42 constituent institutions of the Community College System the Department of Public
43 Instruction, and local school administrative units.

44 (f) Other Units. – Other units of the Department include the following:

- 45 (1) Center for Geographic Information and Analysis.
- 46 (2) Criminal Justice Information Network.
- 47 (3) Government Data Analytics Center.
- 48 (4) North Carolina 911 Board.
- 49 (5) North Carolina Geographic Information Coordinating Council.

50 **"§ 143B-1304. State agency information technology management; deviations for State**
51 **agencies.**

1 Each State agency shall have tools and applications specific to their respective functions in
2 order to effectively and efficiently carry out the business of the State with respect to all of the
3 following:

- 4 (1) Administrative support.
- 5 (2) Facilities management.
- 6 (3) Internal auditing.
- 7 (4) Boards administration.
- 8 (5) Departmental policies and procedures.

9 **"§ 143B-1305. Transition to Department of Information Technology.**

10 (a) Transition Period. – During the 2015-2016 fiscal year, the State CIO shall work
11 with appropriate State agencies to develop a State business plan. The State CIO shall develop
12 documentation to support the consolidation of enterprise information technology functions
13 within the executive branch to include the following:

- 14 (1) Information technology architecture.
- 15 (2) Updated State information technology strategic plan that reflects State and
16 agency business plans and the State information technology architecture.
- 17 (3) Information technology funding process to include standardized, transparent
18 rates that reflect market costs for information technology requirements.
- 19 (4) Information technology personnel management.
- 20 (5) Information technology project management.
- 21 (6) Information technology procurement.
- 22 (7) Hardware configuration and management.
- 23 (8) Software acquisition and management.
- 24 (9) Data center operations.
- 25 (10) Network operations.
- 26 (11) System and data security, including disaster recovery.
- 27 (12) Establishment, implementation, and monitoring of verifiable, industry
28 standard Department performance measures for support to both participating
29 agencies and nonparticipating agencies available on the agency Web site.

30 Each plan shall include specific, quantifiable performance measures. These performance
31 measures shall be posted on the Department's Web site. The Department's plans shall include
32 mitigation strategies to resolve any failure to meet established performance measures. These
33 plans shall be provided to the Joint Legislative Oversight Committee on Information
34 Technology and the Fiscal Research Division by March 1, 2016.

35 (b) Phased Transitions. – The State CIO shall develop detailed plans for the phased
36 transition of Principal Departments to the Department, as well as a plan that defines in detail
37 how information technology support shall be provided to agencies that are not Principal
38 Departments. These plans shall be coordinated, in writing, with each agency and shall address
39 any issues unique to a specific agency.

40 (c) Pilot Participating Agencies. – During the 2015-2016 fiscal year, after completion
41 of detailed plans for each agency, the following pilot participating agencies shall transfer
42 information technology personnel, operations, projects, assets, and appropriate funding to the
43 Department of Information Technology:

- 44 (1) Department of Public Safety.
- 45 (2) Governor's Office.
- 46 (3) Department of Environment and Natural Resources.
- 47 (4) Office of State Budget and Management.
- 48 (5) Office of State Human Resources.
- 49 (6) Department of Cultural Resources.
- 50 (7) Department of Commerce.

1 After integration of the pilot participating agencies, the State CIO shall identify lessons
2 learned during the pilot, update plans to reflect needed changes, and provide both the lessons
3 learned documents and the updated plans to Joint Legislative Oversight Committee on
4 Information Technology and the Fiscal Research Division. Upon successful transition of the
5 pilot participating agencies, the State CIO may add additional agencies during the 2016-2017
6 fiscal year.

7 (d) Final State Agencies to Transition. – During the 2016-2017 fiscal year, all
8 remaining principal departments shall transfer to the Department all information technology
9 personnel, operations, projects, assets, and funding.

10 The State CIO shall ensure that agencies' operations are not impacted during the transition.
11 Within 48 hours of occurrence, the State CIO and the affected agency shall report any impact
12 on agency operations resulting from the transition to the new Department to the Joint
13 Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

14 The State CIO shall develop a plan to transition all remaining State agencies to the
15 Department during the 2017-2019 biennium, provided that no constitutional provision is
16 violated by the transition.

17 "Part 2. Information Technology Planning, Funding, and Reporting.

18 **"§ 143B-1306. Planning and financing State information technology resources.**

19 (a) The State CIO shall develop policies for agency information technology planning
20 and financing. Agencies shall prepare and submit such plans as required in this section.

21 (1) The Department shall analyze the State's legacy information technology
22 systems and develop a plan to document the needs and costs for replacement
23 systems, as well as determining and documenting the time frame during
24 which State agencies can continue to efficiently use legacy information
25 technology systems, resources, security, and data management to support
26 their operations. The plan shall include an inventory of legacy applications
27 and infrastructure, required capabilities not available with the legacy system,
28 the process, time line, and cost to migrate from legacy environments, and
29 any other information necessary for fiscal or technology planning. The State
30 CIO shall have the authority to prioritize the upgrade and replacement of
31 legacy systems. Agencies shall provide all requested documentation to
32 validate reporting on legacy systems and shall make the systems available
33 for inspection by the Department.

34 (2) The State CIO shall develop a biennial State Information Technology Plan
35 (Plan).

36 (3) The State CIO shall develop and periodically update a long-range State
37 Information Technology Plan that forecasts, at a minimum, the needs of
38 State agencies for the next 10 years.

39 (4) The State CIO shall develop one or more strategic plans for information
40 technology. The State CIO shall determine whether strategic plans are
41 needed for any agency and shall consider an agency's operational needs,
42 functions, and capabilities when making such determinations.

43 (b) The biennial State Information Technology Plan shall be transmitted to the General
44 Assembly in conjunction with the Governor's budget of each regular session. The Plan shall
45 include the following elements:

46 (1) Anticipated requirements for information technology support over the next
47 five years.

48 (2) An inventory of current information technology assets and major projects.
49 As used in this subdivision, the term "major project" includes projects
50 costing more than five hundred thousand dollars (\$500,000) to implement.

- 1 (3) Significant unmet needs for information technology resources over a
2 five-year time period. The Plan shall rank the unmet needs in priority order
3 according to their urgency.
4 (4) A statement of the financial requirements, together with a recommended
5 funding schedule for major projects in progress or anticipated for approval
6 during the upcoming fiscal biennium.
7 (5) An analysis of opportunities for statewide initiatives that would yield
8 significant efficiencies or improve effectiveness in State programs.

9 (c) Each participating agency shall actively participate in preparing, testing, and
10 implementing an information technology plan required under subsection (b) of this section.
11 Separate agencies shall prepare biennial information technology plans including the
12 requirements listed in subsection (b) and transmit these plans to the State CIO by October 1 of
13 each even-numbered year. Agencies shall provide all financial information to the State CIO
14 necessary to determine full costs and expenditures for information technology assets and
15 resources provided by the agencies or through contracts or grants. The Department shall consult
16 with and assist State agencies in the preparation of these plans; shall provide appropriate
17 personnel or other resources to the principal departments identified in G.S. 143B-6; and to
18 Council of State agencies upon request pursuant to Part 3, Shared Information Technology
19 Services, of this Article. Plans shall be submitted to the State CIO of Information Technology
20 by October 1 of each even-numbered year.

21 **"§ 143B-1307. Business continuity planning.**

22 The State CIO shall oversee the manner and means by which information technology
23 business and disaster recovery plans for the State agencies are created, reviewed, and updated.
24 Each State agency shall establish a disaster recovery planning team to work with the
25 Department, or other resources designated by the State CIO, to develop the disaster recovery
26 plan and to administer implementation of the plan. In developing the plan, all of the following
27 shall be completed:

- 28 (1) Consider the organizational, managerial, and technical environments in
29 which the disaster recovery plan must be implemented.
30 (2) Assess the types and likely parameters of disasters most likely to occur and
31 the resultant impacts on the agency's ability to perform its mission.
32 (3) List protective measures to be implemented in anticipation of a natural or
33 man-made disaster.
34 (4) Determine whether the plan is adequate to address information technology
35 security incidents.

36 Each State agency shall submit its disaster recovery plan to the State CIO on an annual
37 basis and as otherwise requested by the State CIO.

38 **"§ 143B-1308. Information Technology Fund.**

39 There is established a special revenue fund to be known as the Information Technology
40 Fund, which may receive transfers or other credits as authorized by the General Assembly.
41 Money may be appropriated from the Information Technology Fund to support the operation
42 and administration that meet statewide requirements, including planning, project management,
43 security, electronic mail, State portal operations, early adoption of enterprise efforts, and the
44 administration of systemwide procurement procedures. Funding for principal agency
45 information technology projects shall be appropriated to the Information Technology Fund and
46 may be reallocated by the State CIO, if appropriate, following coordination with the impacted
47 agencies and written approval by the Office of State Budget and Management. Any redirection
48 of agency funds shall immediately be reported to the Joint Legislative Oversight Committee on
49 Information Technology and the Fiscal Research Division with a detailed explanation of the
50 reasons for the redirection. Expenditures involving funds appropriated to the Department from

1 the Information Technology Fund shall be made by the State CIO. Interest earnings on the
2 Information Technology Fund balance shall be credited to the Information Technology Fund.

3 **"§ 143B-1309. Internal Service Fund.**

4 (a) The Internal Service Fund is established within the Department as a fund to provide
5 goods and services to State agencies on a cost-recovery basis. The Department shall establish
6 fees for subscriptions and chargebacks for consumption-based services. The State CIO shall
7 establish and annually update consistent, fully transparent, easily understandable fees and rates
8 that reflect industry standards for any good or service for which an agency is charged. These
9 fees and rates shall be prepared by October 1 and shall be approved by the Office of State
10 Budget and Management. The Office of State Budget and Management shall ensure that State
11 agencies have the opportunity to adjust their budgets based on any rate or fee changes prior to
12 submission of those budget recommendations to the General Assembly. The approved
13 Information Technology Internal Service Fund budget and associated rates shall be included in
14 the Governor's budget recommendations to the General Assembly.

15 (b) Receipts shall be used solely for the purpose for which they were collected. Any
16 uses of the Information Technology Internal Service Fund not specifically related to providing
17 receipt-supported services to State agencies shall immediately be reported to the Joint
18 Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

19 (c) In coordination with the Office of the State Controller and the Office of State
20 Budget Management, the State CIO shall ensure processes are established to manage federal
21 receipts, maximize those receipts, and ensure that federal receipts are correctly utilized. By
22 September 1 of each year, the State CIO shall certify that federal receipts for participating
23 agency information technology programs have been properly used during the previous State
24 fiscal year.

25 **"§ 143B-1310. Information technology reporting.**

26 The State CIO shall report to the Joint Legislative Oversight Committee on Information
27 Technology and to the Fiscal Research Division regarding the Information Technology Fund,
28 the Internal Service Fund, and any Information Technology Reserve Fund on a quarterly basis,
29 no later than the first day of the second month following the end of the quarter. The report shall
30 include current cash balances, line-item detail on expenditures from the previous quarter, and
31 anticipated expenditures and revenues over the next year, by quarter. The State CIO shall report
32 to the Joint Legislative Oversight Committee on Information Technology and the Fiscal
33 Research Division on expenditures for the upcoming quarter, projected year-end balance, and
34 the status report on personnel position changes, including new positions created and existing
35 positions eliminated. Spending reports shall comply with the State Accounting System object
36 codes.

37 **"§ 143B-1311. Financial reporting and accountability for information technology
38 investments and expenditures.**

39 The Department, along with the Office of State Budget and Management and the Office of
40 the State Controller, shall develop processes for budgeting and accounting of expenditures for
41 information technology operations, services, projects, infrastructure, and assets for State
42 agencies, notwithstanding any deviations permitted pursuant to G.S. 143B-1303(b) or
43 G.S. 143B-1303(c). The budgeting and accounting processes may include hardware, software,
44 personnel, training, contractual services, and other items relevant to information technology,
45 and the sources of funding for each. Annual reports regarding information technology shall be
46 coordinated by the Department with the Office of State Budget and Management and the Office
47 of the State Controller and submitted to the Governor and the General Assembly on or before
48 October 1 of each year.

49 The State CIO shall not enter into any information technology contracts requiring agency
50 financial participation without obtaining written agreement from participating agencies
51 regarding apportionment of the contract costs.

1 The State CIO shall review the information technology budgets for principal departments
2 and shall recommend appropriate adjustments to support requirements identified by the State
3 CIO.

4 **"§ 143B-1312. Information technology human resources.**

5 (a) The State CIO may appoint all employees of the Department of Information
6 Technology necessary to carry out the powers and duties of the Department. All employees of
7 the Department are under the supervision, direction, and control of the State CIO, who may
8 assign any function vested in his or her office to any subordinate employee of the Department.

9 (b) The State CIO may appoint a deputy State CIO for each of the three divisions within
10 the Department, each of whom shall be under the control and direction of the State CIO. The
11 salaries of the deputy secretaries shall be set by the State CIO. The State CIO and the deputy
12 secretaries are exempt from the North Carolina Human Resources Act.

13 (c) Subject to approval of the Governor and limitations of G.S. 126-5, the State CIO
14 may appoint or designate additional managerial and policymaking positions, including, but not
15 limited to, the chief financial officer, and general counsel, who shall be exempt from the North
16 Carolina Human Resources Act.

17 (d) The State CIO shall establish a detailed, standardized, systemic plan for the
18 transition of participating agency personnel to the new organization. This shall include the
19 following:

20 (1) Documentation of current information technology personnel requirements.

21 (2) An inventory of current agency information technology personnel and their
22 skills.

23 (3) Analysis and documentation of the gaps between current personnel and
24 identified requirements.

25 (4) An explanation of how the Department plans to fill identified gaps.

26 (5) The Department's plan to eliminate positions no longer required.

27 (6) The Department's plan for employees whose skills are no longer required.

28 For each person to be transferred, the State CIO shall identify a designated position with a
29 job description, determine the cost for the position, identify funding sources, and establish a
30 standardized rate.

31 (e) Participating agency information technology personnel performing information
32 technology functions shall be moved to the Department. The State CIO shall consolidate
33 participating agency information technology personnel following the time line established in
34 this Article once a detailed plan has been developed for transitioning the personnel to the new
35 agency.

36 (f) The State CIO shall establish standard information technology career paths for both
37 management and technical tracks, including defined qualifications, career progression, training
38 requirements, and appropriate compensation. For information technology procurement
39 professionals, the State CIO shall establish a career path that includes defined qualifications,
40 career progression, training requirements, and appropriate compensation. These career paths
41 shall be documented by December 1, 2015, and shall be provided to the Joint Legislative
42 Oversight Committee on Information Technology and the Fiscal Research Division by
43 December 1, 2015. The career paths shall be updated on an annual basis.

44 (g) The State CIO may, subject to the provisions of G.S. 147-64.7(b)(2), obtain the
45 services of independent public accountants, qualified management consultants, and other
46 professional persons or experts to carry out the powers and duties of this Article, if the
47 Department does not have any personnel qualified to perform the function for which the
48 professionals would be engaged and if the requirement has been included in the Department's
49 budget for the year in which the services are required.

50 (h) Criminal Records Checks. – The State CIO shall require background investigations
51 of any employee or prospective employee, including a criminal history record check, which

1 may include a search of the State and National Repositories of Criminal Histories based on the
2 person's fingerprints. A criminal history record check shall be conducted by the State Bureau of
3 Investigation upon receiving fingerprints and other information provided by the employee or
4 prospective employee. If the employee or prospective employee has been a resident of the State
5 for less than five years, the background report shall include a review of criminal information
6 from both the State and National Repositories of Criminal Histories. The criminal background
7 report shall be provided to the State CIO and is not a public record under Chapter 132 of the
8 General Statutes.

9 "Part 3. Information Technology Projects and Management.

10 **"§ 143B-1318. Project Management.**

11 (a) Overall Management. – All information technology projects shall be managed
12 through a standardized, fully documented process established and overseen by the State CIO.
13 The State CIO shall be responsible for ensuring that participating agency information
14 technology projects are completed on time, within budget, and meet all defined business
15 requirements upon completion. For separate agency projects, the State CIO shall ensure that
16 projects follow the Department's established process and shall monitor schedule, budget, and
17 adherence to business requirements. For all projects, the State CIO shall establish procedures to
18 limit the need for change requests and shall report on this process to the Joint Legislative
19 Oversight Committee on Information Technology and the Fiscal Research Division by October
20 1, 2015. The State CIO shall also ensure that agency information technology project
21 requirements are documented in biennial information technology plans. If an agency updates a
22 biennial information technology plan to add a new project, the State CIO shall immediately
23 report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal
24 Research Division on the reasons for the new requirement, the costs, and the sources of
25 funding.

26 (b) Project Review and Approval. – The State CIO shall review, approve, and monitor
27 all information technology projects for State agencies and shall be responsible for the efficient
28 and timely management of all information technology projects for participating agencies.
29 Project approval may be granted upon the State CIO's determination that the project conforms
30 to project management procedures and policies, does not duplicate a capability already existing
31 in the State, conforms to procurement rules and policies, and that sufficient funds are available.

32 (c) Project Implementation. – No State agency, unless expressly exempt within this
33 Article, shall proceed with an information technology project until the State CIO approves the
34 project. If a project is not approved, the State CIO shall specify in writing to the agency the
35 grounds for denying the approval. The State CIO shall provide this information to the agency
36 and the Office of State Budget and Management within five business days of the denial.

37 (d) Suspension of Approval/Cancellation of Projects. – The State CIO of Information
38 Technology may suspend the approval of, or cancel, any information technology project that
39 does not continue to meet the applicable quality assurance standards. The State CIO shall
40 immediately suspend approval of, or cancel, any information technology project that is initiated
41 without State CIO approval. Any project suspended or cancelled because of lack of State CIO
42 approval cannot proceed until it completes all required project management documentation and
43 meets criteria established by the State CIO for project approval, to include a statement from the
44 State CIO that the project does not duplicate capabilities that already exist within the executive
45 branch. If the State CIO suspends or cancels a project, the State CIO shall specify in writing to
46 the agency the grounds for suspending or cancelling the approval. The State CIO shall provide
47 this information to the agency within five business days of the suspension.

48 The Department shall report any suspension or cancellation immediately to the Office of
49 the State Controller, the Office of State Budget and Management, the Joint Legislative
50 Oversight Committee on Information Technology, and the Fiscal Research Division. The

1 Office of State Budget and Management shall not allow any additional expenditure of funds for
2 a project that is no longer approved by the State CIO of Information Technology.

3 (e) General Quality Assurance. – Information technology projects authorized in
4 accordance with this Article shall meet all project standards and requirements established under
5 this Part.

6 (f) Performance Contracting. – All contracts between the State and a private party for
7 information technology projects shall include provisions for vendor performance review and
8 accountability, contract suspension or termination, and termination of funding. The State CIO
9 may require that these contract provisions include a performance bond, monetary penalties, or
10 require other performance assurance measures for projects that are not completed within the
11 specified time period or that involve costs in excess of those specified in the contract. The State
12 CIO may utilize cost-savings realized on government vendor partnerships as performance
13 incentives for an information technology vendor.

14 (g) Notwithstanding the provisions of G.S. 114-2.3, any State agency developing and
15 implementing an information technology project with a total cost of ownership in excess of five
16 million dollars (\$5,000,000) may be required by the State CIO to engage the services of private
17 counsel or subject matter experts with the appropriate information technology expertise. The
18 private counsel or subject matter expert may review requests for proposals; review and provide
19 advice and assistance during the evaluation of proposals and selection of any vendors; and
20 review and negotiate contracts associated with the development, implementation, operation,
21 and maintenance of the project. This requirement may also apply to information technology
22 programs that are separated into individual projects, if the total cost of ownership for the
23 overall program exceeds five million dollars (\$5,000,000).

24 **"§ 143B-1319. Project management standards.**

25 (a) The State CIO shall establish standardized documentation requirements for agency
26 projects to include requests for proposal and contracts. The State CIO shall establish standards
27 for project managers and project management assistants. The State CIO shall develop
28 performance measures for project reporting and shall make this reporting available through a
29 publicly accessible Web site.

30 (b) Participating Agency Responsibilities. – The State CIO shall designate a Project
31 Manager who shall select qualified personnel from the Department staff to participate in IT
32 project management, implementation, testing, and other activities for any information
33 technology project. The Project Manager shall provide periodic reports to the project
34 management assistant assigned to the project by the State CIO under subsection (b) of this
35 section. The reports shall include information regarding the agency's business requirements,
36 applicable laws and regulations, project costs, issues related to hardware, software, or training,
37 projected and actual completion dates, and any other information related to the implementation
38 of the information technology project.

39 (c) Separate Agency Responsibilities. – Each agency shall provide for one or more
40 project managers who meet the applicable quality assurance standards for each information
41 technology project that is subject to approval by the State CIO. Each project manager shall be
42 subject to the review and approval of the State CIO. Each agency project manager shall provide
43 periodic reports to the project management assistant assigned to the project by the State CIO
44 under this subsection. The reports shall include information regarding project costs, issues
45 related to hardware, software, or training, projected and actual completion dates, and any other
46 information related to the implementation of the information technology project.

47 (d) State CIO Responsibilities. – The State CIO of Information Technology shall
48 provide a project management assistant from the Department for any approved separate agency
49 project, whether the project is undertaken in single or multiple phases or components. The State
50 CIO may designate a project management assistant for any other information technology
51 project.

1 The project management assistant shall advise the agency with the initial planning of a
2 project, the content and design of any request for proposals, contract development,
3 procurement, and architectural and other technical reviews. The project management assistant
4 shall also monitor progress in the development and implementation of the project and shall
5 provide status reports to the agency and the State CIO of Information Technology, including
6 recommendations regarding continued approval of the project.

7 The State CIO shall establish a clearly defined, standardized process for project
8 management that includes timelines for completion of process requirements for both the
9 Department and agencies. The State CIO shall also establish reporting requirements for
10 information technology projects, both during the planning, development, and implementation
11 process, and following completion of the project. The State CIO shall continue to monitor
12 system performance and financial aspects of each project after implementation and shall report
13 to the Joint Legislative Oversight Committee on Information Technology and the Fiscal
14 Research Division when there is more than a five percent (5%) variance in a completed
15 project's operations and maintenance costs or if a project does not provide the forecasted return
16 on investment. The State CIO shall also monitor any certification process required for State
17 information technology projects and shall immediately report any issues associated with
18 certification processes to the Joint Legislative Oversight Committee on Information
19 Technology and the Fiscal Research Division.

20 **"§ 143B-1320. Dispute resolution.**

21 (a) Agency Request for Review. – In any instance where the State CIO has denied or
22 suspended the approval of an information technology project, has cancelled the project, or has
23 denied an agency's request for deviation, the affected State agency may request that the
24 Governor review the State CIO's decision. The agency shall submit a written request for review
25 to the Governor within 15 working days following the agency's receipt of the State CIO's
26 written grounds for denial, suspension, or cancellation. The agency's request for review shall
27 specify the grounds for its disagreement with the State CIO's determination. The agency shall
28 include with its request for review a copy of the State CIO's written grounds for denial or
29 suspension.

30 (b) Review Process. – The Governor shall review the information provided and may
31 request additional information from either the agency or the State CIO. The Governor may
32 affirm, reverse, or modify the decision of the State CIO, or may remand the matter back to the
33 State CIO for additional findings. Within 30 days after initial receipt of the agency's request for
34 review, the Governor shall notify the agency and the State CIO of the decision in the matter.
35 The notification shall be in writing and shall specify the grounds for the Governor's decision.

36 The Governor may reverse or modify a decision of the State CIO when the Governor finds
37 the decision of the State CIO is unsupported by substantial evidence that the agency project
38 fails to meet one or more standards of efficiency and quality of State government information
39 technology as required under this Article.

40 **"§ 143B-1321. Standardization.**

41 The State CIO shall establish consistent standards for the purchase of agency hardware and
42 software that reflect identified, documented agency needs.

43 **"§ 143B-1322. Legacy applications.**

44 Legacy applications shall be moved to the Department once a detailed plan, coordinated
45 with the impacted agencies, is in place for the successful transition of a specific application to
46 the Department. The State CIO must provide a written statement that the Department is
47 prepared to assume responsibility for the application and that there will be no issues with
48 service during the transition. A copy of this statement shall be forwarded to the Review
49 Committee, the Joint Legislative Oversight Committee on Information Technology, and the
50 Fiscal Research Division prior to the transition of an application.

1 The Department shall identify situations where multiple agencies are using legacy systems
2 with similar capabilities and shall prepare plans to consolidate these systems. Initial
3 identification of similar capabilities shall be reported to the Joint Legislative Oversight
4 Committee on Information Technology and the Fiscal Research Division by March 1, 2016.
5 The initial report shall include a schedule for the consolidation. The report shall also include
6 the costs for operating and maintaining the current systems, the estimated costs for an
7 enterprise replacement system, and the operations and maintenance costs associated with an
8 enterprise system.

9 "Part 4. Information Technology Procurement.

10 **"§ 143B-1323. Procurement of information technology.**

11 (a) The State CIO is responsible for establishing policies and procedures for
12 information technology procurement for State agencies.

13 Notwithstanding any other provision of law, the Department shall procure all information
14 technology goods and services for participating agencies and shall approve information
15 technology procurements for separate agencies. The State CIO may cancel or suspend any
16 agency information technology procurement that occurs without State CIO approval. If an
17 agency procures information technology goods or services without State CIO approval, the
18 agency shall be responsible for identifying a funding source that is not associated with
19 information technology fund codes.

20 (b) The Department shall integrate technological review, current availability of the
21 capability, cost analysis, and procurement for all information technology needs of State
22 agencies in order to make procurement and implementation of technology more responsive,
23 efficient, and cost-effective. G.S. 143-135.9 shall apply to information technology
24 procurements.

25 (c) The Department shall, subject to the provisions of this Part, do all of the following
26 with respect to State information procurement:

- 27 (1) Purchase or contract for all information technology for participating State
28 agencies.
- 29 (2) Approve all technology purchases for separate agencies.
- 30 (3) Establish standardized, consistent processes, specifications, and standards
31 that shall apply to all information technology to be purchased, licensed, or
32 leased by State agencies and relating to information technology personal
33 services contract requirements for State agencies, including, but not limited
34 to, requiring convenience contracts to be rebid prior to termination without
35 extensions.
- 36 (4) Establish procedures to permit State agencies and local government entities
37 to use the General Services Administration (GSA) Cooperative Purchasing
38 Program to purchase information technology (i) awarded under General
39 Services Administration Supply Schedule 70 Information Technology and
40 (ii) from contracts under the GSA's Consolidated Schedule containing
41 information technology special item numbers.
- 42 (5) Establish procedures to permit State agencies and local government entities
43 to use other cooperative purchasing agreements.
- 44 (6) Comply with the State government-wide technical architecture, as required
45 by the State CIO.
- 46 (7) Utilize the purchasing benchmarks established by the State CIO of
47 Administration pursuant to G.S. 143-53.1.
- 48 (8) Provide strategic sourcing resources and detailed, documented planning to
49 compile and consolidate all estimates of information technology goods and
50 services needed and required by State agencies.

1 (9) Develop a process to provide a question and answer period for vendors prior
2 to procurements.

3 (d) Each State agency, separate agency, and participating agency shall furnish to the
4 State CIO when requested, and on forms as prescribed, estimates of all information technology
5 goods and services needed and required by such department, institution, or agency for such
6 periods in advance as may be designated by the State CIO. In addition to the report required, all
7 departments, institutions, or agencies of the State government shall furnish to the State CIO
8 when requested, and on forms as prescribed, actual expenditures for all goods and services
9 needed and required by the department, institution, or agency for such periods after the
10 expenditures have been made as may be designated by the State CIO.

11 (e) Confidentiality. – Contract information compiled by the Department shall be made a
12 matter of public record after the award of contract. Trade secrets, test data, similar proprietary
13 information, and security information protected under G.S. 132-6.1(c) or other law shall remain
14 confidential.

15 (f) Electronic Procurement. – The State CIO may authorize the use of the electronic
16 procurement system established by G.S. 143-48.3, or other systems, to conduct reverse auctions
17 and electronic bidding. For purposes of this Part, "reverse auction" means a real-time
18 purchasing process in which vendors compete to provide goods or services at the lowest selling
19 price in an open and interactive electronic environment. The vendor's price may be revealed
20 during the reverse auction. The Department may contract with a third-party vendor to conduct
21 the reverse auction. "Electronic bidding" means the electronic solicitation and receipt of offers
22 to contract. Offers may be accepted and contracts may be entered by use of electronic bidding.
23 All requirements relating to formal and competitive bids, including advertisement, seal, and
24 signature, are satisfied when a procurement is conducted or a contract is entered in compliance
25 with the reverse auction or electronic bidding requirements established by the Department.

26 (g) Bulk Purchasing. – The State CIO shall establish efficient, responsive procedures
27 for the procurement of information technology. The procedures may include aggregation of
28 hardware purchases, the use of formal bid procedures, restrictions on supplemental staffing,
29 enterprise software licensing, hosting, and multi-year maintenance agreements. The State CIO
30 may require agencies to submit information technology procurement requests on a regularly
31 occurring schedule each fiscal year in order to allow for bulk purchasing.

32 (h) All offers to contract, whether through competitive bidding or other procurement
33 method, shall be subject to evaluation and selection by acceptance of the most advantageous
34 offer to the State. Evaluation shall include best value, as the term is defined in
35 G.S. 143-135.9(a)(1); compliance with information technology project management policies,
36 compliance with information technology security standards and policies, substantial conformity
37 with the specifications and other conditions set forth in the solicitation.

38 (i) Exceptions. – In addition to permitted waivers of competition, the requirements of
39 competitive bidding shall not apply to information technology contracts and procurements:

40 (1) In cases of pressing need or emergency arising from a security incident.

41 (2) In the use of master licensing or purchasing agreements governing the
42 Department's acquisition of proprietary intellectual property.

43 Any exceptions shall immediately be reported to the Joint Legislative Oversight Committee
44 on Information Technology and the Fiscal Research Division.

45 (j) Information Technology Innovation Center. – The Department may operate a State
46 Information Technology Innovation Center (iCenter) to develop and demonstrate technology
47 solutions with potential benefit to the State and its citizens. The iCenter may facilitate the
48 piloting of potential solutions to State technology requirements. In operating the iCenter, the
49 State CIO shall ensure that all State laws, rules, and policies are followed.

50 Vendor participation in the iCenter shall not be construed to (i) create any type of preferred
51 status for vendors or (ii) abrogate the requirement that agency and statewide requirements for

1 information technology support, including those of the Department, are awarded based on a
2 competitive process that follows information technology procurement guidelines.

3 **"§ 143B-1324. Restriction on State agency contractual authority with regard to**
4 **information technology.**

5 (a) All State agencies covered by this Article shall use contracts for information
6 technology to include enterprise licensing agreements and convenience contracts established by
7 the Department. The State CIO shall consult the agency heads and Agency Information
8 Technology Leaders prior to the initiation of any enterprise project or contract.
9 Notwithstanding any other statute, the authority of State agencies to procure or obtain
10 information technology shall be subject to compliance with the provisions of this Part.

11 (b) Notwithstanding any other provision of law, local governmental entities may use the
12 information technology programs, services, or contracts offered by the Department, including
13 information technology procurement, in accordance with the statutes, policies, and rules of the
14 Department.

15 Local governmental entities are not required to comply with otherwise applicable
16 competitive bidding requirements when using contracts established by the Department.

17 Any other State entities exempt from Part 3 or Part 5 of this Article may also use the
18 information technology programs, services, or contracts offered by the Department, including
19 information technology procurement, in accordance with the statutes, policies, and rules of the
20 Department.

21 **"§ 143B-1325. Unauthorized use of public purchase or contract procedures for private**
22 **benefit prohibited.**

23 (a) It is unlawful for any person, by the use of the powers, policies, or procedures
24 described in this Part or established hereunder, to purchase, attempt to purchase, procure, or
25 attempt to procure any property or services for private use or benefit.

26 (b) This prohibition shall not apply if:

27 (1) The State agency through which the property or services are procured had
28 theretofore established policies and procedures permitting such purchases or
29 procurement by a class or classes of persons in order to provide for the
30 mutual benefit of such persons and the department, institution, or agency
31 involved, or the public benefit or convenience; and

32 (2) Such policies and procedures, including any reimbursement policies, are
33 complied with by the person permitted thereunder to use the purchasing or
34 procurement procedures described in this Part or established thereunder.

35 (c) Any violation of this section is a Class 1 misdemeanor.

36 (d) Any employee or official of the State who violates this Part shall be liable to the
37 State to repay any amount expended in violation of this Part, together with any court costs.

38 **"§ 143B-1326. Financial interest of officers in sources of supply; acceptance of bribes.**

39 Neither the State CIO, any deputy State CIO, or any other policy-making or managerially
40 exempt personnel shall be financially interested, or have any personal beneficial interest, either
41 directly or indirectly, in the purchase of, or contract for, any information technology, nor in any
42 firm, corporation, partnership, or association furnishing any information technology to the State
43 government, or any of its departments, institutions, or agencies, nor shall any of these persons
44 or any other Department employee accept or receive, directly or indirectly, from any person,
45 firm, or corporation to whom any contract may be awarded, by rebate, gifts, or otherwise, any
46 money or anything of value whatsoever, or any promise, obligation, or contract for future
47 reward or compensation. Violation of this section is a Class F felony, and any person found
48 guilty of a violation of this section shall, upon conviction, be removed from State office or
49 employment.

50 **"§ 143B-1327. Certification that information technology bid submitted without collusion.**

1 The State CIO shall require bidders to certify that each bid on information technology
2 contracts overseen by the Department is submitted competitively and without collusion. False
3 certification is a Class I felony.

4 **"§ 143B-1328. Award review.**

5 (a) When the dollar value of a contract for the procurement of information technology
6 equipment, materials, and supplies exceeds the benchmark established by G.S. 143B-1317, an
7 award recommendation shall be submitted to the State CIO of Information Technology for
8 approval or other action. The State CIO shall promptly notify the agency or institution making
9 the recommendation, or for which the purchase is to be made, of the action taken.

10 (b) Prior to submission for review pursuant to this section for any contract for
11 information technology being acquired for the benefit of an agency authorized to deviate from
12 this Article pursuant to G.S. 143B-1302(b), the State CIO shall review and approve the
13 procurement to ensure compliance with the established processes, specifications, and standards
14 applicable to all information technology purchased, licensed, or leased in State government,
15 including established procurement processes, and compliance with the State government-wide
16 technical architecture and standards established by the State CIO.

17 (c) The State CIO shall provide a report of all contract awards approved through the
18 Statewide Procurement Office as indicated below. The report shall include the amount of the
19 award, the contract term, the award recipient, the using agency, and a short description of the
20 nature of the award, as follows:

21 (1) For contract awards greater than twenty-five thousand dollars (\$25,000), to
22 the cochairs of the Joint Legislative Oversight Committee on Information
23 Technology and the Fiscal Research Division on a monthly basis.

24 (2) For all contract awards outside the established purchasing system, to the
25 Department of Administration, Joint Legislative Oversight Committee on
26 Information Technology, and Fiscal Research Division on a quarterly basis.

27 **"§ 143B-1329. Attorney General contract assistance.**

28 At the request of the State CIO, the Attorney General shall provide legal advice and
29 services necessary to implement this Part.

30 **"§ 143B-1330. Purchase of certain computer equipment and televisions by State agencies**
31 **and governmental entities prohibited.**

32 (a) No State agency, local political subdivision of the State, or other public body shall
33 purchase computer equipment or televisions, as defined in G.S. 130A-309.131, or enter into a
34 contract with any manufacturer that the State CIO determines is not in compliance with the
35 requirements of G.S. 130A-309.134 or G.S. 130A-309.135 as determined from the list provided
36 by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.138. The
37 State CIO shall issue written findings upon a determination of noncompliance. A determination
38 of noncompliance by the State CIO is reviewable under Article 3 of Chapter 150B of the
39 General Statutes.

40 (b) The Department shall make the list available to local political subdivisions of the
41 State and other public bodies. A manufacturer that is not in compliance with the requirements
42 of G.S. 130A-309.134 or G.S. 130A-309.135 shall not sell or offer for sale computer equipment
43 or televisions to the State, a local political subdivision of the State, or other public body.

44 **"§ 143B-1331. Refurbished computer equipment purchasing program.**

45 (a) The Department of Information Technology and the Department of Administration,
46 with the administrative support of the Information Technology Strategic Sourcing Office, shall
47 offer State and local governmental entities the option of purchasing refurbished computer
48 equipment from registered computer equipment refurbishers whenever most appropriate to
49 meet the needs of State and local governmental entities.

50 (b) State and local governmental entities shall document savings resulting from the
51 purchase of the refurbished computer equipment, including, but not limited to, the initial

1 acquisition cost as well as operations and maintenance costs. These savings shall be reported
2 quarterly to the Department of Information Technology.

3 (c) The Information Technology Strategic Sourcing Office shall administer the
4 refurbished computer equipment program by establishing a competitive purchasing process to
5 support this initiative that meets all State information technology procurement laws and
6 procedures and ensures that agencies receive the best value.

7 (d) Participating computer equipment refurbishers must meet all procurement
8 requirements established by the Department of Information Technology and the Department of
9 Administration.

10 **"§ 143B-1332. Configuration and specification requirements same as for new computers.**

11 Refurbished computer equipment purchased under this act must conform to the same
12 standards as the State may establish as to the configuration and specification requirements for
13 the purchase of new computers.

14 **"§ 143B-1333. Data on reliability and other issues; report.**

15 The Department of Information Technology shall maintain data on equipment reliability,
16 potential cost-savings, and any issues associated with the refurbished computer equipment
17 initiative and shall report the results of the initiative to the Joint Legislative Oversight
18 Committee on Information Technology and the Fiscal Research Division by March 1, 2016,
19 and then quarterly thereafter.

20 **"§ 143B-1334. Information technology procurement policy; reporting requirements.**

21 (a) Policy. – In order to further the policy of the State to encourage and promote the use
22 of small, minority, physically handicapped, and women contractors in State purchasing of
23 goods and services, all State agencies shall cooperate with the Department in efforts to
24 encourage the use of small, minority, physically handicapped, and women contractors in
25 achieving the purposes of this Article, which is to provide for the effective and economical
26 acquisition, management, and disposition of information technology.

27 (b) Bids. – A vendor submitting a bid shall disclose in a statement, provided
28 contemporaneously with the bid, where services will be performed under the contract sought,
29 including any subcontracts and whether any services under that contract, including any
30 subcontracts, are anticipated to be performed outside the United States. Nothing in this section
31 is intended to contravene any existing treaty, law, agreement, or regulation of the United States.
32 The State CIO shall retain the statements required by this subsection regardless of the State
33 entity that awards the contract and shall report annually to the Secretary of Administration on
34 the number of contracts which are anticipated to be performed outside the United States.

35 (c) Reporting. – Every State agency that makes a direct purchase of information
36 technology using the services of the Department shall report directly to the Department of
37 Administration all information required by G.S. 143-48(b).

38 (d) Data from Department of Administration. – The Department of Administration shall
39 collect and compile the data described in this section and report it annually to the Department
40 of Information Technology, the Joint Legislative Oversight Committee on Information
41 Technology, and the Fiscal Research Division.

42 "Part 5. Data Centers.

43 **"§ 143B-1335. Data centers.**

44 (a) The State CIO shall create an inventory of data center operations in the executive
45 branch and shall develop and implement a detailed, written plan for consolidation of agency
46 data centers in the most efficient manner possible. By May 1, 2016, the State CIO shall present
47 a report on the data center consolidation plan to the Joint Legislative Oversight Committee on
48 Information Technology and the Fiscal Research Division.

49 (b) State agencies shall use the State infrastructure to host their projects, services, data,
50 and applications. The State Chief Information Officer may grant an exception if the State
51 agency can demonstrate any of the following:

- 1 (1) Using an outside contractor would be more cost-effective for the State.
- 2 (2) The Department does not have the technical capabilities required to host the
3 application.
- 4 (3) Valid security requirements preclude the use of State infrastructure, and a
5 vendor can provide a more secure environment.

6 "Part 6. Communications and Portal Services.

7 **"§ 143B-1336. Communications services.**

8 (a) The State CIO shall exercise authority for telecommunications and other
9 communications included in information technology relating to the internal management and
10 operations of State agencies. In discharging that responsibility, the State CIO shall do the
11 following:

- 12 (1) Develop standards for a State network.
- 13 (2) Develop a detailed plan for the standardization and operation of State
14 communications networks and services.
- 15 (3) Establish an inventory of communications systems in use within the State
16 and ensure that the State is using the most efficient and cost-effective means
17 possible.
- 18 (4) Identify shortfalls in current network operations and develop a strategy to
19 mitigate the identified shortfalls.
- 20 (5) Provide for the establishment, management, and operation, through either
21 State ownership, by contract, or through commercial leasing, of the
22 following systems and services as they affect the internal management and
23 operation of State agencies:
 - 24 a. Central telephone systems and telephone networks, including Voice
25 over Internet Protocol and Commercial Mobile Radio Systems.
 - 26 b. Satellite services.
 - 27 c. Closed-circuit TV systems.
 - 28 d. Two-way radio systems.
 - 29 e. Microwave systems.
 - 30 f. Related systems based on telecommunication technologies.
 - 31 g. The "State Network," managed by the Department, which means any
32 connectivity designed for the purpose of providing Internet Protocol
33 transport of information to any building.
 - 34 h. Broadband.
- 35 (6) Coordinate the development of cost-sharing systems for respective user
36 agencies for their proportionate parts of the cost of maintenance and
37 operation of the systems and services listed in subdivision (1) of this
38 subsection.
- 39 (7) Assist in the development of coordinated telecommunications services or
40 systems within and among all State agencies and recommend, where
41 appropriate, cooperative utilization of telecommunication facilities by
42 aggregating users.
- 43 (8) Perform traffic analysis and engineering for all telecommunications services
44 and systems listed in subdivision (1) of this subsection.
- 45 (9) Establish telecommunications specifications and designs so as to promote
46 and support compatibility of the systems within State agencies.
- 47 (10) Provide a periodic inventory of telecommunications costs, facilities,
48 systems, and personnel within State agencies.
- 49 (11) Promote, coordinate, and assist in the design and engineering of emergency
50 telecommunications systems, including, but not limited to, the 911

1 emergency telephone number program, Emergency Medical Services, and
2 other emergency telecommunications services.

3 (12) Perform frequency coordination and management for State agencies and
4 local governments, including all public safety radio service frequencies, in
5 accordance with the rules and regulations of the Federal Communications
6 Commission or any successor federal agency.

7 (13) Advise all State agencies on telecommunications management planning and
8 related matters and provide through the State Personnel Training Center or
9 the Department training to users within State agencies in
10 telecommunications technology and systems.

11 (14) Assist and coordinate the development of policies and long-range plans,
12 consistent with the protection of citizens' rights to privacy and access to
13 information, for the acquisition and use of telecommunications systems, and
14 base such policies and plans on current information about State
15 telecommunications activities in relation to the full range of emerging
16 technologies.

17 (b) The provisions of this section shall not apply to the Judicial Information System in
18 the Judicial Department.

19 **§ 143B-1337. Communications services for local governmental entities and other**
20 **entities.**

21 (a) The State CIO shall provide cities, counties, and other local governmental entities
22 with access to communications systems or services established by the Department under this
23 Part for State agencies. Access shall be provided on the same cost basis that applies to State
24 agencies.

25 (b) The State CIO shall establish broadband communications services and permit, in
26 addition to State agencies, cities, counties, and other local government entities, the following
27 organizations and entities to share on a not-for-profit basis:

28 (1) Nonprofit educational institutions as defined in G.S. 116-280.

29 (2) MCNC and research affiliates of MCNC for use only in connection with
30 research activities sponsored or funded, in whole or in part, by MCNC, if
31 such research activities relate to health care or education in North Carolina.

32 (3) Agencies of the United States government operating in North Carolina for
33 use only in connection with activities that relate to health care, education, or
34 FirstNet in North Carolina.

35 (4) Hospitals, clinics, and other health care facilities for use only in connection
36 with activities that relate to health care, education, or FirstNet in North
37 Carolina.

38 (c) Provided, however, that communications or broadband telecommunications services
39 provided pursuant to this section shall not cause the State or the Department to be classified as
40 a public utility as that term is defined in G.S. 62-3(23)a.6., nor as a retailer as that term is
41 defined in G.S. 105-164.3. Nor shall the State or the Department engage in any activities that
42 may cause those entities to be classified as a common carrier as that term is defined in the
43 Communications Act of 1934, 47 U.S.C. § 153(10). Provided further, authority to share
44 communications services with the non-State agencies set forth in subdivisions (1) through (4)
45 of subsection (b) of this section shall terminate not later than one year from the effective date of
46 a tariff for such service or federal law that preempts this section.

47 **§ 143B-1338. Statewide electronic portal; annual report.**

48 (a) The Department shall plan, develop, implement, and operate a statewide electronic
49 portal (i) to increase the convenience of members of the public in conducting online
50 transactions with, and obtaining information from, State government and (ii) to facilitate their
51 interactions and communications with government agencies. The State CIO shall have approval

1 authority over all agency Web site funding and content, to include any agency contract
2 decisions. Participating agency Web site and content development staff shall be transferred to
3 the Department in accordance with the schedule for their agency.

4 (b) Beginning June 30, 2015, and then annually thereafter, the State CIO shall report to
5 the General Assembly and to the Fiscal Research Division on the following information:

6 (1) Services currently provided and associated transaction volumes or other
7 relevant indicators of utilization by user type.

8 (2) New services added during the previous year.

9 (3) Services added that are currently available in other states.

10 (4) The total amount collected for each service.

11 (5) The total amount remitted to the State for each service.

12 (6) The total amount remitted to the vendor for each service.

13 (7) Any other use of State data by the vendor and the total amount of revenue
14 collected per each use and in total.

15 (8) Customer satisfaction with each service.

16 (9) Any other issues associated with the provision of each service.

17 "Part 7. Security of Information Technology.

18 **"§ 143B-1339. Security.**

19 Confidentiality. – No data of a confidential nature, as defined in the General Statutes or
20 federal law, may be entered into or processed through any information technology system or
21 network established under this Article until safeguards for the data's security satisfactory to the
22 State CIO have been designed and installed and are fully operational. This section does not
23 affect the provisions of G.S. 147-64.6 or G.S. 147-64.7.

24 **"§ 143B-1340. Statewide security standards.**

25 The State CIO shall be responsible for the security of all State information technology
26 systems and associated data. The State CIO shall manage all executive branch information
27 technology security and shall establish a statewide standard for information technology security
28 to maximize the functionality, security, and interoperability of the State's distributed
29 information technology assets, including, but not limited to, data classification and
30 management, communications, and encryption technologies. The State CIO shall review and
31 revise the security standards annually. As part of this function, the State CIO shall review
32 periodically existing security standards and practices in place among the various State agencies
33 to determine whether those standards and practices meet statewide security and encryption
34 requirements. The State CIO may assume the direct responsibility of providing for the
35 information technology security of any State agency that fails to adhere to security standards
36 adopted under this Article.

37 The State CIO shall establish standards for the management and safeguarding of all State
38 data held by State agencies and private entities and shall develop and implement a process to
39 monitor and ensure adherence to the established standards. The State CIO shall establish and
40 enforce standards for the protection of State data. The State CIO shall develop and maintain an
41 inventory of where State data is stored. For data maintained by non-State entities, the State CIO
42 shall document the reasons for the use of the non-State entity and certify, in writing, that the
43 use of the non-State entity is the best course of action. The State CIO shall ensure that State
44 data held by non-State entities is properly protected and is held in facilities that meet State
45 security standards. By October 1 each year, the State CIO shall certify in writing that data held
46 in non-State facilities is being maintained in accordance with State information technology
47 security standards and shall provide a copy of this certification to the Joint Legislative
48 Oversight Committee on Information Technology and the Fiscal Research Division.

49 Before a State agency can contract for the storage, maintenance, or use of State data by a
50 private vendor, the agency shall obtain the approval of the State CIO.

51 **"§ 143B-1341. State CIO approval of security standards and risk assessments.**

1 (a) Notwithstanding G.S. 143-48.3, 143B-1302(b), or (c), or any other provision of law,
2 and except as otherwise provided by this Article, all information technology security goods,
3 software or services purchased using State funds, or for use by a State agency or in a State
4 facility, shall be subject to approval by the State CIO in accordance with security standards
5 adopted under this Part.

6 (b) The State CIO shall conduct risk assessments to identify compliance, operational,
7 and strategic risks to the enterprise network. These assessments may include methods such as
8 penetration testing or similar assessment methodologies. The State CIO may contract with
9 another party or parties to perform the assessments. Detailed reports of the risk and security
10 issues identified shall be kept confidential as provided in G.S. 132-6.1(c).

11 (c) If the legislative branch or the judicial branch develop their own security standards,
12 taking into consideration the mission and functions of that entity, that are comparable to or
13 exceed those set by the State CIO under this section, then those entities may elect to be
14 governed by their own respective security standards. In these instances, approval of the State
15 CIO shall not be required before the purchase of information technology security devices and
16 services. If requested, the State CIO shall consult with the legislative branch and the judicial
17 branch in reviewing the security standards adopted by those entities.

18 (d) Before a State agency may enter into any contract with another party for an
19 assessment of network vulnerability, the State agency shall notify the State CIO and obtain
20 approval of the request. If the State agency enters into a contract with another party for
21 assessment and testing, after approval of the State CIO, the State agency shall issue public
22 reports on the general results of the reviews. The contractor shall provide the State agency with
23 detailed reports of the security issues identified that shall not be disclosed as provided in
24 G.S. 132-6.1(c). The State agency shall provide the State CIO with copies of the detailed
25 reports that shall not be disclosed as provided in G.S. 132-6.1(c).

26 (e) Nothing in this section shall be construed to preclude the Office of the State Auditor
27 from assessing the security practices of State information technology systems as part of its
28 statutory duties and responsibilities.

29 **"§ 143B-1342. Assessment of agency compliance with security standards.**

30 At a minimum, the State CIO shall annually assess the ability of each State agency, and
31 each agency's contracted vendors, to comply with the current security enterprise-wide set of
32 standards established pursuant to this section. The assessment shall include, at a minimum, the
33 rate of compliance with the enterprise-wide security standards and an assessment of security
34 organization, security practices, security information standards, network security architecture,
35 and current expenditures of State funds for information technology security. The assessment of
36 a State agency shall also estimate the cost to implement the security measures needed for
37 agencies to fully comply with the standards. Each State agency shall submit information
38 required by the State CIO for purposes of this assessment. The State CIO shall include the
39 information obtained from the assessment in the State Information Technology Plan.

40 **"§ 143B-1343. State agency cooperation; liaisons.**

41 (a) The head of each principal department and Council of State agency shall cooperate
42 with the State CIO in the discharge of the State CIO's duties by providing the following
43 information to the Department:

- 44 (1) The full details of the State agency's information technology and operational
45 requirements and of all the agency's information technology security
46 incidents within 24 hours of confirmation.
- 47 (2) Comprehensive information concerning the information technology security
48 employed to protect the agency's information technology.
- 49 (3) A forecast of the parameters of the agency's projected future information
50 technology security needs and capabilities.

1 (4) Designating an agency liaison in the information technology area to
2 coordinate with the State Chief Information Officer. The liaison shall be
3 subject to a criminal background report from the State Repository of
4 Criminal Histories, which shall be provided by the State Bureau of
5 Investigation upon its receiving fingerprints from the liaison. If the liaison
6 has been a resident of this State for less than five years, the background
7 report shall include a review of criminal information from both the State and
8 National Repositories of Criminal Histories. The criminal background report
9 shall be provided to the State Chief Information Officer and the head of the
10 agency. In addition, all personnel in the Office of the State Auditor who are
11 responsible for information technology security reviews pursuant to
12 G.S. 147-64.6(c)(18) shall be subject to a criminal background report from
13 the State Repository of Criminal Histories, which shall be provided by the
14 State Bureau of Investigation upon receiving fingerprints from the personnel
15 designated by the State Auditor. For designated personnel who have been
16 residents of this State for less than five years, the background report shall
17 include a review of criminal information from both the State and National
18 Repositories of Criminal Histories. The criminal background reports shall be
19 provided to the State Auditor. Criminal histories provided pursuant to this
20 subdivision are not public records under Chapter 132 of the General Statutes.

21 (b) The information provided by State agencies to the State CIO under this section is
22 protected from public disclosure pursuant to G.S. 132-6.1(c).

23 "Part 8. Government Data Analytics Center.

24 **"§ 143B-1344. Definitions.**

25 As used in this Part, the following definitions apply:

26 (1) Business intelligence. – The process of collecting, organizing, sharing, and
27 analyzing data through integrated data management, reporting, visualization,
28 and advanced analytics to discover patterns and other useful information that
29 will allow policymakers and State officials to make more informed
30 decisions. Business intelligence also includes both of the following:

31 a. Broad master data management capabilities such as data integration,
32 data quality and enrichment, data governance, and master data
33 management to collect, reference, and categorize information from
34 multiple sources.

35 b. Self-service query and reporting capabilities to provide timely,
36 relevant, and actionable information to business users delivered
37 through a variety of interfaces, devices, or applications based on their
38 specific roles and responsibilities.

39 (2) Data analytics. – Data analysis, including the ability to use the data for
40 assessment and extraction of policy relevant information.

41 (3) Enterprise-level data analytics. – Standard analytics capabilities and services
42 leveraging data throughout all State agencies, departments, and institutions.

43 **"§ 143B-1345. Government Data Analytics Center.**

44 (a) Purpose. – The purpose of the Department's GDAC is to utilize public-private
45 partnerships as part of a statewide data integration and data-sharing initiative and to identify
46 data integration and business intelligence opportunities that will generate greater efficiencies in,
47 and improved service delivery by, State agencies, departments, and institutions. The intent is
48 not to replace transactional systems but to leverage the data from those systems for enterprise
49 level State business intelligence. The GDAC shall continue the work, purpose, and resources of
50 previous data integration efforts and shall otherwise advise and assist the State CIO in the

1 management of the initiative. The State CIO shall make any organizational changes necessary
2 to maximize the effectiveness and efficiency of the GDAC.

3 (b) Public-private partnerships. – The State CIO shall continue to utilize public-private
4 partnerships and existing data integration and analytics contracts and licenses as appropriate to
5 continue the implementation of the initiative. Private entities that partner with the State shall
6 make appropriate contributions of funds or resources, including, but not limited to, knowledge
7 transfer and education activities, software licensing, hardware and technical infrastructure
8 resources, personnel resources, and such other appropriate resources as agreed upon by the
9 parties.

10 (c) Powers and Duties. – The Department shall, through the GDAC, do all of the
11 following:

- 12 (1) Continue and coordinate ongoing enterprise data integration efforts,
13 including:
 - 14 a. The deployment, support, technology improvements, and expansion
15 of the Criminal Justice Law Enforcement Automated Data System
16 (CJLEADS) and related case management systems.
 - 17 b. The pilot and subsequent phase initiative for the North Carolina
18 Financial Accountability and Compliance Technology System
19 (NFACTS).
 - 20 c. Individual-level student data and workforce data from all levels of
21 education and the State workforce.
 - 22 d. Other capabilities as developed by the GDAC.
- 23 (2) Identify technologies currently used in North Carolina that have the
24 capability to support the initiative.
- 25 (3) Identify other technologies, especially those with unique capabilities that are
26 complementary to existing technology standards, and that could support the
27 State's business intelligence effort.
- 28 (4) Compare capabilities and costs across State agencies.
- 29 (5) Ensure implementation is properly supported across State agencies.
- 30 (6) Ensure that data integration and sharing is performed in a manner that
31 preserves data privacy and security in transferring, storing, and accessing
32 data, as appropriate.
- 33 (7) Immediately seek any waivers and enter into any written agreements that
34 may be required by State or federal law to effectuate data sharing and to
35 carry out the purposes of this section.
- 36 (8) Coordinate data requirements and usage for State business intelligence
37 applications in a manner that (i) limits impacts on participating State
38 agencies as those agencies provide data and business knowledge expertise
39 and (ii) assists in defining business rules so the data can be properly used.
- 40 (9) Recommend the most cost-effective and reliable long-term hosting solution
41 for enterprise-level State business intelligence as well as data integration,
42 notwithstanding any other provision of State law or regulation.
- 43 (10) Utilize a common approach that establishes standards for business
44 intelligence initiatives for all State agencies and prevents the development of
45 projects that do not meet the established standards.
- 46 (11) The creation of efficiencies in State government by ensuring that State
47 agencies use the GDAC for agency business intelligence requirements.

48 (d) Application to State Government. – The initiative shall include all State agencies,
49 departments, and institutions, including The University of North Carolina, as follows:

- 50 (1) All State agency business intelligence requirements, including any planning
51 or development efforts associated with creating business intelligence

1 capability, as well as any master data management efforts, shall be
2 implemented through the GDAC.

- 3 (2) The Chief Justice of the North Carolina Supreme Court and the Legislative
4 Services Commission each shall designate an officer or agency to advise and
5 assist the State CIO with respect to implementation of the initiative in their
6 respective branches of government. The judicial and legislative branches
7 shall fully cooperate in the initiative mandated by this section in the same
8 manner as is required of State agencies.

9 (e) Project Management. – The Department, with the assistance of the Office of State
10 Budget and Management, shall identify potential funding sources for expansion of existing
11 projects or development of new projects. No GDAC project shall be initiated, extended, or
12 expanded (i) without the specific approval of the General Assembly unless the project can be
13 implemented within funds appropriated for GDAC projects or (ii) without prior consultation to
14 the Joint Legislative Commission on Governmental Operations and a report to the Joint
15 Legislative Oversight Committee on Information Technology if the project can be implemented
16 within funds appropriated for GDAC projects.

17 **"§ 143B-1346. Data sharing.**

18 (a) General Duties of All State Agencies. – Unless otherwise provided by this article
19 and except as limited or prohibited by federal law, the head of each State agency, department,
20 and institution shall do all of the following:

- 21 (1) Grant the GDAC access to all information required to develop and support
22 State business intelligence applications pursuant to this section. The State
23 CIO and the GDAC shall take all necessary actions and precautions,
24 including training, certifications, background checks, and governance policy
25 and procedure, to ensure the security, integrity, and privacy of the data in
26 accordance with State and federal law and as may be required by contract.
27 (2) Provide complete information on the State agency's information technology,
28 operational, and security requirements.
29 (3) Provide information on all of the State agency's information technology
30 activities relevant to the State business intelligence effort.
31 (4) Forecast the State agency's projected future business intelligence information
32 technology needs and capabilities.
33 (5) Ensure that the State agency's future information technology initiatives
34 coordinate efforts with the GDAC to include planning and development of
35 data interfaces to incorporate data into the initiative and to ensure the ability
36 to leverage analytics capabilities.
37 (6) Provide technical and business resources to participate in the initiative by
38 providing, upon request and in a timely and responsive manner, complete
39 and accurate data, business rules and policies, and support.
40 (7) Identify potential resources for deploying business intelligence in their
41 respective State agencies and as part of the enterprise-level effort.
42 (8) Immediately seek any waivers and enter into any written agreements that
43 may be required by State or federal law to effectuate data sharing and to
44 carry out the purposes of this section, as appropriate.

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

- 48 (1) The North Carolina Industrial Commission shall release to the GDAC, or
49 otherwise provide electronic access to, all data requested by the GDAC
50 relating to workers' compensation insurance coverage, claims, appeals,
51 compliance, and enforcement under Chapter 97 of the General Statutes.

1 (2) The North Carolina Rate Bureau (Bureau) shall release to GDAC, or
2 otherwise provide electronic access to, all data requested by GDAC relating
3 to workers' compensation insurance coverage, claims, business ratings, and
4 premiums under Chapter 58 of the General Statutes. The Bureau shall be
5 immune from civil liability for releasing information pursuant to this
6 subsection, even if the information is erroneous, provided the Bureau acted
7 in good faith and without malicious or willful intent to harm in releasing the
8 information.

9 (3) The Department of Commerce, Division of Employment Security (DES),
10 shall release to GDAC, or otherwise provide access to, all data requested by
11 GDAC relating to unemployment insurance coverage, claims, and business
12 reporting under Chapter 96 of the General Statutes.

13 (4) The Department of Labor shall release to GDAC, or otherwise provide
14 access to, all data requested by GDAC relating to safety inspections, wage
15 and hour complaints, and enforcement activities under Chapter 95 of the
16 General Statutes.

17 (5) The Department of Revenue shall release to GDAC, or otherwise provide
18 access to, all data requested by GDAC relating to the registration and
19 address information of active businesses, business tax reporting, and
20 aggregate federal tax Form 1099 data for comparison with information from
21 DES, the Rate Bureau, and the Department of the State CIO for the
22 evaluation of business reporting. Additionally, the Department of Revenue
23 shall furnish to the GDAC, upon request, other tax information, provided
24 that the information furnished does not impair or violate any information
25 sharing agreements between the Department and the United States Internal
26 Revenue Service. Notwithstanding any other provision of law, a
27 determination of whether furnishing the information requested by GDAC
28 would impair or violate any information sharing agreements between the
29 Department of Revenue and the United States Internal Revenue Service shall
30 be within the sole discretion of the State Chief Information Officer. The
31 Department of Revenue and the Office of the State CIO shall work jointly to
32 assure that the evaluation of tax information pursuant to this subdivision is
33 performed in accordance with applicable federal law.

34 (c) All information shared with GDAC and the State CIO under this subsection is
35 protected from release and disclosure in the same manner as any other information is protected
36 under this section.

37 (d) Privacy and Confidentiality of Information. – The State CIO and the GDAC shall be
38 deemed to be all of the following for the purposes of this Part:

39 (1) With respect to criminal information, and to the extent allowed by federal
40 law, a criminal justice agency (CJA), as defined under Criminal Justice
41 Information Services (CJIS) Security Policy. The State CJIS Systems
42 Agency (CSA) shall ensure that CJLEADS receives access to federal
43 criminal information deemed to be essential in managing CJLEADS to
44 support criminal justice professionals.

45 (2) With respect to health information covered under the Health Insurance
46 Portability and Accountability Act of 1996 (HIPAA), as amended, and to the
47 extent allowed by federal law:

48 a. A business associate with access to protected health information
49 acting on behalf of the State's covered entities in support of data
50 integration, analysis, and business intelligence.

- 1 b. Authorized to access and view individually identifiable health
2 information, provided that the access is essential to the enterprise
3 fraud, waste, and improper payment detection program or required
4 for future initiatives having specific definable need for the
5 information.
- 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 (e) Release of Information. – The following limitations apply to (i) the release of
15 information compiled as part of the initiative, (ii) data from State agencies that is incorporated
16 into the initiative, and (iii) data released as part of the implementation of the initiative:
- 17 (1) Information compiled as part of the initiative. – Notwithstanding the
18 provisions of Chapter 132 of the General Statutes, information compiled by
19 the State CIO and the GDAC related to the initiative may be released as a
20 public record only if the State CIO, in that officer's sole discretion, finds that
21 the release of information is in the best interest of the general public and is
22 not in violation of law or contract.
- 23 (2) Data from State agencies. – Any data that is not classified as a public record
24 under G.S. 132-1 shall not be deemed a public record when incorporated into
25 the data resources comprising the initiative. To maintain confidentiality
26 requirements attached to the information provided to the State CIO and
27 GDAC, each source agency providing data shall be the sole custodian of the
28 data for the purpose of any request for inspection or copies of the data under
29 Chapter 132 of the General Statutes.
- 30 (3) Data released as part of implementation. – Information released to persons
31 engaged in implementing the State's business intelligence strategy under this
32 section that is used for purposes other than official State business is not a
33 public record pursuant to Chapter 132 of the General Statutes.
- 34 (4) Data from North Carolina Rate Bureau. – Notwithstanding any other
35 provision of this section, any data released by or obtained from the North
36 Carolina Rate Bureau under this initiative relating to workers' compensation
37 insurance claims, business ratings, or premiums are not public records and
38 public disclosure of such data, in whole or in part, by the GDAC or State
39 CIO, or by any State agency, is prohibited.

40 **"§ 143B-1347. GDAC funding.**

41 The Department shall identify and make all efforts to secure any matching funds or other
42 resources to assist in funding the GDAC. Savings resulting from the cancellation of projects,
43 software, and licensing, as well as any other savings from the utilization of the GDAC, shall be
44 returned to the General Fund and shall remain unexpended and unencumbered until
45 appropriated by the General Assembly in a subsequent fiscal year. It is the intent of the General
46 Assembly that expansion of the GDAC in subsequent fiscal years be funded with these savings
47 and that the General Assembly appropriate funds for projects in accordance with the priorities
48 identified by the State CIO.

49 **"§ 143B-1348. GDAC reporting.**

- 50 (f) The State CIO shall do the following regarding the work of the GDAC:

1 (1) Submit and present quarterly reports on the activities described in this
2 section to the chairs of the House of Representatives Appropriations and
3 Senate Base Budget/Appropriations Committees, to the Joint Legislative
4 Oversight Committee on Information Technology, and to the Fiscal
5 Research Division of the General Assembly.

6 (2) Report the following information upon its occurrence or as requested:

7 a. Any failure of a State agency to provide information requested
8 pursuant to this section. The failure shall be reported to the Joint
9 Legislative Oversight Committee on Information Technology and to
10 the chairs of the House of Representatives Appropriations and Senate
11 Base Budget/Appropriations Committees.

12 b. Any additional information to the Joint Legislative Commission on
13 Governmental Operations and the Joint Legislative Oversight
14 Committee on Information Technology that is requested by those
15 entities.

16 c. The State CIO shall report to the Joint Legislative Oversight
17 Committee on Information Technology on projects that are not
18 achieving projected savings. The report shall include a proposed
19 corrective action plan for the project.

20 "Part 9. Criminal Justice Information.

21 **"§ 143B-1349. Definitions.**

22 As used in this Part:

23 (1) "Board" means the Criminal Justice Information Network Governing Board.

24 (2) "Local government user" means a unit of local government of this State
25 having authorized access to the Network.

26 (3) "Network" means the Criminal Justice Information Network established by
27 the Board pursuant to this Article.

28 (4) "Network user" or "user" means any person having authorized access to the
29 Network.

30 (5) "State agency" means any State department, agency, institution, board,
31 commission, or other unit of State government.

32 **"§ 143B-1350. Criminal Justice Information Network.**

33 (a) The Criminal Justice Information Network Governing Board is established within
34 the Office of the State Chief Information Officer to operate the State's Criminal Justice
35 Information Network, the purpose of which shall be to provide the governmental and technical
36 information systems infrastructure necessary for accomplishing State and local governmental
37 public safety and justice functions in the most effective manner by appropriately and efficiently
38 sharing criminal justice and juvenile justice information among law enforcement, judicial, and
39 corrections agencies. The Board is established within the Department, for organizational and
40 budgetary purposes only, and the Board shall exercise all of its statutory powers in this Article
41 independent of control by State CIO.

42 (b) The Board shall consist of 21 members, appointed as follows:

43 (1) Five members appointed by the Governor, including one member who is a
44 director or employee of a State correction agency for a term to begin
45 September 1, 1996, and to expire on June 30, 1997, one member who is an
46 employee of the North Carolina Department of Public Safety for a term
47 beginning September 1, 1996, and to expire on June 30, 1997, one member
48 selected from the North Carolina Association of Chiefs of Police for a term
49 to begin September 1, 1996, and to expire on June 30, 1999, one member
50 who is an employee of the Division of Juvenile Justice of the Department of

1 Public Safety, and one member who represents the Division of Motor
2 Vehicles.

3 (2) Six members appointed by the General Assembly in accordance with
4 G.S. 120-121, as follows:

5 a. Three members recommended by the President Pro Tempore of the
6 Senate, including two members of the general public for terms to
7 begin on September 1, 1996, and to expire on June 30, 1997, and one
8 member selected from the North Carolina League of Municipalities
9 who is a member of, or an employee working directly for, the
10 governing board of a North Carolina municipality for a term to begin
11 on September 1, 1996, and to expire on June 30, 1999; and

12 b. Three members recommended by the Speaker of the House of
13 Representatives, including two members of the general public for
14 terms to begin on September 1, 1996, and to expire on June 30, 1999,
15 and one member selected from the North Carolina Association of
16 County Commissioners who is a member of, or an employee working
17 directly for, the governing board of a North Carolina county for a
18 term to begin on September 1, 1996, and to expire on June 30, 1997.

19 (3) Two members appointed by the Attorney General, including one member
20 who is an employee of the Attorney General for a term to begin on
21 September 1, 1996, and to expire on June 30, 1997, and one member from
22 the North Carolina Sheriffs' Association for a term to begin on September 1,
23 1996, and to expire on June 30, 1999.

24 (4) Six members appointed by the Chief Justice of the North Carolina Supreme
25 Court, as follows:

26 a. The Director of the Administrative Office of the Courts, or an
27 employee of the Administrative Office of the Courts, for a term
28 beginning July 1, 1997, and expiring June 30, 2001.

29 b. One member who is a district attorney or an assistant district attorney
30 upon the recommendation of the Conference of District Attorneys of
31 North Carolina, for a term beginning July 1, 1998, and expiring June
32 30, 1999.

33 c. Two members who are superior court or district court judges for
34 terms beginning July 1, 1998, and expiring June 30, 2001.

35 d. One member who is a magistrate upon the recommendation of the
36 North Carolina Magistrates' Association, for a term beginning July 1,
37 1998, and expiring June 30, 1999.

38 e. One member who is a clerk of superior court upon the
39 recommendation of the North Carolina Association of Clerks of
40 Superior Court, for a term beginning July 1, 1998, and expiring June
41 30, 1999.

42 (5) One member appointed by the State CIO.

43 (6) One member appointed by the President of the North Carolina Chapter of the
44 Association of Public Communications Officials International, who is an
45 active member of the Association, for a term to begin on September 1, 1996,
46 and to expire on June 30, 1999.

47 The respective appointing authorities are encouraged to appoint persons having a
48 background in and familiarity with criminal information systems and networks generally and
49 with the criminal information needs and capacities of the constituency from which the member
50 is appointed.

1 As the initial terms expire, subsequent members of the Board shall be appointed to serve
2 four-year terms. At the end of a term, a member shall continue to serve on the Board until a
3 successor is appointed. A member who is appointed after a term is begun serves only for the
4 remainder of the term and until a successor is appointed. Any vacancy in the membership of the
5 Board shall be filled by the same appointing authority that made the appointment, except that
6 vacancies among members appointed by the General Assembly shall be filled in accordance
7 with G.S. 120-122.

8 (c) Members of the Board shall not be employed by or serve on the board of directors
9 or other corporate governing body of any information systems, computer hardware, computer
10 software, or telecommunications vendor of goods and services to the State or to any unit of
11 local government in the State. No member of the Board shall vote on an action affecting solely
12 the member's own State agency or local governmental unit or specific judicial office.

13 **"§ 143B-1351. Compensation and expenses of Board members.**

14 Members of the Board shall serve without compensation but may receive travel and
15 subsistence as follows:

16 (1) Board members who are officials or employees of a State agency or unit of
17 local government, in accordance with G.S. 138-6.

18 (2) All other Board members, at the rate established in G.S. 138-5.

19 **"§ 143B-1352. Powers and duties.**

20 (a) The Board shall have the following powers and duties:

21 (1) To establish and operate the Network as an integrated system of State and
22 local government components for effectively and efficiently storing,
23 communicating, and using criminal justice information at the State and local
24 levels throughout North Carolina's law enforcement, judicial, juvenile
25 justice, and corrections agencies, with the components of the Network to
26 include electronic devices, programs, data, and governance and to set the
27 Network's policies and procedures.

28 (2) To develop and adopt uniform standards and cost-effective information
29 technology, after thorough evaluation of the capacity of information
30 technology to meet the present and future needs of the State and, in
31 consultation with the Department of Information Technology, to develop and
32 adopt standards for entering, storing, and transmitting information in
33 criminal justice databases and for achieving maximum compatibility among
34 user technologies.

35 (3) To identify the funds needed to establish and maintain the Network, identify
36 public and private sources of funding, and secure funding to:

37 a. Create the Network and facilitate the sharing of information among
38 users of the Network; and

39 b. Make grants to local government users to enable them to acquire or
40 improve elements of the Network that lie within the responsibility of
41 their agencies or State agencies; provided that the elements
42 developed with the funds must be available for use by the State or by
43 local governments without cost and the applicable State agencies join
44 in the request for funding.

45 (4) To provide assistance to local governments for the financial and systems
46 planning for Network-related automation and to coordinate and assist the
47 Network users of this State in soliciting bids for information technology
48 hardware, software, and services in order to assure compliance with the
49 Board's technical standards, to gain the most advantageous contracts for the
50 Network users of this State, and to assure financial accountability where
51 State funds are used.

1 (5) To provide a liaison among local government users and to advocate on
2 behalf of the Network and its users in connection with legislation affecting
3 the Network.

4 (6) To facilitate the sharing of knowledge about information technologies
5 among users of the Network.

6 (7) To take any other appropriate actions to foster the development of the
7 Network.

8 (b) All grants or other uses of funds appropriated or granted to the Board shall be
9 conditioned on compliance with the Board's technical and other standards.

10 **"§ 143B-1353. Election of officers; meetings; staff, etc.**

11 (a) The Governor shall call the first meeting of the Board. At the first meeting, the
12 Board shall elect a chair and a vice-chair, each to serve a one-year term, with subsequent
13 officers to be elected for one-year terms. The Board shall hold at least two regular meetings
14 each year, as provided by policies and procedures adopted by the Board. The Board may hold
15 additional meetings upon the call of the chair or any three Board members. A majority of the
16 Board membership constitutes a quorum.

17 (b) The staff of the Criminal Justice Information Network shall provide the Board with
18 professional and clerical support and any additional support the Board needs to fulfill its
19 mandate. The Board's staff shall use space provided by the Department.

20 "Part 10. Emergency Telephone Service.

21 **"§ 143B-1354 through § 143B-1364.**

22 "Part 11. North Carolina Geographic Information Coordinating Council.

23 **"§ 143B-1365 through § 143B-1368."**

24
25 **INSTRUCTIONS TO THE REVISOR OF STATUTES**

26 **SECTION 7A.3.** The Revisor of Statutes shall make following recodifications in
27 connection with creating the Department of Information Technology:

28 (1) Article 3 of Chapter 62A of the General Statutes (Emergency Telephone
29 Service) is recodified as Part 10 of Article 14 of Chapter 143B of the
30 General Statutes with the sections to be numbered as G.S. 143B-1354
31 through G.S. 143B-1364, respectively.

32 (2) Article 76 of Chapter 143 of the General Statutes (North Carolina
33 Geographic Information Coordinating Council) is recodified as Part 11 of
34 Article 14 of Chapter 143B of the General Statutes with the sections to be
35 recodified as G.S. 143B-1365 through 143B-1368, respectively.

36 The Revisor of Statutes may conform names and titles changed by this section, and
37 may correct statutory references as required by this section, throughout the General Statutes. In
38 making the changes authorized by this section, the Revisor may also adjust subject and verb
39 agreement and the placement of conjunctions.

40
41 **CONFORMING AND TECHNICAL CHANGES RELATING TO DEPARTMENT OF**
42 **INFORMATION TECHNOLOGY**

43 **SECTION 7A.4.(a)** G.S. 66-58.20(b) reads as rewritten:

44 "(b) Each State ~~department, agency, and institution under the review of the State Chief~~
45 ~~Information Officer~~ agency as defined in G.S. 143B-1300(a)(9) shall functionally link its
46 Internet or electronic services to a centralized Web portal system established pursuant to
47 subsection (a) of this section."

48 **SECTION 7A.4.(b)** G.S. 136-89.194(g)(2) reads as rewritten:

49 "(g) Contract Exemptions. – The following provisions concerning the purchase of goods
50 and services by a State agency do not apply to the Turnpike Authority:

51 ...

- 1 (2) Article 3D of Chapter 147 of the General Statutes. The Authority may use
 2 the services of the ~~Office of Information Technology Services~~ Department of
 3 Information Technology in procuring goods and services that are not specific
 4 to establishing and operating a toll revenue system. ~~All~~ However, all
 5 contract information for contracts for information technology are subject to
 6 disclosure in accordance with ~~G.S. 147-33.95~~ Article 14 of Chapter 143B of
 7 the General Statutes."

8 **SECTION 7A.4.(c)** G.S. 138A-3 reads as rewritten:

9 **"§ 138A-3. Definitions.**

10 The following definitions apply in this Chapter:

11 ...

- 12 (30) Public servants. – All of the following:

13 ...

- 14 p. ~~The chief information officer,~~ State Chief Information Officer,
 15 deputy chief information officers, chief financial officers, and
 16 general counsel of the ~~Office of~~ Department of Information
 17 Technology.

18"

19 **SECTION 7A.4.(d)** G.S. 143-129(e)(7) reads as rewritten:

- 20 "(e) Exceptions. – The requirements of this Article do not apply to:

21 ...

- 22 (7) Purchases of information technology through contracts established by the
 23 ~~State Office of~~ Department of Information Technology as provided in
 24 ~~G.S. 147-33.82(b) and G.S. 147-33.92(b)~~ Article 14 of Chapter 143B of the
 25 General Statutes."

26 **SECTION 7A.4.(e)** G.S. 143C-3-3(e) reads as rewritten:

- 27 "(e) Information Technology Request. – In addition to any other information requested
 28 by the ~~Director,~~ State Chief Information Officer (State CIO), any State agency requesting
 29 significant State resources, as defined by the ~~Director,~~ State CIO, for the purpose of ~~acquiring~~
 30 acquiring, operating, or maintaining information technology shall accompany that request with
 31 all of the following:

- 32 (1) A statement of its needs for information technology and related resources,
 33 including expected improvements to programmatic or business operations,
 34 together with a review and evaluation of that statement prepared by the State
 35 Chief Information Officer.
- 36 (2) A statement setting forth the requirements for State resources, together with
 37 an evaluation of those requirements by the State Chief Information Officer
 38 that takes into consideration the State's current technology, the opportunities
 39 for technology sharing, the requirements ~~of Article 3D of Chapter 147~~
 40 Article 14 of Chapter 143B of the General Statutes, and any other factors
 41 relevant to the analysis. And, in cases of an acquisition, an explanation of the
 42 method by which the acquisition is to be financed.
- 43 (3) A statement by the State Chief Information Officer that sets forth viable
 44 alternatives, if any, for meeting the agency needs in an economical and
 45 efficient manner. A statement setting forth the requirements for State
 46 resources, together with an evaluation of those requirements, including
 47 expected improvements to programmatic or business operations by the
 48 Secretary that takes into consideration the State's current technology, the
 49 opportunities for technology sharing, the requirements of the General
 50 Statutes, and any other factors relevant to the analysis.

1 (4) In the case of an acquisition, an explanation of the method by which the
2 acquisition is to be financed.

3 This subsection shall not apply to requests submitted by the General Assembly or the
4 Administrative Office of the Courts."

5 **SECTION 7A.4.(f)** G.S. 150B-21.1(a)(10) reads as rewritten:

6 "(a) Adoption. – An agency may adopt a temporary rule when it finds that adherence to
7 the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest
8 and that the immediate adoption of the rule is required by one or more of the following:

9 ...

10 (10) The need for the State Chief Information Officer to implement the
11 information technology procurement provisions of ~~Article 3D of Chapter~~
12 ~~147 of Article 14 of Chapter 143B of the General Statutes.~~"

13 **SECTION 7A.4.(g)** G.S. 150B-38 is amended by adding a new subsection to read:

14 "(i) Standards adopted by the State Chief Information Officer and applied to information
15 technology as defined by G.S. 143B-1300."

16 **SECTION 7A.4.(h)** G.S. 143-59.1(a) reads as rewritten:

17 "(a) Ineligible Vendors. – The Secretary of ~~Administration~~ Administration, State Chief
18 Information Officer, and other entities to which this Article applies shall not contract for goods
19 or services with either of the following:

20"

21 **ADMINISTRATIVE MATTERS/DIT**

22 **SECTION 7A.5.** No action or proceeding pending on July 1, 2015, brought by or
23 against the Office of Information Technology Services or the Office of the State Chief
24 Information Officer shall be affected by any provision of this act, but the same may be
25 prosecuted or defended in the name of the Department of Information Technology. In these
26 actions and proceedings, the Department shall be substituted as a party upon proper application
27 to the courts or other public bodies. Any business or other matter undertaken or commanded by
28 the Office of Information Technology Services or the Office of the State Chief Information
29 Officer regarding any State program, office, or contract or pertaining to or connected with its
30 respective functions, powers, obligations, and duties that are pending on the date this act
31 becomes effective may be conducted and completed by the Department of Information
32 Technology in the same manner and under the same terms and conditions and with the same
33 effect as if conducted and completed by the former commission, director, or office. Unless
34 otherwise specifically provided by this act, any previous assignment of duties within the
35 purview of this act by the Governor or General Assembly shall have continued validity.

36 **PART VIII. PUBLIC SCHOOLS**

37 **FUNDS FOR CHILDREN WITH DISABILITIES**

38 **SECTION 8.1.** The State Board of Education shall allocate additional funds for
39 children with disabilities on the basis of three thousand nine hundred twenty-six dollars and
40 ninety-seven cents (\$3,926.97) per child. Each local school administrative unit shall receive
41 funds for the lesser of (i) all children who are identified as children with disabilities or (ii)
42 twelve and one-half percent (12.5%) of its 2015-2016 allocated average daily membership in
43 the local school administrative unit. The dollar amounts allocated under this section for
44 children with disabilities shall also be adjusted in accordance with legislative salary increments,
45 retirement rate adjustments, and health benefit adjustments for personnel who serve children
46 with disabilities.

47 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

1 **SECTION 8.2.** The State Board of Education shall allocate additional funds for
2 academically or intellectually gifted children on the basis of one thousand two hundred eighty
3 dollars and seventy cents (\$1,280.70) per child for fiscal years 2015-2016 and 2016-2017. A
4 local school administrative unit shall receive funds for a maximum of four percent (4%) of its
5 2015-2016 allocated average daily membership, regardless of the number of children identified
6 as academically or intellectually gifted in the unit. The dollar amounts allocated under this
7 section for academically or intellectually gifted children shall also be adjusted in accordance
8 with legislative salary increments, retirement rate adjustments, and health benefit adjustments
9 for personnel who serve academically or intellectually gifted children.

10 11 **USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

12 **SECTION 8.3.(a)** Use of Funds for Supplemental Funding. – All funds received
13 pursuant to this section shall be used only (i) to provide instructional positions, instructional
14 support positions, teacher assistant positions, clerical positions, school computer technicians,
15 instructional supplies and equipment, staff development, and textbooks and digital resources
16 and (ii) for salary supplements for instructional personnel and instructional support personnel.
17 Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds
18 received pursuant to this section to improve the academic performance of children who are
19 performing at Level I or II on either reading or mathematics end-of-grade tests in grades three
20 through eight.

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

- 23 (1) "Anticipated county property tax revenue availability" means the
24 county-adjusted property tax base multiplied by the effective State average
25 tax rate.
- 26 (2) "Anticipated total county revenue availability" means the sum of the
27 following:
- 28 a. Anticipated county property tax revenue availability.
- 29 b. Local sales and use taxes received by the county that are levied under
30 Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of
31 Chapter 105 of the General Statutes.
- 32 c. Fines and forfeitures deposited in the county school fund for the most
33 recent year for which data are available.
- 34 (3) "Anticipated total county revenue availability per student" means the
35 anticipated total county revenue availability for the county divided by the
36 average daily membership of the county.
- 37 (4) "Anticipated State average revenue availability per student" means the sum
38 of all anticipated total county revenue availability divided by the average
39 daily membership for the State.
- 40 (5) "Average daily membership" means average daily membership as defined in
41 the North Carolina Public Schools Allotment Policy Manual adopted by the
42 State Board of Education. If a county contains only part of a local school
43 administrative unit, the average daily membership of that county includes all
44 students who reside within the county and attend that local school
45 administrative unit.
- 46 (6) "County-adjusted property tax base" shall be computed as follows:
- 47 a. Subtract the present-use value of agricultural land, horticultural land,
48 and forestland in the county, as defined in G.S. 105-277.2, from the
49 total assessed real property valuation of the county.
- 50 b. Adjust the resulting amount by multiplying by a weighted average of
51 the three most recent annual sales assessment ratio studies.

- 1 c. Add to the resulting amount the following:
- 2 1. Present-use value of agricultural land, horticultural land, and
- 3 forestland, as defined in G.S. 105-277.2.
- 4 2. Value of property of public service companies, determined in
- 5 accordance with Article 23 of Chapter 105 of the General
- 6 Statutes.
- 7 3. Personal property value for the county.
- 8 (7) "County-adjusted property tax base per square mile" means the
- 9 county-adjusted property tax base divided by the number of square miles of
- 10 land area in the county.
- 11 (8) "County wealth as a percentage of State average wealth" shall be computed
- 12 as follows:
- 13 a. Compute the percentage that the county per capita income is of the
- 14 State per capita income and weight the resulting percentage by a
- 15 factor of five-tenths.
- 16 b. Compute the percentage that the anticipated total county revenue
- 17 availability per student is of the anticipated State average revenue
- 18 availability per student and weight the resulting percentage by a
- 19 factor of four-tenths.
- 20 c. Compute the percentage that the county-adjusted property tax base
- 21 per square mile is of the State-adjusted property tax base per square
- 22 mile and weight the resulting percentage by a factor of one-tenth.
- 23 d. Add the three weighted percentages to derive the county wealth as a
- 24 percentage of the State average wealth.
- 25 (9) "Effective county tax rate" means the actual county tax rate multiplied by a
- 26 weighted average of the three most recent annual sales assessment ratio
- 27 studies.
- 28 (10) "Effective State average tax rate" means the average of effective county tax
- 29 rates for all counties.
- 30 (11) "Local current expense funds" means the most recent county current expense
- 31 appropriations to public schools, as reported by local boards of education in
- 32 the audit report filed with the Secretary of the Local Government
- 33 Commission pursuant to G.S. 115C-447.
- 34 (12) "Per capita income" means the average for the most recent three years for
- 35 which data are available of the per capita income according to the most
- 36 recent report of the United States Department of Commerce, Bureau of
- 37 Economic Analysis, including any reported modifications for prior years as
- 38 outlined in the most recent report.
- 39 (13) "Sales assessment ratio studies" means sales assessment ratio studies
- 40 performed by the Department of Revenue under G.S. 105-289(h).
- 41 (14) "State average current expense appropriations per student" means the most
- 42 recent State total of county current expense appropriations to public schools,
- 43 as reported by local boards of education in the audit report filed with the
- 44 Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- 45 (15) "State average adjusted property tax base per square mile" means the sum of
- 46 the county-adjusted property tax bases for all counties divided by the
- 47 number of square miles of land area in the State.
- 48 (16) "Supplant" means to decrease local per student current expense
- 49 appropriations from one fiscal year to the next fiscal year.
- 50 (17) "Weighted average of the three most recent annual sales assessment ratio
- 51 studies" means the weighted average of the three most recent annual sales

1 assessment ratio studies in the most recent years for which county current
2 expense appropriations and adjusted property tax valuations are available. If
3 real property in a county has been revalued one year prior to the most recent
4 sales assessment ratio study, a weighted average of the two most recent sales
5 assessment ratios shall be used. If property has been revalued the year of the
6 most recent sales assessment ratio study, the sales assessment ratio for the
7 year of revaluation shall be used.

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

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

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

32 **SECTION 8.3.(f) Minimum Effort Required.** – A county that (i) maintains an
33 effective county tax rate that is at least one hundred percent (100%) of the effective State
34 average tax rate in the most recent year for which data are available or (ii) maintains a county
35 appropriation per student to the school local current expense fund of at least one hundred
36 percent (100%) of the current expense appropriations per student to the school local current
37 expense fund that the county could provide given the county's wealth and an average effort to
38 fund public schools shall receive full funding under this section. A county that maintains a
39 county appropriation per student to the school local current expense fund of less than one
40 hundred percent (100%) of the current expense appropriations per student to the school local
41 current expense fund that the county could provide given the county's wealth and an average
42 effort to fund public schools shall receive funding under this section at the same percentage that
43 the county's appropriation per student to the school local current expense fund is of the current
44 expense appropriations per student to the school local current expense fund that the county
45 could provide given the county's wealth and an average effort to fund public schools.

46 **SECTION 8.3.(g) Nonsupplant Requirement.** – A county in which a local school
47 administrative unit receives funds under this section shall use the funds to supplement local
48 current expense funds and shall not supplant local current expense funds. For the 2015-2017
49 fiscal biennium, the State Board of Education shall not allocate funds under this section to a
50 county found to have used these funds to supplant local per student current expense funds. The
51 State Board of Education shall make a finding that a county has used these funds to supplant

1 local current expense funds in the prior year, or the year for which the most recent data are
 2 available, if all of the following criteria apply:

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

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

11 **SECTION 8.3.(h)** Counties Containing a Base of the Armed Forces. –
 12 Notwithstanding any other provision of this section, for the 2015-2017 fiscal biennium,
 13 counties containing a base of the Armed Forces of the United States that have an average daily
 14 membership of more than 23,000 students shall receive the same amount of supplemental
 15 funding for low-wealth counties as received in the 2012-2013 fiscal year.

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

20 **SECTION 8.3.(j)** Reports. – For the 2015-2017 fiscal biennium, the State Board of
 21 Education shall report to the Fiscal Research Division prior to May 15 of each year if it
 22 determines that counties have supplanted funds.

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

32
 33 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

34 **SECTION 8.4.(a)** Allotment Schedule for the 2015-2017 Fiscal Biennium. –
 35 Except as otherwise provided in subsection (d) of this section, each eligible county school
 36 administrative unit shall receive a dollar allotment according to the following schedule:

Allotted ADM	Small County Allotment
0-600	\$1,710,000
601-1,300	\$1,820,000
1,301-1,700	\$1,548,700
1,701-2,000	\$1,600,000
2,001-2,300	\$1,560,000
2,301-2,600	\$1,470,000
2,601-2,800	\$1,498,000
2,801-3,200	\$1,548,000

46 **SECTION 8.4.(b)** Phase-Out Provision for the 2015-2016 Fiscal Year. – If a local
 47 school administrative unit becomes ineligible for funding under the schedule in subsection (a)
 48 of this section in the 2015-2016 fiscal year, funding for that unit shall be phased out over a
 49 five-year period. Funding for such local administrative units shall be reduced in equal
 50 increments in each of the five years after the local administrative unit becomes ineligible.

1 Funding shall be eliminated in the fifth fiscal year after the local administrative unit becomes
2 ineligible.

3 Allotments for eligible local school administrative units under this subsection shall
4 not be reduced by more than twenty percent (20%) of the amount received in fiscal year
5 2014-2015 in any fiscal year.

6 **SECTION 8.4.(c)** Phase-Out Provision for the 2016-2017 Fiscal Year. – If a local
7 school administrative unit becomes ineligible for funding under the schedule in subsection (a)
8 of this section in the 2016-2017 fiscal year, funding for that unit shall be phased out over a
9 five-year period. Funding for such local administrative units shall be reduced in equal
10 increments in each of the five years after the local administrative unit becomes ineligible.
11 Funding shall be eliminated in the fifth fiscal year after the local administrative unit becomes
12 ineligible.

13 Allotments for eligible local school administrative units under this subsection shall
14 not be reduced by more than twenty percent (20%) of the amount received in fiscal year
15 2015-2016 in any fiscal year.

16 **SECTION 8.4.(d)** Nonsupplant Requirement for the 2015-2017 Fiscal Biennium. –
17 A county in which a local school administrative unit receives funds under this section shall use
18 the funds to supplement local current expense funds and shall not supplant local current
19 expense funds. For the 2015-2017 fiscal biennium, the State Board of Education shall not
20 allocate funds under this section to a county found to have used these funds to supplant local
21 per student current expense funds. The State Board of Education shall make a finding that a
22 county has used these funds to supplant local current expense funds in the prior year, or the
23 year for which the most recent data are available, if all of the following criteria apply:

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

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

32 **SECTION 8.4.(e)** Reports. – For the 2015-2017 fiscal biennium, the State Board of
33 Education shall report to the Fiscal Research Division prior to May 15 of each fiscal year if it
34 determines that counties have supplanted funds.

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

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

42 **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING (DSSF)**

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

- 46 (1) Provide instructional positions or instructional support positions and/or
47 professional development.
 - 48 (2) Provide intensive in-school and/or after-school remediation.
 - 49 (3) Purchase diagnostic software and progress-monitoring tools.
- 50

- 1 (4) Provide funds for teacher bonuses and supplements. The State Board of
2 Education shall set a maximum percentage of the funds that may be used for
3 this purpose.

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

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

- 14 (1) For counties with wealth greater than ninety percent (90%) of the statewide
15 average, a ratio of 1:19.9.
16 (2) For counties with wealth not less than eighty percent (80%) and not greater
17 than ninety percent (90%) of the statewide average, a ratio of 1:19.4.
18 (3) For counties with wealth less than eighty percent (80%) of the statewide
19 average, a ratio of 1:19.1.
20 (4) For local school administrative units receiving DSSF funds in fiscal year
21 2005-2006, a ratio of 1:16. These local school administrative units shall
22 receive no less than the DSSF amount allotted in fiscal year 2006-2007.

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

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

30 **UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS**

31 **SECTION 8.7.** Funds appropriated for the Uniform Education Reporting System
32 (UERS) for the 2015-2017 fiscal biennium shall not revert at the end of each fiscal year but
33 shall remain available until expended.

35 **COOPERATIVE INNOVATIVE HIGH SCHOOLS**

36 **SECTION 8.8.** G.S. 115C-238.54 is amended by adding a new subsection to read:

37 "(j) Any State funds appropriated for cooperative innovative high schools shall not be
38 adjusted to reflect legislative salary increments, retirement rate adjustments, and health benefit
39 adjustments for school personnel, unless specifically provided for by the General Assembly."
40

41 **STUDY NCVPS ALTERNATIVE FUNDING FORMULA**

42 **SECTION 8.11.(a)** The State Board of Education shall study implementation of an
43 alternative funding formula for the North Carolina Virtual Public School (NCVPS) in lieu of
44 the funding formula adopted by the State Board pursuant to Section 7.22(d) of S.L. 2011-145,
45 as amended by Section 8.9 of S.L. 2013-360. The study shall include consideration of the
46 potential costs and benefits of (i) offering an alternative funding formula option for local boards
47 of education to select and (ii) replacing the current NCVPS formula with a new formula
48 applicable to all local boards of education participating in NCVPS.

49 **SECTION 8.11.(b)** The State Board of Education shall report the results of the
50 study under subsection (a) of this section and any legislative recommendations to the Joint
51 Legislative Education Oversight Committee by January 15, 2016.

REVISE THE DESIGNATION OF THE TEXTBOOK FUNDING ALLOTMENT

SECTION 8.18.(a) Effective July 1, 2015, the existing Textbooks funding allotment in the State Public School Fund shall be designated as the Textbooks and Digital Resources funding allotment in the State Public School Fund.

SECTION 8.18.(b) The State Board of Education shall establish the purposes for which the funds within the new Textbooks and Digital Resources funding allotment may be used for as follows: (i) to acquire textbooks as defined in G.S. 115C-85, which includes technology-based programs, and (ii) only for allowable expenditures as were permitted under the Textbooks funding allotment as of June 30, 2015.

REPEAL UNNECESSARY STATE BOARD OF EDUCATION REPORTS

SECTION 8.25.(a) Report on Paperwork Reduction. – G.S. 115C-12(19) reads as rewritten:

"(19) Duty to Identify Required Reports and to Eliminate Unnecessary Reports and Paperwork. – Prior to the beginning of each school year, the State Board of Education shall identify all reports that are required at the State level for the school year.

The State Board of Education shall adopt policies to ensure that local school administrative units are not required by the State Board of Education, the State Superintendent, or the Department of Public Instruction staff to (i) provide information that is already available on the student information management system or housed within the Department of Public Instruction; (ii) provide the same written information more than once during a school year unless the information has changed during the ensuing period; (iii) complete forms, for children with disabilities, that are not necessary to ensure compliance with the federal Individuals with Disabilities Education Act (IDEA); or (iv) provide information that is unnecessary to comply with State or federal law and not relevant to student outcomes and the efficient operation of the public schools. Notwithstanding the foregoing, the State Board may require information available on its student information management system or require the same information twice if the State Board can demonstrate a compelling need and can demonstrate there is not a more expeditious manner of getting the information.

The State Board shall permit schools and local school administrative units to submit all reports to the Department of Public Instruction electronically.

The State Board of Education, in collaboration with the education roundtables within the Department of Public Instruction, shall consolidate all plans that affect the school community, including school improvement plans. The consolidated plan shall be posted on each school's Web site for easy access by the public and by school personnel.

~~The State Board shall report to the Joint Legislative Education Oversight Committee by November 15 of each year on the reports identified that are required at the State level, the evaluation and determination for continuing individual reports, including the consideration of whether those reports exceed what is required by State and federal law, and any reports that it has consolidated or eliminated for the upcoming school year."~~

SECTION 8.25.(b) Report on the ABCs. – G.S. 115C-12(25) reads as rewritten:

"(25) Duty to Report to Joint Legislative Education Oversight Committee. – Upon the request of the Joint Legislative Education Oversight Committee, the

1 State Board shall examine and evaluate issues, programs, policies, and fiscal
2 information, and shall make reports to that Committee. Furthermore,
3 beginning ~~October 15, 1997, October 15, 2015,~~ and annually thereafter, the
4 State Board shall submit reports to that Committee regarding ~~the continued~~
5 ~~implementation of Chapter 716 of the 1995 Session Laws, 1996 Regular~~
6 ~~Session. Each report shall include information regarding the composition~~
7 ~~and activity of assistance teams, schools that received incentive awards,~~
8 schools identified as low-performing, school improvement plans found to
9 significantly improve student performance, personnel actions taken in
10 low-performing schools, and recommendations for additional legislation to
11 improve student performance and increase local flexibility."

12 **SECTION 8.25.(c)** Report on State School Technology Plan. –
13 G.S. 115C-102.6B(b) reads as rewritten:

14 "(b) The Board shall submit the plan to the State Chief Information Officer for approval
15 of the technical components of the plan set out in G.S. 115C-102.6A(1) through (4). At least
16 one-fourth of the members of any technical committee that reviews the plan for the State Chief
17 Information Officer shall be people actively involved in primary or secondary education.

18 ~~The Board shall report annually by February 15 of each year to the Joint Legislative~~
19 ~~Education Oversight Committee on the status of the State School Technology Plan."~~

20 **SECTION 8.25.(d)** Reports by Local School Administrative Units and Charter
21 Schools on Students With Diabetes. – G.S. 115C-375.3 reads as rewritten:

22 "**§ 115C-375.3. Guidelines to support and assist students with diabetes.**

23 Local boards of education and boards of directors of charter schools shall ensure that the
24 guidelines adopted by the State Board of Education under G.S. 115C-12(31) are implemented
25 in schools in which students with diabetes are enrolled. In particular, the boards shall require
26 the implementation of the procedures set forth in those guidelines for the development and
27 implementation of individual diabetes care plans. The boards also shall make available
28 necessary information and staff development to teachers and school personnel in order to
29 appropriately support and assist students with diabetes in accordance with their individual
30 diabetes care plans. ~~Local boards of education and boards of directors of charter schools shall~~
31 ~~report to the State Board of Education annually, on or before August 15, whether they have~~
32 ~~students with diabetes enrolled and provide information showing compliance with the~~
33 ~~guidelines adopted by the State Board of Education under G.S. 115C-12(31). These reports~~
34 ~~shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. §~~
35 ~~1232g."~~

37 INVESTING IN INNOVATION GRANT

38 **SECTION 8.27.(a)** Section 8.25 of S.L. 2013-360, as amended by Section 8.27 of
39 S.L. 2014-100, is repealed.

40 **SECTION 8.27.(b)** The federal Investing in Innovation Fund Grant: Validating
41 Early College Strategies for Traditional Comprehensive High Schools awarded to the North
42 Carolina New Schools Project for 2012-2020 requires students to enroll in a community college
43 course in the tenth grade. Notwithstanding any other provision of law, specified local school
44 administrative units may offer one community college course to participating sophomore (tenth
45 grade) students. Participating local school administrative units are Alleghany, Beaufort, Bladen,
46 Duplin, Hertford, Harnett, Jones, Madison, Martin, Richmond, Rutherford, Scotland, Surry,
47 Warren, and Yancey County Schools.

48 **SECTION 8.27.(c)** Grant funds shall be used to pay for all costs incurred by the
49 local school administrative units and the community college partners to implement the grant,
50 including community college FTE. Community colleges shall not earn budget FTE for student
51 course enrollments supported with this grant.

1 **SECTION 8.27.(d)** Research conducted as part of the federal grant program under
2 subsection (a) of this section shall address the effects of early college strategies in preparing
3 students for college completion. The North Carolina New Schools Project shall report on the
4 implementation of the grant to the State Board of Education, State Board of Community
5 Colleges, Office of the Governor, and the Joint Legislative Education Oversight Committee no
6 later than March 15, 2016, and annually thereafter until the end of the grant period.

7 8 **STUDY ON CHARTER SCHOOL CLOSURE FUNDS**

9 **SECTION 8.28.(a)** The State Board of Education shall study and develop a
10 proposed policy regarding circumstances in which a charter school, approved by the State
11 Board pursuant to G.S. 115C-218.5, shall not be subject to the minimum value requirement of
12 fifty thousand dollars (\$50,000) as required by G.S. 115C-218.100 for the purposes of ensuring
13 payment of expenses related to closure proceedings. The State Board shall consider providing
14 certain charter schools with a total or partial waiver of the requirement. In doing so, the State
15 Board shall examine criteria for potentially eligible charter schools, such as the years of
16 operation of the charter school, proven compliance with finance, governance, academic
17 requirements of its charter, State law, and State Board policy requirements, as well as
18 appropriate documentation to show the charter school's financial health and sustainability.

19 **SECTION 8.28.(b)** By February 15, 2016, the State Board of Education shall
20 report to the Joint Legislative Education Oversight Committee on the results of the study and a
21 proposed policy as required by subsection (a) of this section, including any legislative
22 recommendations.

23 24 **TEXTBOOKS AND DIGITAL RESOURCES ALLOTMENT/USE OF FUNDS**

25 **SECTION 8.33.** G.S. 115C-105.25(c) reads as rewritten:

26 "(c) To ensure that parents, educators, and the general public are informed on how State
27 funds have been used to address local educational priorities, each local school administrative
28 unit shall publish the following information on its Web site by October 15 of each year:

- 29 (1) A description of each program report code, written in plain English, and a
30 summary of the prior fiscal year's expenditure of State funds within each
31 program report code.
- 32 (2) A description of each object code within a program report code, written in
33 plain English, and a summary of the prior fiscal year's expenditure of State
34 funds for each object code.
- 35 (3) A description of each allotment transfer that increased or decreased the
36 initial allotment amount by more than five percent (5%) and the educational
37 priorities that necessitated the transfer.
- 38 (4) A description of any transfer of funds from the textbooks and digital
39 resources allotment into another allotment category with an explanation of
40 why the transfer from the textbooks and digital resources allotment was
41 made to a different allotment category.
- 42 (5) A chart that clearly reflects how the local school administrative unit spent
43 State funds."

44 45 **STUDY ON JUVENILE LITERACY PROGRAM**

46 **SECTION 8.34.(a)** The Joint Legislative Education Oversight Committee shall
47 study the results of the Juvenile Literacy Center program established in Wake County. In
48 conducting the study, the Committee shall do at least the following:

- 49 (1) Examine the impact of the program on (i) improving basic literacy skills, (ii)
50 reintegrating juveniles into schools, (iii) preventing criminal behavior and

1 recidivism, (iv) developing overall academic skills, and (v) addressing
2 problem behaviors in school.

- 3 (2) Evaluate the existing program for potential expansion into other counties,
4 including projected costs, feasibility of implementation, and
5 recommendations for locations for additional programs.

6 **SECTION 8.34.(b)** The Committee shall report the results of its study and any
7 recommendations on the expansion of the program, including proposed legislation, to the 2015
8 General Assembly upon the convening of the 2016 Regular Session.

10 **BUDGET REDUCTIONS/DEPARTMENT OF PUBLIC INSTRUCTION**

11 **SECTION 8.37.(a)** Notwithstanding G.S. 143C-6-4, the State Board of Education
12 may, after consultation with the Office of State Budget and Management and the Fiscal
13 Research Division, reorganize the Department of Public Instruction, if necessary, to implement
14 the budget reductions for the 2015-2017 fiscal biennium. Consultation shall occur prior to
15 requesting budgetary and personnel changes through the budget revision process. The State
16 Board shall provide a current organization chart for the Department of Public Instruction in the
17 consultation process and shall report to the Joint Legislative Commission on Governmental
18 Operations on any reorganization.

19 **SECTION 8.37.(b)** In implementing budget reductions for the 2015-2017 fiscal
20 biennium, the State Board of Education shall make no reduction to funding or positions for (i)
21 the North Carolina Center for Advancement of Teaching and (ii) the Eastern North Carolina
22 School for the Deaf, the North Carolina School for the Deaf, and the Governor Morehead
23 School, except that the State Board may, in its discretion, reduce positions at these institutions
24 that have been vacant for more than 16 months. The State Board shall also make no reduction
25 in funding to any of the following entities:

- 26 (1) Communities in Schools of North Carolina, Inc.
27 (2) Teach For America, Inc.
28 (3) Beginnings for Parents of Children who are Deaf or Hard of Hearing, Inc.

30 **LOCAL BOARDS OF EDUCATION/PERFORMANCE-BASED RIFS**

31 **SECTION 8.38.(a)** G.S. 115C-325.4 is amended by adding a new subsection to
32 read:

33 "(c) Local boards of education shall adopt a policy for implementing a reduction in force
34 pursuant to subdivision (a)(15) of this section that includes the following criteria:

- 35 (1) In determining which positions shall be subject to a reduction, a local school
36 administrative unit shall consider the following:
37 a. Structural considerations, such as identifying positions, departments,
38 courses, programs, operations, and other areas where there are (i) less
39 essential, duplicative, or excess personnel; (ii) job responsibility and
40 position inefficiencies; (iii) opportunities for combined work
41 functions; and (iv) decreased student or other demands for
42 curriculum, programs, operations, or other services.
43 b. Organizational considerations, such as anticipated organizational
44 needs of the school system and program or school enrollment.
45 (2) In identifying which teachers in similar positions shall be subject to a
46 dismissal, demotion, or reduction to employment on a part-time basis under
47 the policy, a local school administrative unit shall consider work
48 performance and teacher evaluations."

49 **SECTION 8.38.(b)** G.S. 115C-325(e)(2) reads as rewritten:

- 50 "(2) Reduction in Force. –

1 a. A local board of education shall adopt a policy for implementing a
2 reduction in force pursuant to sub-subdivision (e)(1)l. of this section
3 that includes the following criteria:

4 1. In determining which positions shall be subject to a reduction,
5 a local school administrative unit shall consider the
6 following:

7 I. Structural considerations, such as identifying
8 positions, departments, courses, programs, operations,
9 and other areas where there are (i) less essential,
10 duplicative, or excess personnel; (ii) job responsibility
11 and position inefficiencies; (iii) opportunities for
12 combined work functions; and (iv) decreased student
13 or other demands for curriculum, programs,
14 operations, or other services.

15 II. Organizational considerations, such as anticipated
16 organizational needs of the school system and
17 program or school enrollment.

18 2. In identifying which teachers in similar positions shall be
19 subject to a dismissal, demotion, or reduction to employment
20 on a part-time basis under the policy, a local school
21 administrative unit shall consider work performance and
22 teacher evaluations.

23 b. Before recommending to a board the dismissal or demotion of the
24 career employee pursuant to G.S. 115C-325(e)(1)l., the
25 superintendent shall give written notice to the career employee by
26 certified mail or personal delivery of his intention to make such
27 recommendation and shall set forth as part of his or her
28 recommendation the grounds upon which he or she believes such
29 dismissal or demotion is justified. The notice shall include a
30 statement to the effect that if the career employee within 15 days
31 after receipt of the notice requests a review, he or she shall be
32 entitled to have the proposed recommendations of the superintendent
33 reviewed by the board. Within the 15-day period after receipt of the
34 notice, the career employee may file with the superintendent a
35 written request for a hearing before the board within 10 days. If the
36 career employee requests a hearing before the board, the hearing
37 procedures provided in G.S. 115C-325(j3) shall be followed. If no
38 request is made within the 15-day period, the superintendent may file
39 his or her recommendation with the board. If, after considering the
40 recommendation of the superintendent and the evidence adduced at
41 the hearing if there is one, the board concludes that the grounds for
42 the recommendation are true and substantiated by a preponderance of
43 the evidence, the board, if it sees fit, may by resolution order such
44 dismissal. Provisions of this section which permit a hearing by a
45 hearing officer shall not apply to a dismissal or demotion
46 recommended pursuant to G.S. 115C-325(e)(1)l.

47 When a career employee is dismissed pursuant to G.S. 115C-325(e)(1)l.,
48 above, his or her name shall be placed on a list of available career employees
49 to be maintained by the board."

50 **SECTION 8.38.(c)** Effective June 30, 2018, G.S. 115C-325(e)(2), as amended by
51 this section, is repealed.

DRIVER EDUCATION TRAINING

SECTION 8.39.(a) G.S. 115C-216 reads as rewritten:

"§ 115C-216. Boards of education required to provide courses in operation of motor vehicles.

(a) Course of Training and Instruction Required in Public High Schools. – Local boards of education shall offer noncredit driver education courses in high schools using the standardized curriculum provided by the Department of Public Instruction.

(b) Inclusion of Expense in Budget. – The local boards of education shall include as an item of instructional service and as a part of the current expense fund of the budget of the high schools under their supervision, the expense necessary to offer the driver education course.

(c) through (f) Repealed by Session Laws 1991, c. 689, s. 32(c).

(g) Fee for Instruction. – The local boards of education shall fund driver education courses from funds available to them and may charge each student participating in a driver education course a fee of up to sixty five dollars (\$65.00) to offset in an amount not to exceed the actual costs of providing the training and instruction course."

SECTION 8.39.(b) Article 14 of Chapter 115C of the General Statutes is repealed.

SECTION 8.39.(c) G.S. 20-7(m)(1) reads as rewritten:

"(1) An applicant who is less than 18 years old and is enrolled in a drivers education program that is approved by the State Superintendent of Public Instruction meets the requirements set forth in G.S. 115D-76.5 and is offered at a public high school, by a community college or at a nonpublic secondary school, school or a licensed drivers commercial driver training school."

SECTION 8.39.(e) G.S. 20-81.12(b86) reads as rewritten:

"(b86) Concerned Bikers Association/ABATE of North Carolina. – The Division must receive 300 or more applications for the "Concerned Bikers Association/ABATE of North Carolina" 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 the "Concerned Bikers Association/ABATE of North Carolina" plates to the Department of Public Instruction Community Colleges System Office to support the driver training and safety education program established pursuant to G.S. 115C-215 G.S. 115D-76.5 and to support motorcycle safety and awareness training as part of the driver training program."

SECTION 8.39.(f) G.S. 20-88.1(d) reads as rewritten:

"(d) The Division shall prepare a driver license handbook that explains the traffic laws of the State and shall periodically revise the handbook to reflect changes in these laws. At the request of the Department of Public Instruction, Community Colleges System Office, the Division shall provide free copies of the handbook to that Department the System Office for use in the program of driver education offered at public high schools by community colleges."

SECTION 8.39.(g) G.S. 20-129(a)(4) reads as rewritten:

"(4) At any other time when windshield wipers are in use as a result of smoke, fog, rain, sleet, or snow, or when inclement weather or environmental factors severely reduce the ability to clearly discern persons and vehicles on the street and highway at a distance of 500 feet ahead, provided, however, the provisions of this subdivision shall not apply to instances when windshield wipers are used intermittently in misting rain, sleet, or snow. Any person violating this subdivision during the period from October 1, 1990, through December 31, 1991, shall be given a warning of the violation only. Thereafter, any person violating this subdivision shall have committed an infraction and shall pay a fine of five dollars (\$5.00) and shall not be assessed court costs. No drivers license points, insurance points or premium surcharge shall be assessed on account of violation of this subdivision and

1 no negligence or liability shall be assessed on or imputed to any party on
2 account of a violation of this subdivision. The Commissioner of Motor
3 Vehicles and the ~~Superintendent of Public Instruction~~ State Board of
4 Community Colleges shall incorporate into driver education programs and
5 driver licensing programs instruction designed to encourage compliance with
6 this subdivision as an important means of reducing accidents by making
7 vehicles more discernible during periods of limited visibility."

8 **SECTION 8.39.(h)** G.S. 20-135.2A(g) reads as rewritten:

9 "(g) The Commissioner of Motor Vehicles and the ~~Department of Public Instruction~~
10 State Board of Community Colleges shall incorporate in driver education programs and driver
11 licensing programs instructions designed to encourage compliance with this section as an
12 important means of reducing the severity of injury to the users of restraint devices and on the
13 requirements and penalties specified in this law."

14 **SECTION 8.39.(i)** G.S. 20-322(b) reads as rewritten:

15 "(b) Regulations adopted by the Commissioner shall state the requirements for a school
16 license, including requirements concerning location, equipment, courses of instruction,
17 instructors, financial statements, schedule of fees and charges, character and reputation of the
18 operators, insurance, bond or other security in such sum and with such provisions as the
19 Commissioner deems necessary to protect adequately the interests of the public, and such other
20 matters as the Commissioner may prescribe. A driver education course offered to prepare an
21 individual for a limited learner's permit or another provisional license must meet the
22 requirements set in ~~G.S. 115C-215~~ G.S. 115D-76.5 for the program of driver education offered
23 ~~in the public schools by community colleges.~~"

24 **SECTION 8.39.(j)** G.S. 105-187.6(a)(8) reads as rewritten:

25 "(8) To a ~~local board of education~~ board of trustees of a community college for
26 use in the driver education program ~~of a public school of the community~~
27 college when the motor vehicle is transferred:

- 28 a. By a retailer and is to be transferred back to the retailer within 300
29 days after the transfer to the ~~local board~~ board of trustees of the
30 community college.
- 31 b. ~~By a local board of education~~ board of trustees of the community
32 college."

33 **SECTION 8.39.(k)** G.S. 115C-12(28) reads as rewritten:

34 "(28) Duty to Develop Rules for Issuance of Driving Eligibility Certificates. – The
35 State Board of Education shall adopt the following rules to assist schools in
36 their administration of procedures necessary to implement G.S. 20-11 and
37 G.S. 20-13.2:

- 38 a. To define what is equivalent to a high school diploma for the
39 purposes of G.S. 20-11 and G.S. 20-13.2. These rules shall apply to
40 all educational programs offered in the State by public schools,
41 charter schools, nonpublic schools, or community colleges.
- 42 b. To establish the procedures a person who is or was enrolled in a
43 public school or in a charter school must follow and the requirements
44 that person shall meet to obtain a driving eligibility certificate.
- 45 c. To require the person who is required under G.S. 20-11(n) to sign the
46 driving eligibility certificate to provide the certificate if he or she
47 determines that one of the following requirements is met:
- 48 1. The person seeking the certificate is eligible for the certificate
49 under G.S. 20-11(n)(1) and is not subject to G.S. 20-11(n1).
 - 50 2. The person seeking the certificate is eligible for the certificate
51 under G.S. 20-11(n)(1) and G.S. 20-11(n1).

1 These rules shall apply to public schools and charter schools.

2 d. To provide for an appeal to an appropriate education authority by a
3 person who is denied a driving eligibility certificate. These rules
4 shall apply to public schools and charter schools.

5 e. To define exemplary student behavior and to define what constitutes
6 the successful completion of a drug or alcohol treatment counseling
7 program. These rules shall apply to public schools and charter
8 schools.

9 The State Board also shall develop policies as to when it is appropriate to
10 notify the Division of Motor Vehicles that a person who is or was enrolled in
11 a public school or in a charter school no longer meets the requirements for a
12 driving eligibility certificate.

13 The State Board shall develop a form for parents, guardians, or
14 emancipated juveniles, as appropriate, to provide their written, irrevocable
15 consent for a school to disclose to the Division of Motor Vehicles that the
16 student no longer meets the conditions for a driving eligibility certificate
17 under G.S. 20-11(n)(1) or G.S. 20-11(n1), if applicable, in the event that this
18 disclosure is necessary to comply with G.S. 20-11 or G.S. 20-13.2. Other
19 than identifying under which statutory subsection the student is no longer
20 eligible, no other details or information concerning the student's school
21 record shall be released pursuant to this consent. This form shall be used for
22 students enrolled in public schools or charter schools.

23 ~~The State Board of Education may use funds appropriated for drivers
24 education to cover the costs of driving eligibility certificates."~~

25 **SECTION 8.39.(l)** Subsection (a) of this section applies for the 2015-2016 school
26 year only. Subsections (b) through (k) of this section become effective July 1, 2016.

27 **OFFICE OF EDUCATOR LICENSURE/TRANSFER FROM LICENSURE SECTION**

28 **SECTION 8.40.(a)** Article 20 of Chapter 115C of the General Statutes is amended
29 by adding a new section to read:

30 **"§ 115C-295.5. Office of Educator Licensure.**

31 (a) There is created the Office of Educator Licensure (OEL), which shall be under the
32 control of the State Board of Education. The OEL shall consist of an executive director
33 appointed by the State Board of Education and such other professional, administrative,
34 technical, and clerical personnel as may be necessary to assist the OEL in carrying out its
35 powers and duties within the funds available for this purpose. The State Board may direct the
36 Department of Public Instruction to provide technical and administrative support to the OEL.

37 (b) The OEL shall execute the rules and regulations established by the State Board of
38 Education for renewal and extension of all licenses.

39 (c) The OEL shall ensure that initial licenses and license renewals are processed and
40 issued in a timely and accurate manner as follows:

41 (1) The OEL shall work cooperatively with local school administrative units,
42 charter schools, regional schools, schools of education, individuals seeking
43 licensure, the Department of Public Instruction, and educator licensing
44 entities in other states.

45 (2) The OEL shall use electronic means of processing applications, to the extent
46 practicable, to process all applications and concerns and shall ensure that
47 applicants can ascertain progress and communicate with the OEL on
48 processing of applications electronically.

49 (d) The OEL shall maintain information on a publicly accessible Web site about the
50 following:
51

- 1 (1) The process for licensure for educators in the State, including initial
2 licensure, renewal of licensure, licensure reciprocity with other states, and
3 lateral entry licensure.
4 (2) Licensure fee schedules.
5 (3) Licensure policies related to experience and degree credit for salary
6 purposes.
7 (4) Licensure suspension and revocation.
8 (5) The current status of licensed educators in the State in a searchable format.
9 (e) The OEL shall maintain and make available statistical information about licensure
10 in the State on a publicly accessible Web site, including the following:
11 (1) Updated at least weekly:
12 a. Number of applications received and transactions completed.
13 b. Number of newly licensed educators.
14 c. Number of licensure renewals.
15 (2) Updated at least annually:
16 a. Demographic information regarding currently licensed educators.
17 b. Number of licenses issued by area of licensure and type of license.
18 c. Number of initial licenses for the following:
19 1. Graduates of educator preparation programs.
20 2. Lateral entry.
21 3. International educators.
22 4. Out-of-State educators seeking reciprocity.
23 (f) The OEL shall be supported by fees as provided in G.S. 115C-296(a2)."

24 **SECTION 8.40.(b)** Within 60 days of the date this act becomes law, the State
25 Board of Education shall appoint an executive director of the Office of Educator Licensure
26 (OEL) in accordance with G.S. 115C-295.5, as enacted by subsection (a) of this section.
27 Notwithstanding G.S. 115C-295.5, the OEL shall not be subject to carrying out the duties and
28 responsibilities required by G.S. 115C-295.5 until January 1, 2016. The position of the
29 executive director of the OEL shall be supported by fees as provided in G.S. 115C-296(a2).

30 **SECTION 8.40.(c)** Effective January 1, 2016, the Licensure Section within the
31 Department of Public Instruction is dissolved and the duties and functions of that section are
32 transferred to the OEL, established under G.S. 115C-295.5, as enacted by subsection (a) of this
33 section. This transfer shall have all of the elements of a Type I transfer, as defined in
34 G.S. 143A-6. Prior to the transfer on January 1, 2016, the executive director of the OEL shall,
35 in consultation with the Licensure Section within the Department of Public Instruction, develop
36 and implement a transition plan that addresses the transfer of duties and functions of the
37 Licensure Section to the OEL to minimize disruption in the provision of services for educator
38 licensure and renewals.

40 **MODIFY EDUCATOR PREPARATION PROGRAM APPROVAL PROCESS**

41 **SECTION 8.41.(a)** Article 20 of Chapter 115C of the General Statutes is amended
42 by adding new sections to read:

43 **"§ 115C-296.8. Educator preparation program approval process.**

44 (a) The State Board of Education, as lead agency, in coordination and cooperation with
45 the Board of Governors of The University of North Carolina, the State Board of Community
46 Colleges, the North Carolina Independent Colleges and Universities, Inc., and such other public
47 and private agencies as are necessary, shall establish standards for approval of educator
48 preparation programs. Graduates of educator preparation programs operating in this State that
49 have either (i) not been approved by the State Board or (ii) are not nationally accredited shall
50 be ineligible for an initial license as a new, in-State approved program graduate.

1 **(b)** The standards for approval of educator preparation programs shall require that
2 educator preparation program providers be either State-approved or nationally accredited.
3 North Carolina program approval site visitors shall coordinate with educator preparation
4 programs seeking national accreditation. State educator preparation program approval shall
5 include the following components:

- 6 **(1)** Adoption of rules for granting State approval to educator preparation
7 programs and units. These rules shall mirror national accreditation in efforts
8 to maintain the same level of quality preparation across programs. The rules
9 shall include all content, pedagogy, and clinical requirements required by
10 State law.
- 11 **(2)** A State peer review process that includes highly qualified and trained
12 members to adequately review programs within the State.
- 13 **(3)** Technical assistance to educator preparation programs in efforts to do the
14 following:
- 15 **a.** Improve education quality and educator preparation program
16 performance.
- 17 **b.** Inform programs about the program approval process as part of
18 educator preparation program performance based on outcome data.
- 19 **c.** Assist with State and federal reporting process.
- 20 **d.** Help build and maintain partnerships between elementary and
21 secondary schools and educator preparation programs.

22 **(c)** The State Board of Education may place an approved educator preparation program
23 provider on probationary status and require a plan for improvement on any of the unmet
24 standards for the program, or revoke educator preparation program approval, for any of the
25 following reasons:

- 26 **(1)** Failing to report required information to the State Board of Education as part
27 of the reporting requirement.
- 28 **(2)** Offering misleading or false information about approved programs.
- 29 **(3)** Accepting students into any part of an educator preparation program that is
30 not approved by the State Board of Education.
- 31 **(4)** Failing to comply with the educator preparation program review process.
- 32 **(5)** Failing to meet standards for approval set forth by the State Board of
33 Education.

34 **"§ 115C-296.9. Minimum admissions requirements for educator preparation programs.**

35 **(a)** Testing. – An undergraduate student seeking a degree in education shall attain
36 passing scores on a preprofessional skills test prior to admission to an approved program in the
37 State. The State Board of Education shall permit students to fulfill this requirement by
38 achieving the prescribed minimum scores set by the State Board of Education for the Praxis
39 Core tests or by achieving the appropriate required scores, as determined by the State Board of
40 Education, on the verbal and mathematics portions of the SAT or ACT. The minimum
41 combined verbal and mathematics score set by the State Board for the SAT shall be 1,100 or
42 greater. The minimum composite score set by the State Board for the ACT shall be 24 or
43 greater.

44 **(b)** Grade Point Average. – An approved educator preparation program in the State
45 shall not admit an undergraduate student into an educator preparation program unless that
46 student has earned a minimum cumulative grade point average of at least a 2.7. An approved
47 educator preparation program shall ensure that the minimum cohort grade point average for
48 each entering cohort to an educator preparation program is at least a 3.0.

49 **"§ 115C-296.10. Content and pedagogy requirements.**

50 **(a)** Content and Pedagogy Requirements for Educator Preparation Programs. – To
51 ensure that educator preparation programs remain current and reflect a rigorous course of study

1 that is aligned to State and national standards, the State Board of Education, in consultation
2 with the Board of Governors of The University of North Carolina and the North Carolina
3 Independent Colleges and Universities, Inc., shall require that the rules for approval of educator
4 preparation programs include the following requirements with demonstrated competencies:

5 (1) All educator preparation programs shall include the following:

- 6 a. The identification and education of children with disabilities.
7 b. Positive management of student behavior and effective
8 communication techniques for defusing and deescalating disruptive
9 or dangerous behavior.
10 c. Demonstration of competencies in using digital and other
11 instructional technologies to provide high-quality, integrated digital
12 teaching and learning to all students.

13 (2) Elementary education teacher education preparation programs shall include
14 the following:

- 15 a. Adequate coursework in the teaching of reading, writing, and
16 mathematics.
17 b. Assessment prior to licensure to determine if a student possesses the
18 requisite knowledge in scientifically based reading, writing, and
19 mathematics instruction that is aligned with the State Board's
20 expectations.
21 c. Instruction in application of formative and summative assessments
22 within the school and classroom setting through technology-based
23 assessment systems available in North Carolina schools that measure
24 and predict expected student improvement.
25 d. Instruction in integration of arts education across the curriculum.

26 (3) Elementary and special education general curriculum teacher education
27 preparation programs shall ensure that students receive instruction in early
28 literacy intervention strategies and practices that are aligned with State and
29 national reading standards and shall include the following:

- 30 a. Instruction in the teaching of reading, including a substantive
31 understanding of reading as a process involving oral language,
32 phonological and phonemic awareness, phonics, fluency, vocabulary,
33 and comprehension. Instruction shall include appropriate application
34 of instructional supports and services and reading interventions to
35 ensure reading proficiency for all students.
36 b. Instruction in evidence-based assessment and diagnosis of specific
37 areas of difficulty with reading development and of reading
38 deficiencies.
39 c. Instruction in appropriate application of instructional supports and
40 services and reading interventions to ensure reading proficiency for
41 all students.

42 (4) Middle and high school science teacher education preparation programs
43 shall include adequate preparation in issues related to science laboratory
44 safety.

45 (b) School Administrator Preparation Programs. – Rules for approval of school
46 administrator preparation programs shall incorporate the criteria developed in accordance with
47 G.S. 116-74.21 for assessing proposals under the School Administrator Training Program.

48 **"§ 115C-296.11. Clinical partnerships and practice in educator preparation programs.**

49 (a) As used in this section, the following definitions shall apply:

50 (1) Clinical educator. – An individual employed by an elementary or secondary
51 school, including a classroom teacher, who assesses, supports, and develops

1 a student's knowledge, skills, and professional disposition during the clinical
2 experience.

3 (2) Internship. – Part of a formal program to provide practical experience and
4 training for beginners in the education profession.

5 (3) Residency. – A specified period of time in which a person is employed by a
6 local school administrative unit to gain practical experience and training in
7 educator preparation.

8 (b) The State Board of Education, in consultation with the Board of Governors of The
9 University of North Carolina and the North Carolina Independent Colleges and Universities,
10 Inc., shall adopt and establish rules for educator preparation that require at least the following:

11 (1) Educator preparation programs shall establish and maintain collaborative,
12 formalized partnerships with elementary and secondary schools that are
13 focused on student achievement, continuous school improvement, and the
14 professional development of elementary and secondary educators, as well as
15 those preparing educators.

16 (2) Educator preparation programs shall work collaboratively with elementary
17 and secondary schools and enter into a memorandum of understanding with
18 local school administrative units where students are placed. In the
19 memorandum, the educator preparation program and the local school
20 administrative unit shall:

21 a. Define the collaborative relationship between the educator
22 preparation program and the local school administrative unit and how
23 this partnership will be focused on continuous school improvement
24 and student achievement.

25 b. Adopt a plan for collaborative teacher selection, orientation, and
26 student placement.

27 c. Determine how information will be shared and verified between the
28 educator preparation program and local school administrative unit.

29 (3) Educator preparation programs shall ensure clinical educators who supervise
30 students in residencies or internships meet the following requirements:

31 a. Be professionally licensed in the field of licensure sought by the
32 student.

33 b. Have a minimum of three years of experience in a teaching role.

34 c. Have been rated, through formal evaluations, at least at the
35 "accomplished" level as part of the North Carolina Teacher
36 Evaluation System and have met expectations as part of student
37 growth in the field of licensure sought by the student.

38 (4) Educator preparation programs shall require, in all programs leading to
39 initial licensure, field experiences that include organized and sequenced
40 engagement of students in settings that provide them with opportunities to
41 observe, practice, and demonstrate knowledge and skills. The experiences
42 shall be systematically designed and sequenced to increase the complexity
43 and levels of engagement with which students apply, reflect upon, and
44 expand their knowledge and skills.

45 (5) Educator preparation programs shall require clinical practice in the form of
46 residencies or internships in those fields for which they are approved by the
47 State Board of Education. Residencies or internships shall be a minimum of
48 16 weeks. Residencies and internships may be over the course of two
49 semesters and shall, to the extent practicable, provide student experiences at
50 both the beginning and ending of the school year.

1 (6) Educator preparation programs with a clinical practice component shall
2 require, in addition to a content assessment, a nationally normed and valid
3 pedagogy assessment to determine clinical practice performance. Passing
4 scores and mastery criteria will be determined by the State Board of
5 Education.

6 **"§ 115C-296.12. Lateral entry teacher education preparation programs.**

7 (a) It is the policy of the State of North Carolina to encourage lateral entry into the
8 profession of teaching by skilled individuals from the private sector. Skilled individuals who
9 choose to enter the profession of teaching laterally may be granted an initial teaching license
10 for no more than three years and shall be required to obtain licensure required for those who
11 have taught more than three years before contracting for a fourth year of service with any local
12 school administrative unit in this State. The criteria and procedures for lateral entry shall
13 include preservice training in all of the following areas:

14 (1) The identification and education of children with disabilities.

15 (2) Positive management of student behavior.

16 (3) Effective communication for defusing and deescalating disruptive or
17 dangerous behavior.

18 (4) Safe and appropriate use of seclusion and restraint.

19 (b) The State Board of Education, in consultation with the State Board of Community
20 Colleges and North Carolina Independent Colleges and Universities, Inc., may provide a
21 competency-based program of study for lateral entry teachers to complete the coursework
22 necessary to earn a teaching license. To this end, the State Board of Education, in consultation
23 with the State Board of Community Colleges and North Carolina Independent Colleges and
24 Universities, Inc., shall establish a competency-based program of study for lateral entry
25 teachers to be implemented within the Community College System and at approved educator
26 preparation programs at private, nonprofit two-year colleges. These programs shall meet
27 standards set by the State Board of Education. To ensure that programs of study for lateral
28 entry remain current and reflect a rigorous course of study that is aligned to State and national
29 standards, the State Board of Education shall do all of the following to ensure that lateral entry
30 personnel are prepared to teach:

31 (1) Provide adequate coursework in the teaching of reading and mathematics for
32 lateral entry teachers seeking certification in elementary education.

33 (2) Assess lateral entry teachers prior to licensure to determine that they possess
34 the requisite knowledge in scientifically based reading and mathematics
35 instruction that is aligned with the State Board's expectations.

36 (3) Prepare all lateral entry teachers to apply formative and summative
37 assessments within the school and classroom setting through
38 technology-based assessment systems available in North Carolina schools
39 that measure and predict expected student improvement.

40 (4) Require that lateral entry teachers demonstrate competencies in using digital
41 and other instructional technologies to provide high-quality, integrated
42 digital teaching and learning to all students.

43 (c) The State Board of Community Colleges and the State Board of Education shall
44 jointly identify the community college courses and the educator preparation program courses
45 that are necessary and appropriate for inclusion in the community college program of study for
46 lateral entry teachers. To the extent possible, any courses that must be completed through an
47 approved educator preparation program shall be taught on a community college campus or shall
48 be available through distance learning. The State Board of Education shall identify the
49 appropriate courses for a private, nonprofit two-year college to include in the program of study
50 for lateral entry teachers.

1 (d) In order to participate in the community college or private, nonprofit two-year
2 college program of study for lateral entry teachers, an individual must hold at least a bachelor's
3 degree from a regionally accredited institution of higher education.

4 (e) An individual who successfully completes the lateral entry program of study and
5 meets all other requirements of licensure set by the State Board of Education shall be
6 recommended for a North Carolina teaching license.

7 (f) It is further the policy of the State of North Carolina to ensure that local boards of
8 education can provide the strongest possible leadership for schools based upon the identified
9 and changing needs of individual schools. The State Board of Education shall carefully
10 consider a lateral entry program for school administrators to ensure that local boards of
11 education will have sufficient flexibility to attract able candidates.

12 **"§ 115C-296.13. Educator preparation program reporting.**

13 (a) Annual Performance Reports. – The State Board of Education shall require all
14 approved educator preparation programs, including master's degree programs in teacher
15 preparation and master's degree programs in school administration, to submit annual
16 performance reports. The performance reports shall provide the State Board of Education with
17 a focused review of the programs and the current process of accrediting these programs in order
18 to ensure that the programs produce graduates that are well prepared to teach.

19 (b) Required Elements. – The performance report for each educator preparation
20 program in North Carolina shall follow a common format and include at least the following
21 elements:

22 (1) Quality of students entering the educator preparation program, including the
23 average grade point average and average score on preprofessional skills tests
24 that assess reading, writing, mathematics, and other competencies.

25 (2) Graduation rates.

26 (3) Time-to-graduation rates.

27 (4) Average scores of graduates on professional and content area examination
28 for the purpose of licensure.

29 (5) Percentage of graduates receiving initial licenses.

30 (6) Percentage of graduates hired as teachers.

31 (7) Percentage of graduates remaining in teaching for four years.

32 (8) Graduate satisfaction based on a common survey.

33 (9) Employer satisfaction based on a common survey.

34 (10) Effectiveness of teacher preparation program graduates.

35 (c) Submission of Annual Performance Reports. – Performance reports shall be
36 provided annually to the Board of Governors of The University of North Carolina, the State
37 Board of Education, and the boards of trustees of nonpublic postsecondary colleges. The State
38 Board of Education shall review the educator preparation program performance reports each
39 year the performance reports are submitted.

40 (d) Educator Preparation Program Report Card. – The State Board shall create a higher
41 education educator preparation program report card reflecting the information collected in the
42 annual performance reports for each North Carolina institution offering educator preparation
43 programs. The report cards shall, at a minimum, summarize information reported on all of the
44 performance indicators for the performance reports required by subsection (b) of this section.

45 (e) Annual State Board of Education Report. – The educator preparation program report
46 cards shall be submitted to the Joint Legislative Education Oversight Committee on an annual
47 basis by November 15.

48 (f) State Board of Education Action Based on Performance. – Based upon the
49 performance reports and other criteria established by the State Board, the State Board may
50 reward an educator preparation program, impose probationary status and plans of improvement
51 on an educator preparation program, or revoke approval of an educator preparation program."

1 **SECTION 8.41.(b)** G.S. 115C-296(b) reads as rewritten:

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

12 "

13 **SECTION 8.41.(c)** G.S. 115C-296(b)(2) is repealed.

14 **SECTION 8.41.(d)** G.S. 115C-296(b1) is repealed.

15 **SECTION 8.41.(e)** G.S. 115C-296(b2) is repealed.

16 **SECTION 8.41.(f)** G.S. 115C-296(c) is repealed.

17 **SECTION 8.41.(g)** G.S. 115C-296(c1) is repealed.

18 **SECTION 8.41.(h)** G.S. 115C-296(c2) is repealed.

19 **SECTION 8.41.(i)** G.S. 115C-296.7(g) reads as rewritten:

20 "(g) NC Teaching Corps members shall be granted lateral entry teaching licenses
21 pursuant to ~~G.S. 115C-296(e)~~ G.S. 115C-296.12(a)."

22 **SECTION 8.41.(j)** G.S. 115D-5(p) reads as rewritten:

23 "(p) The North Carolina Community College System may offer courses, in accordance
24 with the lateral entry program of study established under ~~G.S. 115C-296(e1)~~,
25 G.S. 115C-296.12, to individuals who choose to enter the teaching profession by lateral entry."

26 **SECTION 8.41.(k)** Educator preparation programs approved by the State Board of
27 Education as of July 1, 2015, shall meet the requirements of subsection (a) of this section no
28 later than July 1, 2017. Educator preparation programs seeking approval by the State Board of
29 Education on or after July 1, 2015, shall meet the requirements of subsection (a) of this section
30 at the time approval is sought from the State Board of Education. The State Board of Education
31 shall not require students enrolled in educator preparation programs that require a nationally
32 normed and valid pedagogy assessment to determine clinical practice performance to provide
33 scores for a pedagogy assessment based on multiple choice or constructed responses.

34 **ACCESS FOR TEACHERS TO EVAAS DATA**

35 **SECTION 8.42.(a)** Article 22 of Chapter 115C of the General Statutes is amended
36 by adding a new section to read:

37 "§ 115C-333.2. Teacher evaluation reports.

38 Each local school administrative unit shall ensure that individual teachers are provided
39 access to school-level value-added data, the teacher's own value-added data, when applicable,
40 and the teacher's evaluation dashboard through the Education Value-Added Assessment System
41 (EVAAS). The principal of each school shall notify teachers at least annually when EVAAS
42 data has been updated to reflect teacher performance from the previous school year."

43 **SECTION 8.42.(b)** This section applies beginning with the 2015-2016 school year.

44 **CERTAIN CIHS OPERATING WITHOUT ADDITIONAL FUNDS**

45 **SECTION 8.43.** Notwithstanding G.S. 115C-238.51A(c) and G.S. 115C-238.54,
46 the Academy at High Point Central, the Academy at Ben L. Smith High School, STEM Early
47 College at NC A&T State University, Middle College at the University of North Carolina at
48 Greensboro, Vernon Malone College and Career Academy, and the Northeast Regional School
49 of Biotechnology and Agriscience shall be permitted to operate in accordance with
50
51

1 G.S. 115C-238.53 and G.S. 115C-238.54 as cooperative innovative high schools approved
2 under G.S. 115C-238.51A(c) and shall be subject to the evaluation requirements of
3 G.S. 115C-238.55.
4

5 **PART VIII-A. LEGISLATIVE FINDINGS, DIRECTION, AUTHORITY, AND**
6 **RESOURCES TO ENSURE THAT ALL STUDENTS HAVE THE**
7 **OPPORTUNITY TO RECEIVE A SOUND BASIC EDUCATION**
8

9 **LEGISLATIVE FINDINGS**

10 **SECTION 8A.1.(a)** The General Assembly finds that some local boards of
11 education are not in compliance with the requirements of the judiciary's decisions in *Leandro* to
12 provide all public school students the opportunity to receive a sound basic education.
13 Notwithstanding a history of adequate State and local funding and legislatively-granted
14 flexibility in administration, management, and employment at the local level to provide tools to
15 facilitate compliance with *Leandro*, some local boards of education have failed to take actions
16 sufficient to:

- 17 (1) Prevent education bureaucracies from interfering with and overriding
18 accountability measures and education reforms required by State law.
- 19 (2) Properly administer the public schools.
- 20 (3) Provide high-quality principals in every school and high-quality teachers in
21 every classroom.

22 **SECTION 8A.1.(b)** It is the intent of the General Assembly in this act to provide
23 the following additional direction, authority, and resources to local boards of education and to
24 the State Board of Education to enable them to correct these deficiencies:

- 25 (1) Clarify the role of local boards of education to ensure that their main focus is
26 to provide each public school student with the opportunity to receive a sound
27 basic education, and that all policy decisions should be made with that
28 objective in mind, including employment decisions, budget development,
29 and other administrative actions.
- 30 (2) Direct the State Board of Education not to allow waivers of State laws and
31 rules that permit local boards to avoid accountability measures and education
32 reforms required by the State.
- 33 (3) Provide additional teacher positions to transition to lower class size in
34 kindergarten through third grade and require local boards of education to use
35 those positions to maintain class sizes that, according to research, are
36 optimal for learning at this critical time.
- 37 (4) Facilitate the identification of low-performing schools and low-performing
38 local school administrative units.
- 39 (5) Provide the State Board of Education with authority to consolidate local
40 school administrative units in contiguous counties as necessary to ensure that
41 all school systems have the size, expertise, and other resources necessary to
42 provide their students with the opportunity to receive a sound basic
43 education.
- 44 (6) Provide one hundred fifty-seven million ninety-six thousand four hundred
45 thirty-seven dollars (\$157,096,437) in additional funds to increase the base
46 teacher salary paid by the State and provide additional funds for the salaries
47 of principals and assistant principals.
48

49 **DUTY OF LOCAL BOARDS OF EDUCATION TO PROVIDE STUDENTS WITH THE**
50 **OPPORTUNITY TO RECEIVE A SOUND BASIC EDUCATION**

51 **SECTION 8A.2.** G.S. 115C-47(1) reads as rewritten:

1 "(1) ~~To Provide an Adequate School System.~~ the Opportunity to Receive a Sound
2 Basic Education. It shall be the duty of local boards of education to provide
3 ~~adequate school systems~~ students with the opportunity to receive a sound
4 basic education and to make all policy decisions with that objective in mind,
5 including employment decisions, budget development, and other
6 administrative actions, within their respective local school administrative
7 units, as directed by law."
8

9 CLASS SIZE IN KINDERGARTEN THROUGH THIRD GRADE

10 SECTION 8A.3.(a) G.S. 115C-301 reads as rewritten:

11 "§ 115C-301. Allocation of teachers; class size.

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

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

18 (c) Maximum Class Size for Kindergarten Through Third Grade. – The average class
19 size for kindergarten through third grade in a local school administrative unit shall at no time
20 exceed the funded allotment ratio of teachers to students in kindergarten through third grade. At
21 the end of the second school month and for the remainder of the school year, the size of an
22 individual class in kindergarten through third grade shall not exceed the allotment ratio by more
23 than three students. In grades four through 12, local school administrative units shall have the
24 maximum flexibility to use allotted teacher positions to maximize student achievement.

25 (d), (e) Repealed by Session Laws 2013-363, s. 3.3(a), effective July 1, 2013.

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

34 (g) Waivers and Allotment Adjustments. – Local boards of education shall report
35 exceptions to the class size requirements set out for kindergarten through third grade and
36 significant increases in class size at other grade levels to the State Board and shall request
37 allotment adjustments at any grade level, waivers from the requirements for kindergarten
38 through third grade, or both. Within 45 days of receipt of reports, the State Board of Education,
39 within funds available, may allot additional positions at any grade level. The State Board shall
40 not grant waivers for the excess class size in kindergarten through third grade, except
41 under the following circumstances: (i) emergencies or acts of God that impact the availability
42 of classroom space or facilities; (ii) an unanticipated increase in student population of an
43 individual school in excess of two percent (2%) of the average daily membership of that
44 school; (iii) organizational problems in geographically isolated local school administrative units
45 in which the average daily membership is less than one and one-half per square mile; (iv)
46 classes organized for a solitary curricular area; or (v) a charter school closure.

47 (h) State Board Rules. – The State Board of Education shall adopt rules necessary for
48 the implementation of this section.

49 (i) Repealed by Session Laws 2013-363, s. 3.3(a), effective July 1, 2013.

50 (j) Penalty for Noncompliance. – If the State Board of Education determines that a
51 local superintendent has willfully failed to comply with the requirements of this section, no

1 State funds shall be allocated to pay the superintendent's salary for the period of time the
 2 superintendent is in noncompliance. The local board of education shall continue to be
 3 responsible for complying with the terms of the superintendent's employment contract."

4 **SECTION 8A.3.(b)** Notwithstanding G.S. 115C-301, as amended by this section,
 5 for the 2015-2016 school year only, the funded class size allotment ratio, the maximum average
 6 class size for all classes within a local school administrative unit, and the maximum individual
 7 class size for kindergarten through third grade are as follows:

8 Grade Level	Funded	Maximum Average	Maximum Individual
	Class Size	Class Size	Class Size
11 Kindergarten	18	21	24
12 1-3	16	19	22.

13 **SECTION 8A.3.(c)** For the 2016-2017 school year, the funded class size allotment
 14 ratio, the maximum average class size for all classes within a local school administrative unit,
 15 and the maximum individual class size for kindergarten through third grade are as follows:

16 Grade Level	Funded	Maximum Average	Maximum Individual
	Class Size	Class Size	Class Size
19 Kindergarten	17	17	20
20 1-3	15	15	18.

21
 22 **IDENTIFICATION OF LOW-PERFORMING SCHOOLS AND UNITS**

23 **SECTION 8A.4.(a)** G.S. 115C-105.35(c) is repealed.

24 **SECTION 8A.4.(b)** G.S. 115C-105.36 is repealed.

25 **SECTION 8A.4.(c)** G.S. 115C-105.37 reads as rewritten:

26 **"§ 115C-105.37. Identification of low-performing schools.**

27 (a) Identification of Low-Performing Schools. – The State Board of Education shall
 28 design and implement a procedure to identify low-performing schools on an annual basis.
 29 Low-performing schools are those that receive a school performance grade of D or F and a
 30 school growth score of "met expected growth" or "not met expected growth" as defined by
 31 G.S. 115C-83.15. Low-performing schools are those in which there is a failure to meet the
 32 minimum growth standards, as defined by the State Board, and a majority of students are
 33 performing below grade level.

34 (a1) By July 10 of each year, each local school administrative unit shall do a preliminary
 35 analysis of test results to determine which of its schools the State Board may identify as
 36 low-performing under this section. Plan for Improvement of Low-Performing Schools. – If a
 37 school has been identified as low-performing as provided in this section and the school is not
 38 located in a local school administrative unit identified as low-performing under
 39 G.S. 115C-105.39A, the following actions shall be taken:

- 40 (1) The superintendent ~~then~~ shall proceed under G.S. 115C-105.39.
- 41 (2) ~~In addition, within~~ Within 30 days of the initial identification of a school as
 42 low-performing by the local school administrative unit or the State Board,
 43 ~~whichever occurs first, the State Board,~~ the superintendent shall submit to
 44 the local board of education a preliminary plan for ~~addressing the needs of~~
 45 ~~that school,~~ improving both the school performance grade and school growth
 46 score, including how the superintendent and other central office
 47 administrators will work with the school and monitor the school's progress.
- 48 (3) Within 30 days of its receipt of ~~this the~~ preliminary plan, the local board
 49 shall vote to approve, modify, or reject this plan. Before the local board
 50 ~~makes this vote,~~ votes on the preliminary plan, it shall make the plan
 51 available to the public, including the personnel assigned to that school and

1 the parents and guardians of the students who are assigned to the school, and
2 shall allow for written comments.

3 (4) ~~The local board shall submit the a final plan to the State Board within five~~
4 ~~days of the local board's vote approval of the plan. The State Board shall~~
5 ~~review the plan expeditiously and, if appropriate, may offer~~
6 ~~recommendations to modify the plan. The local board shall consider any~~
7 ~~recommendations made by the State Board and, if necessary, amend~~
8 ~~the plan and vote on approval of any changes to the final plan.~~

9 (5) The local board of education shall provide access to the final plan on the
10 local school administrative unit's Web site. The State Board of Education
11 shall also provide access to each low-performing school plan on the
12 Department of Public Instruction's Web site.

13 (b) Parental Notice of Low-Performing School Status. – Each school that the State
14 Board identifies as low-performing shall provide written notification to the parents and
15 guardians of students attending that school within 30 days of the identification that
16 includes the following information:

17 (1) ~~The written notification shall include a~~ A statement that the State Board of
18 Education has found that the school has "failed to meet the minimum growth
19 standards, as defined by the State Board, and a majority of students in the
20 school are performing below grade level." "received a school performance
21 grade of D or F and a school growth score of "met expected growth" or "not
22 met expected growth" and has been identified as a low-performing school as
23 defined by G.S. 115C-105.37." The statement shall include an explanation of
24 the school performance grades and growth scores.

25 (2) ~~This notification also shall include information~~ The school performance
26 grade and growth score received.

27 (3) Information about the preliminary plan developed under subsection (a1) of
28 this section and a section and the availability of the final plan on the local
29 school administrative unit's Web site.

30 (4) The meeting date for when the preliminary plan will be considered by the
31 local board of education.

32 (5) A description of any additional steps the school is taking to improve student
33 performance."

34 **SECTION 8A.4.(d)** Article 8B of Chapter 115C of the General Statutes is
35 amended by adding a new section to read:

36 **"§ 115C-105.39A. Identification of low-performing local school administrative units.**

37 (a) Identification of Low-Performing Local School Administrative Units. – The State
38 Board of Education shall identify low-performing local school administrative units on an
39 annual basis. A low-performing local school administrative unit is a unit in which the majority
40 of the schools in that unit that received a school performance grade and growth score as
41 provided in G.S. 115C-83.15 have been identified as a low-performing school, as provided in
42 G.S. 115C-105.37.

43 (b) Plan for Improvement of Low-Performing Local School Administrative Units. –
44 Once a local school administrative unit has been identified as low-performing under this
45 section, the following actions shall be taken:

46 (1) The superintendent shall proceed under G.S. 115C-105.39.

47 (2) Within 30 days of the identification of a local school administrative unit as
48 low-performing by the State Board, the superintendent shall submit to the
49 local board of education a preliminary plan for improving both the school
50 performance grade and school growth score of each low-performing school
51 in the unit, including how the superintendent and other central office

1 administrators will work with each low-performing school and monitor the
2 low-performing school's progress, and how current local school
3 administrative unit policy should be changed to improve student
4 achievement throughout the local school administrative unit.

5 (3) Within 30 days of its receipt of the preliminary plan, the local board shall
6 vote to approve, modify, or reject this plan. Before the local board votes on
7 the plan, it shall make the plan available to the public, including the
8 personnel assigned to each low-performing school and the parents and
9 guardians of the students who are assigned to each low-performing school,
10 and shall allow for written comments.

11 (4) The local board shall submit a final plan to the State Board within five days
12 of the local board's approval of the plan. The State Board shall review the
13 plan expeditiously and, if appropriate, may offer recommendations to
14 modify the plan. The local board shall consider any recommendations made
15 by the State Board and, if necessary, amend the plan and vote on approval of
16 any changes to the final plan.

17 (5) The local board of education shall provide access to the final plan on the
18 local school administrative unit's Web site. The State Board of Education
19 shall also provide access to each low-performing local school administrative
20 unit plan on the Department of Public Instruction's Web site.

21 (c) Parental Notice of Low-Performing Local School Administrative Unit Status. –
22 Each local school administrative unit that the State Board identifies as low-performing shall
23 provide written notification to the parents and guardians of all students attending any school in
24 the local school administrative unit within 30 days of the identification that includes the
25 following information:

26 (1) A statement that the State Board of Education has found that a majority of
27 the schools in the local school administrative unit have "received a school
28 performance grade of D or F and a school growth score of "met expected
29 growth" or "not met expected growth" and have been identified as
30 low-performing schools as defined by G.S. 115C-105.37." The statement
31 shall also include an explanation of the school performance grades and
32 growth scores.

33 (2) The percentage of schools identified as low-performing.

34 (3) Information about the preliminary plan developed under subsection (b) of
35 this section and the availability of the final plan on the local school
36 administrative unit's Web site.

37 (4) The meeting date for when the preliminary plan will be considered by the
38 local board of education.

39 (5) A description of any additional steps the local school administrative unit and
40 schools are taking to improve student performance.

41 (6) For notifications sent to parents and guardians of students attending a school
42 that is identified as low-performing under G.S. 115C-105.37, a statement
43 that the State Board of Education has found that the school has "received a
44 school performance grade of D or F and a school growth score of "met
45 expected growth" or "not met expected growth" and has been identified as a
46 low-performing school as defined by G.S. 115C-105.37." This notification
47 also shall include the school performance grade and school growth score the
48 school received and an explanation of the school performance grades and
49 growth scores."
50

1 STATE BOARD AUTHORITY TO CONSOLIDATE CONTIGUOUS COUNTY
2 SCHOOL ADMINISTRATIVE UNITS

3 SECTION 8A.5. Article 7 of Chapter 115C of the General Statutes is amended by
4 adding a new section to read:

5 "§ 115C-66.5. Merger of county school administrative units by the State Board of
6 Education.

7 The State Board of Education shall have the authority to consolidate and merge contiguous
8 county school administrative units or a group of county school administrative units in which
9 each county unit is contiguous with at least one other county unit in the group. The State Board
10 shall adopt a written plan setting forth the conditions of the merger. A merger of county units
11 and reorganization of those units under this section shall not have the effect of abolishing any
12 special taxes that may have been voted in any such units."

13
14 LIMIT LOCAL BOARD OF EDUCATION WAIVERS

15 SECTION 8A.6.(a) G.S. 115C-105.26 reads as rewritten:

16 "§ 115C-105.26. Waivers of State laws, rules, or policies.laws or rules.

17 (a) ~~When included as part of a school improvement plan accepted under~~
18 ~~G.S. 115C-105.27, local boards of education shall submit requests for waivers of State laws,~~
19 ~~rules, or policies to the State Board of Education. A~~ Except as otherwise provided for in this
20 section, the State Board of Education shall not grant waivers of State laws or rules to local
21 boards of education. If permitted under this section, a request for a waiver by a local board of
22 education shall (i) identify the school or schools making the request, (ii) identify the State laws,
23 rules, or policies that inhibit the school's ability to improve student performance, law or rule
24 requesting to be waived, (iii) set out with specificity the circumstances under which the waiver
25 may be used, and (iv) explain how the requested waiver will permit the school to improve
26 student performance.

27 ~~Except as provided in subsection (c) of this section, the State Board shall grant waivers only~~
28 ~~for the specific schools for which they are requested and shall be used only under the specific~~
29 ~~circumstances for which they are requested.~~

30 (b) ~~When requested as part of a school improvement plan, the~~ The State Board of
31 Education may grant waivers of local boards of education of State laws and rules pertaining
32 to the following:

- 33 (1) ~~State laws pertaining to class~~ Class size and teacher certification;
34 ~~and requirements only as provided in G.S. 115C-301(g).~~
35 (2) ~~State rules and policies, except those pertaining to public school State salary~~
36 ~~schedules and employee benefits for school employees, the instructional~~
37 ~~program that must be offered under the Basic Education Program, the system~~
38 ~~of employment for public school teachers and administrators set out in~~
39 ~~G.S. 115C-287.1 and in Part 3 of Article 22 of this Chapter, health and~~
40 ~~safety codes, compulsory attendance, the minimum lengths of the school day~~
41 ~~and year, and the Uniform Education Reporting System.~~
42 (3) School calendar requirements in order to provide sufficient days to
43 accommodate anticipated makeup days due to school closings only as
44 provided in G.S. 115C-84.2(d).

45 (c) ~~The State Board also may grant requests received from local boards for waivers of~~
46 ~~State laws, rules, or policies that affect the organization, duties, and assignment of central~~
47 ~~office staff only. However, none of the duties to be performed under G.S. 115C-436 may be~~
48 ~~waived.~~

49 (c1) ~~The State Board also may grant requests received from local boards for waivers of~~
50 ~~State laws, rules, or policies that require that each local school administrative unit provide at~~
51 ~~least one alternative school or at least one alternative learning program.~~

(d) ~~Notwithstanding subsections (b) and (c) of this section, the State Board shall not grant waivers of G.S. 115C-12(16)b. regarding the placement of State-allotted office support personnel, teacher assistants, and custodial personnel on the salary schedule adopted by the State Board.~~

(e) ~~Notwithstanding subsection (b) of this section, the State Board may grant requests received from local boards for waivers of State laws, rules, or policies pertaining to the placement of principals on the State salary schedule for public school administrators in order to provide financial incentives to encourage principals to accept employment in a school that has been identified as low performing under G.S. 115C-105.37. The State Board shall act on requests under this subsection at the first Board meeting following receipt of each request.~~

(f) ~~Except as provided in subsection (e) of this section, the~~ The State Board shall act within 60 days of receipt of all requests for waivers under this section.

(g) The State Board shall, on a regular basis, review all waivers it has granted to determine whether any rules should be repealed or modified or whether the Board should recommend to the General Assembly the repeal or modification of any laws.

(h) By September 15 of each year, the State Board shall report to the Joint Legislative Education Oversight Committee with a list of the specific waivers granted to each local board of education under this section. The State Board may include any legislative recommendations identified under subsection (g) of this section in its report.

SECTION 8A.6.(b) This section applies beginning with the 2015-2016 school year.

PART IX. COMPENSATION OF PUBLIC SCHOOL EMPLOYEES

TEACHER SALARY SCHEDULE

SECTION 9.1.(a) The following monthly teacher salary schedule shall apply for the 2015-2017 fiscal biennium to licensed personnel of the public schools who are classified as teachers. The salary schedule is based on years of teaching experience.

2015-2017 Teacher Monthly Salary Schedule

Years of Experience	"A" Teachers
0-4	\$3,500
5-9	3,825
10-14	4,125
15-19	4,425
20-24	4,700
25+	5,000.

SECTION 9.1.(b) Salary Supplements for Teachers Paid on This Salary Schedule.

- (1) Licensed teachers who have NBPTS certification shall receive a salary supplement each month of twelve percent (12%) of their monthly salary on the "A" salary schedule.
- (2) Licensed teachers who are classified as "M" teachers shall receive a salary supplement each month of ten percent (10%) of their monthly salary on the "A" salary schedule.
- (3) Licensed teachers with licensure 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 supplement provided to them as "M" teachers.
- (4) Licensed teachers with licensure based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred

1 fifty-three dollars (\$253.00) per month in addition to the supplement
 2 provided to them as "M" teachers.

3 (5) Certified school nurses shall receive a salary supplement each month of ten
 4 percent (10%) of their monthly salary on the "A" salary schedule.

5 **SECTION 9.1.(c)** The first step of the salary schedule for (i) school psychologists,
 6 (ii) school speech pathologists who are licensed as speech pathologists at the master's degree
 7 level or higher, and (iii) school audiologists who are licensed as audiologists at the master's
 8 degree level or higher shall be equivalent to Step 5 of the "A" salary schedule. These
 9 employees shall receive a salary supplement each month of ten percent (10%) of their monthly
 10 salary and are eligible to receive salary supplements equivalent to those of teachers for
 11 academic preparation at the six-year degree level or the doctoral degree level.

12 **SECTION 9.1.(d)** Beginning with the 2014-2015 fiscal year, in lieu of providing
 13 annual longevity payments to teachers paid on the teacher salary schedule, the amounts of those
 14 longevity payments are included in the monthly amounts under the teacher salary schedule.

15 **SECTION 9.1.(e)** A teacher compensated in accordance with this salary schedule
 16 for the 2015-2016 and 2016-2017 school years shall receive an amount equal to the greater of
 17 the following:

- 18 (1) The applicable amount on the salary schedule for the applicable school year.
- 19 (2) For teachers who were eligible for longevity for the 2013-2014 school year,
 20 the sum of the following:
 - 21 a. The teacher's salary provided in S.L. 2013-360, Sec. 35.11.
 - 22 b. The longevity that the teacher would have received under the
 23 longevity system in effect for the 2013-2014 school year provided in
 24 S.L. 2013-360, Sec. 35.11, based on the teacher's current years of
 25 service.
 - 26 c. The annual bonus provided in S.L. 2014-100, Sec. 9.1(e).
- 27 (3) For teachers who were not eligible for longevity for the 2013-2014 school
 28 year, the sum of the teacher's salary and annual bonus provided in S.L.
 29 2014-100, Sec. 9.1.

30 **SECTION 9.1.(f)** As used in this section, the term "teacher" shall also include
 31 instructional support personnel.

32
 33 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

34 **SECTION 9.2.(a)** The following monthly base salary schedule for school-based
 35 administrators shall apply only to principals and assistant principals. This base salary schedule
 36 shall apply for the 2015-2016 fiscal year commencing July 1, 2015.

37 **2015-2016 Principal and Assistant Principal Salary Schedules**
 38 **Classification**

39 Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
41 0-9	\$3,895	-	-	-	-
42 10	\$3,977	-	-	-	-
43 11	\$4,123	-	-	-	-
44 12	\$4,240	-	-	-	-
45 13	\$4,323	\$4,323	-	-	-
46 14	\$4,377	\$4,377	-	-	-
47 15	\$4,434	\$4,434	\$4,489	-	-
48 16	\$4,489	\$4,489	\$4,547	-	-
49 17	\$4,547	\$4,547	\$4,606	\$4,665	-
50 18	\$4,606	\$4,606	\$4,665	\$4,726	\$4,788
51 19	\$4,665	\$4,665	\$4,726	\$4,788	\$4,851

1	20	\$4,726	\$4,726	\$4,788	\$4,851	\$4,918
2	21	\$4,788	\$4,788	\$4,851	\$4,918	\$4,983
3	22	\$4,851	\$4,851	\$4,918	\$4,983	\$5,050
4	23	\$4,918	\$4,918	\$4,983	\$5,050	\$5,119
5	24	\$4,983	\$4,983	\$5,050	\$5,119	\$5,188
6	25	\$5,050	\$5,050	\$5,119	\$5,188	\$5,263
7	26	\$5,119	\$5,119	\$5,188	\$5,263	\$5,335
8	27	\$5,188	\$5,188	\$5,263	\$5,335	\$5,409
9	28	\$5,263	\$5,263	\$5,335	\$5,409	\$5,483
10	29	\$5,335	\$5,335	\$5,409	\$5,483	\$5,561
11	30	\$5,409	\$5,409	\$5,483	\$5,561	\$5,641
12	31	\$5,483	\$5,483	\$5,561	\$5,641	\$5,722
13	32	\$5,561	\$5,561	\$5,641	\$5,722	\$5,794
14	33	\$5,641	\$5,641	\$5,722	\$5,794	\$5,909
15	34	\$5,722	\$5,722	\$5,794	\$5,909	\$6,027
16	35	\$5,794	\$5,794	\$5,909	\$6,027	\$6,148
17	36	\$5,909	\$5,909	\$6,027	\$6,148	\$6,271
18	37	-	\$6,027	\$6,148	\$6,271	\$6,396
19	38	-	-	\$6,271	\$6,396	\$6,524
20	39	-	-	\$6,396	\$6,524	\$6,654
21	40	-	-	-	\$6,654	\$6,787
22	41	-	-	-	\$6,787	\$6,923
23	42	-	-	-	-	\$7,061

2015-2016 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	\$4,918	-	-	-
20	\$4,983	-	-	-
21	\$5,050	\$5,119	-	-
22	\$5,119	\$5,188	\$5,335	-
23	\$5,188	\$5,263	\$5,409	\$5,483
24	\$5,263	\$5,335	\$5,483	\$5,561
25	\$5,335	\$5,409	\$5,561	\$5,641
26	\$5,409	\$5,483	\$5,641	\$5,722
27	\$5,483	\$5,561	\$5,722	\$5,794
28	\$5,561	\$5,641	\$5,794	\$5,909
29	\$5,641	\$5,722	\$5,909	\$6,027
30	\$5,722	\$5,794	\$6,027	\$6,148
31	\$5,794	\$5,909	\$6,148	\$6,271
32	\$5,909	\$6,027	\$6,271	\$6,396
33	\$6,027	\$6,148	\$6,396	\$6,524
34	\$6,148	\$6,271	\$6,524	\$6,654
35	\$6,271	\$6,396	\$6,654	\$6,787
36	\$6,396	\$6,524	\$6,787	\$6,923
37	\$6,524	\$6,654	\$6,923	\$7,061
38	\$6,654	\$6,787	\$7,061	\$7,202
39	\$6,787	\$6,923	\$7,202	\$7,346
40	\$6,923	\$7,061	\$7,346	\$7,493
41	\$7,061	\$7,202	\$7,493	\$7,643

1	42	\$7,202	\$7,346	\$7,643	\$7,796
2	43	\$7,346	\$7,493	\$7,796	\$7,952
3	44		\$7,643	\$7,952	\$8,111
4	45	-	\$7,796	\$8,111	\$8,273
5	46+	-	-	\$8,273	\$8,438

6 **SECTION 9.2.(b)** The appropriate classification for placement of principals and
 7 assistant principals on the salary schedule, except for principals in alternative schools and in
 8 cooperative innovative high schools, shall be determined in accordance with the following
 9 schedule:

10	Classification	Number of Teachers Supervised
11	Assistant Principal	
12	Principal I	Fewer than 11 Teachers
13	Principal II	11-21 Teachers
14	Principal III	22-32 Teachers
15	Principal IV	33-43 Teachers
16	Principal V	44-54 Teachers
17	Principal VI	55-65 Teachers
18	Principal VII	66-100 Teachers
19	Principal VIII	More than 100 Teachers

20 The number of teachers supervised includes teachers and assistant principals paid
 21 from State funds only; it does not include teachers or assistant principals paid from non-State
 22 funds or the principal or teacher assistants.

23 The beginning classification for principals in alternative schools and in cooperative
 24 innovative high school programs shall be the Principal III level. Principals in alternative
 25 schools who supervise 33 or more teachers shall be classified according to the number of
 26 teachers supervised.

27 **SECTION 9.2.(c)** A principal shall be placed on the step on the salary schedule
 28 that reflects the total number of years of experience as a certified employee of the public
 29 schools and an additional step for every three years of experience serving as a principal on or
 30 before June 30, 2009. A principal or assistant principal shall also continue to receive any
 31 additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and
 32 1999-2000 school years for improvement in student performance or maintaining a safe and
 33 orderly school.

34 **SECTION 9.2.(d)** Principals and assistant principals with certification based on
 35 academic preparation at the six-year degree level shall be paid a salary supplement of one
 36 hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a
 37 salary supplement of two hundred fifty-three dollars (\$253.00) per month.

38 **SECTION 9.2.(e)** Longevity pay for principals and assistant principals shall be as
 39 provided for State employees under the North Carolina Human Resources Act.

40 **SECTION 9.2.(f)** If a principal is reassigned to a higher job classification because
 41 the principal is transferred to a school within a local school administrative unit with a larger
 42 number of State-allotted teachers, the principal shall be placed on the salary schedule as if the
 43 principal had served the principal's entire career as a principal at the higher job classification.

44 If a principal is reassigned to a lower job classification because the principal is
 45 transferred to a school within a local school administrative unit with a smaller number of
 46 State-allotted teachers, the principal shall be placed on the salary schedule as if the principal
 47 had served the principal's entire career as a principal at the lower job classification.

48 This subsection applies to all transfers on or after the effective date of this section,
 49 except transfers in school systems that have been created, or will be created, by merging two or
 50 more school systems. Transfers in these merged systems are exempt from the provisions of this
 51 subsection for one calendar year following the date of the merger.

1 **SECTION 9.2.(g)** Participants in an approved full-time master's in-school
 2 administration program shall receive up to a 10-month stipend at the beginning salary of an
 3 assistant principal during the internship period of the master's program. The stipend shall not
 4 exceed the difference between the beginning salary of an assistant principal plus the cost of
 5 tuition, fees, and books and any fellowship funds received by the intern as a full-time student,
 6 including awards of the Principal Fellows Program. The Principal Fellows Program or the
 7 school of education where the intern participates in a full-time master's in-school administration
 8 program shall supply the Department of Public Instruction with certification of eligible
 9 full-time interns.

10 **SECTION 9.2.(h)** During the 2015-2016 fiscal year, the placement on the salary
 11 schedule of an administrator with a one-year provisional assistant principal's certificate shall be
 12 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary
 13 schedule, whichever is higher.

14 **SECTION 9.2.(i)** It is the intent of the General Assembly to modify the
 15 compensation system for principals and assistant principals, effective July 1, 2016.

16 17 **CENTRAL OFFICE SALARIES**

18 **SECTION 9.3.(a)** The monthly salary ranges that follow apply to assistant
 19 superintendents, associate superintendents, directors/coordinators, supervisors, and finance
 20 officers for the 2015-2017 fiscal biennium, beginning July 1, 2015.

21	School Administrator I	\$ 3,391	\$ 6,323
22	School Administrator II	\$ 3,592	\$ 6,704
23	School Administrator III	\$ 3,811	\$ 7,110
24	School Administrator IV	\$ 3,962	\$ 7,391
25	School Administrator V	\$ 4,120	\$ 7,689
26	School Administrator VI	\$ 4,368	\$ 8,151
27	School Administrator VII	\$ 4,542	\$ 8,478

28 The local board of education shall determine the appropriate category and
 29 placement for each assistant superintendent, associate superintendent, director/coordinator,
 30 supervisor, or finance officer within the salary ranges and within funds appropriated by the
 31 General Assembly for central office administrators and superintendents. The category in which
 32 an employee is placed shall be included in the contract of any employee.

33 **SECTION 9.3.(b)** The monthly salary ranges that follow apply to public school
 34 superintendents for the 2015-2017 fiscal biennium, beginning July 1, 2015.

35	Superintendent I	\$ 4,819	\$ 8,991
36	Superintendent II	\$ 5,113	\$ 9,532
37	Superintendent III	\$ 5,422	\$ 10,109
38	Superintendent IV	\$ 5,752	\$ 10,721
39	Superintendent V	\$ 6,102	\$ 11,372

40 The local board of education shall determine the appropriate category and
 41 placement for the superintendent based on the average daily membership of the local school
 42 administrative unit and within funds appropriated by the General Assembly for central office
 43 administrators and superintendents.

44 **SECTION 9.3.(c)** Longevity pay for superintendents, assistant superintendents,
 45 associate superintendents, directors/coordinators, supervisors, and finance officers shall be as
 46 provided for State employees under the State Personnel Act.

47 **SECTION 9.3.(d)** Superintendents, assistant superintendents, associate
 48 superintendents, directors/coordinators, supervisors, and finance officers with certification
 49 based on academic preparation at the six-year degree level shall receive a salary supplement of
 50 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided
 51 pursuant to this section. Superintendents, assistant superintendents, associate superintendents,

1 directors/coordinators, supervisors, and finance officers with certification based on academic
2 preparation at the doctoral degree level shall receive a salary supplement of two hundred
3 fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this
4 section.

5 **SECTION 9.3.(e)** The State Board of Education shall not permit local school
6 administrative units to transfer State funds from other funding categories for salaries for public
7 school central office administrators.

9 **NONCERTIFIED PERSONNEL SALARIES**

10 **SECTION 9.4.** The annual salary for permanent full-time and part-time
11 noncertified public school employees whose salaries are supported from the State's General
12 Fund shall remain unchanged for the 2015-2017 fiscal biennium.

14 **NO PAY LOSS FOR TEACHERS WHO BECOME ADMINISTRATORS OR 15 ASSISTANT PRINCIPALS WHO BECOME PRINCIPALS**

16 **SECTION 9.5.(a)** Section 7.22(b) of S.L. 2009-451 reads as rewritten:

17 **"SECTION 7.22.(b)** This section becomes effective ~~July 1, 2009, and applies to all~~
18 ~~persons initially employed as assistant principals on or after that date.~~July 1, 2009."

19 **SECTION 9.5.(b)** G.S. 115C-285(a) is amended by adding a new subdivision to
20 read:

21 "(9) An assistant principal who becomes a principal without a break in service
22 shall be paid, on a monthly basis, at least as much as he or she would earn as
23 an assistant principal employed by that local school administrative unit."

25 **PART X. COMMUNITY COLLEGES**

27 **REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE**

28 **SECTION 10.1.(a)** Notwithstanding any other provision of law, and consistent
29 with the authority established in G.S. 115D-3, the President of the North Carolina Community
30 College System may reorganize the System Office in accordance with recommendations and
31 plans submitted to and approved by the State Board of Community Colleges.

32 **SECTION 10.1.(b)** This section expires June 30, 2017.

34 **BASIC SKILLS PLUS**

35 **SECTION 10.2.(a)** G.S. 115D-5(b) is amended by adding a new subdivision to
36 read:

37 "(b) In order to make instruction as accessible as possible to all citizens, the teaching of
38 curricular courses and of noncurricular extension courses at convenient locations away from
39 institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata
40 portion of the established regular tuition rate charged a full-time student shall be charged a
41 part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of
42 Community Colleges shall establish a uniform registration fee, or a schedule of uniform
43 registration fees, to be charged students enrolling in extension courses for which instruction is
44 financed primarily from State funds. The State Board of Community Colleges may provide by
45 general and uniform regulations for waiver of tuition and registration fees for the following:

46 ...
47 (15) Courses providing employability skills, job-specific occupational or
48 technical skills, or developmental education instruction to certain students
49 who are concurrently enrolled in an eligible community college literacy
50 course, in accordance with rules adopted by the State Board of Community
51 Colleges.

1 ...
2 The State Board of Community Colleges shall not waive tuition and registration fees for
3 other individuals."

4 **SECTION 10.2.(b)** G.S. 115D-31(b1) reads as rewritten:

5 "(b1) A local community college may use all State funds allocated to it, except for
6 Literacy funds and Customized Training funds, for any authorized purpose that is consistent
7 with the college's Institutional Effectiveness Plan. The State Board of Community Colleges
8 may authorize a local community college to use up to twenty percent (20%) of the State
9 Literacy funds allocated to it to provide employability skills, job-specific occupational and
10 technical skills, and developmental education instruction to students concurrently enrolled in an
11 eligible community college literacy course.

12 Each local community college shall include in its Institutional Effectiveness Plan a section
13 on how funding flexibility allows the college to meet the demands of the local community and
14 to maintain a presence in all previously funded categorical programs."

15 16 **EQUIPMENT FUNDING**

17 **SECTION 10.3.** For the 2015-2017 fiscal biennium, community colleges may
18 expend regular equipment allocations on equipment and on repairs, renovations, and new
19 construction, necessary to accommodate equipment. Colleges must match funds expended on
20 new construction on an equal matching-fund basis in accordance with G.S. 115D-31.
21 Notwithstanding any other provision of law, community colleges are not required to match
22 funds expended on repairs and renovations of existing facilities.

23 Colleges must have capital improvement projects approved by the State Board of
24 Community Colleges and any required matching funds identified by June 30, 2017.

25 26 **COLLEGES EARN BUDGET FTE FOR CERTAIN COURSES TAUGHT DURING** 27 **THE SUMMER TERM**

28 **SECTION 10.5.(a)** G.S. 115D-5(v) reads as rewritten:

29 "(v) Community colleges may teach technical education, health care, developmental
30 education, ~~and STEM-related courses~~ courses, and the Universal General Education Transfer
31 Courses contained in the Comprehensive Articulation Agreement entered into between The
32 University of North Carolina and the North Carolina Community College System at any time
33 during the year, including the summer term. Student membership hours from these courses
34 shall be counted when computing full-time equivalent students (FTE) for use in budget funding
35 formulas at the State level."

36 **SECTION 10.5.(b)** The State Board of Community Colleges shall report to the
37 Joint Legislative Education Oversight Committee by October 1, 2015, on FTE for the summer
38 2015 term.

39 **SECTION 10.5.(c)** This section applies beginning with the summer 2015 term.

40 41 **COMMUNITY COLLEGES PROGRAM COMPLIANCE REVIEW FUNCTION**

42 **SECTION 10.6.(a)** Section 10.15(a) of S.L. 2013-360 is repealed.

43 **SECTION 10.6.(b)** G.S. 115D-5(m) reads as rewritten:

44 "(m) The State Board of Community Colleges shall maintain an ~~education program~~
45 ~~auditing~~ accountability function that conducts ~~an annual audit~~ periodic reviews of each
46 community college operating under the provisions of this Chapter. The purpose of the ~~annual~~
47 ~~audit compliance review~~ shall be to ensure that ~~college programs and related fiscal operations~~
48 ~~comply with State law, State regulations, State Board policies, and System Office guidance.~~ (i)
49 data used to allocate State funds among community colleges is reported accurately to the
50 System Office and (ii) community colleges are charging and waiving tuition and registration
51 fees consistent with law. The State Board of Community Colleges shall require ~~auditors of~~

1 ~~community college programs to the use of~~ a statistically valid sample size in performing
2 ~~program audits compliance reviews~~ of community colleges. All ~~education program audit~~
3 ~~compliance review findings that are determined to be material~~ shall be forwarded to the college
4 president, local college board of trustees, the State Board of Community Colleges, and the State
5 Auditor. The State Board of Community Colleges shall adopt rules governing the frequency,
6 scope, and standard of materiality for compliance reviews."

7 **SECTION 10.6.(c)** Subsection (b) of this section applies to compliance reviews
8 beginning with the 2015-2016 academic year.
9

10 **CAREER AND COLLEGE READY GRADUATES**

11 **SECTION 10.13.(a)** The State Board of Community Colleges, in consultation with
12 the State Board of Education, shall develop a program for implementation in the 2016-2017
13 school year that introduces the college developmental mathematics and developmental reading
14 and English curriculums in the high school senior year and provide opportunities for college
15 remediation for students prior to high school graduation through cooperation with community
16 college partners. Students who are enrolled in the Occupational Course of Study to receive their
17 high school diplomas shall not be required to participate in the program or be required to take
18 mandatory remedial courses as provided for in this section, unless a parent specifically requests
19 through the individualized education program (IEP) process that the student participates. The
20 program shall require the following:

- 21 (1) Establishment by the State Board of Community Colleges of measures for
22 determining student readiness and preparation for college coursework by
23 using ACT scores, student grade point averages, or other measures currently
24 used by the State Board of Community Colleges to determine college
25 readiness for entering students.
- 26 (2) Changes in curriculum, policy, and rules as needed by the State Board of
27 Community Colleges and State Board of Education to make remedial
28 courses mandatory for students who do not meet readiness indicators by
29 their junior year to ensure college readiness prior to high school graduation.
30 These changes shall include the flexibility for students to fulfill senior
31 mathematics and English graduation requirements through enrollment in
32 mandatory remedial courses or to enroll in those courses as electives.
- 33 (3) Revisions to current direct instruction remediation modules used by the
34 North Carolina community colleges by the State Board of Community
35 Colleges, in cooperation with the State Board of Education, to provide
36 remedial education to high school students.
- 37 (4) Determinations by the State Board of Community Colleges on the following:
 - 38 a. Appropriate measures of successful completion of the remedial
39 courses to ensure students are prepared for coursework at a North
40 Carolina community college without need for further remediation in
41 mathematics or reading and English.
 - 42 b. The length of time following high school graduation in which a
43 student who successfully completed high school remedial courses
44 will not be required to enroll in developmental courses at a North
45 Carolina community college.
- 46 (5) Policies established by the State Board of Community Colleges and State
47 Board of Education for delivery of college remediation instruction in high
48 schools. The policies shall include the following requirements:
 - 49 a. Faculty from the partner community college will provide training and
50 oversight for high school faculty who will serve as facilitators for
51 high school students enrolled in the remedial courses.

- 1 b. Faculty from the partner community college will make regular site
2 visits to provide assistance to students and high school faculty with
3 the remedial courses.
- 4 c. Partner high schools shall identify and assign appropriate faculty to
5 the remedial course. Assigned faculty shall be trained by partner
6 community college faculty prior to the start of the school year or
7 semester in which the faculty will facilitate the remedial course.
- 8 d. Partner high schools shall provide appropriate technology resources
9 for delivery of the remedial course modules.

10 **SECTION 10.13.(b)** The State Board of Community Colleges and the State Board
11 of Education shall report on progress of implementation of the program statewide, including the
12 requirements in subsection (a) of this section, to the Joint Legislative Education Oversight
13 Committee no later than January 15, 2016.

14 **NC WORKS CAREER COACHES**

15 **SECTION 10.14.(a)** Article 2 of Chapter 115D of the General Statutes is amended
16 by adding a new section to read:

17 **"§ 115D-21.5. NC Works Career Coach Program.**

18 (a) Purpose. – There is established the NC Works Career Coach Program to place
19 community college career coaches in high schools to assist students with determining career
20 goals and identifying community college programs that would enable students to achieve these
21 goals.

22 (b) Memorandum of Understanding. – The board of trustees of a community college
23 and a local board of education of a local school administrative unit within the service area of
24 the community college shall enter into a memorandum of understanding for the placement of
25 career coaches employed by the board of trustees of the community college in schools within
26 the local school administrative unit. At a minimum, the memorandum of understanding shall
27 include the following:

- 28 (1) Requirement that the community college provides the following:
- 29 a. Hiring, training, and supervision of career coaches. The board of
30 trustees may include a local board of education liaison on the hiring
31 committee and to participate in the decision making regarding hiring
32 for the coach positions.
- 33 b. Salary, benefits, and all other expenses related to the employment of
34 the career coach. The coach will be an employee of the board of
35 trustees and will not be an agent or employee of the local board of
36 education.
- 37 c. Development of pedagogical materials and technologies needed to
38 enhance the advising process.
- 39 d. Criminal background checks required by the local school
40 administrative unit for employees working directly with students.
- 41 e. Agreement that, while on any school campus, the career coach will
42 obey all local board of education rules and will be subject to the
43 authority of the school building administration.
- 44 (2) Requirement that the local school administrative unit provides the following
45 to career coaches:
- 46 a. Access to student records, as needed to carry out the coach's job
47 responsibilities.
- 48 b. Office space on site appropriate for student advising.
- 49 c. Information technology resources, including, but not limited to,
50 Internet access, telephone, and copying.
- 51

- 1 d. Initial school orientation and ongoing integration into the faculty and
2 staff community.
- 3 e. Promotion of school-wide awareness of coach duties.
- 4 f. Facilitation of coach's access to individual classes and larger
5 assemblies for the purposes of awareness-building.
- 6 (c) Application for NC Works Career Coach Program Funding. – The board of trustees
7 of a community college and a local board of education of a local school administrative unit
8 within the service area of the community college jointly may apply for available funds for NC
9 Works Career Coach Program funding from the State Board of Community Colleges. The State
10 Board of Community Colleges shall establish a process for award of funds as follows:
- 11 (1) Advisory committee. – Establishment of an advisory committee, which shall
12 include representatives from the NC Community College System, the
13 Department of Public Instruction, the NC Works initiative located in the
14 Department of Commerce, and at least three representatives of the business
15 community, to review applications and make recommendations for funding
16 awards to the State Board.
- 17 (2) Application submission requirements. – The State Board shall require at
18 least the following:
- 19 a. Evidence of a signed memorandum of understanding that meets, at a
20 minimum, the requirements of this section.
- 21 b. Evidence that the funding request will be matched dollar-for-dollar
22 with local funds. Matching funds may come from public or private
23 sources.
- 24 (3) Awards criteria. – The State Board shall develop criteria for consideration in
25 determining the award of funds that shall include the following:
- 26 a. Consideration of the workforce needs of business and industry in the
27 region.
- 28 b. Targeting of resources to enhance ongoing economic activity within
29 the community college service area and surrounding counties.
- 30 c. Geographic diversity of awards.
- 31 (d) Annual Report. –
- 32 (1) The board of trustees of a community college that employs one or more
33 career coaches shall report annually to the State Board of Community
34 Colleges on implementation and outcomes of the program, including the
35 following information:
- 36 a. Number of career coaches employed.
- 37 b. Number of local school administrative units served and names of
38 schools in which career coaches are placed.
- 39 c. Number of students annually counselled by career coaches.
- 40 d. Impact of career coaches on student choices, as determined by a valid
41 measure selected by the State Board of Community Colleges.
- 42 (2) The State Board of Community Colleges shall report annually no later than
43 October 1 to the Joint Legislative Education Oversight Committee on the
44 following:
- 45 a. A compilation of the information reported by the board of trustees of
46 community colleges, as provided in subdivision (1) of this
47 subsection.
- 48 b. Number and names of partnership applicants for NC Works Career
49 Coach Program funding.
- 50 c. Number, names, and amounts of those awarded NC Works Career
51 Coach Program funding."

1 appropriate public or private agency or person to carry out the duties of the driver education
2 and safety coordinator.

3 (b) The Driver Education and Safety Instruction Program shall be implemented through
4 the Community Colleges System Office. The driver education and safety coordinator shall
5 select and facilitate the training and certification of instructors who will implement the
6 Program.

7 (c) The State Board of Community Colleges shall adopt a curriculum, standards, and
8 other policies and procedures for the program."

9 **SECTION 10.15.(d)** Effective July 1, 2016, the Community Colleges System
10 Office shall provide driver education and safety instruction in accordance with G.S. 115D-76.5,
11 as enacted in subsection (b) of this section.

12 **SECTION 10.15.(e)** Notwithstanding G.S. 20-87(6), of the revenue collected on or
13 after the date this act becomes law for the Motorcycle Safety Instruction Program, the
14 Community Colleges System Office may use up to two hundred thousand dollars (\$200,000)
15 for the 2015-2016 fiscal year to conduct the study required by subsection (a) of this section.

16 **SECTION 10.15.(f)** Subsection (b) of this section is effective July 1, 2016.

17 18 **PART XI. UNIVERSITIES**

19 20 **USE OF ESCHEAT FUNDS FOR STUDENT FINANCIAL AID** 21 **PROGRAMS/TECHNICAL CORRECTIONS**

22 **SECTION 11.1.(a)** The funds appropriated by this act from the Escheat Fund for
23 the 2015-2017 fiscal biennium for student financial aid shall be allocated in accordance with
24 G.S. 116B-7. Notwithstanding any other provision of Chapter 116B of the General Statutes, if
25 the interest income generated from the Escheat Fund is less than the amounts referenced in this
26 act, the difference may be taken from the Escheat Fund principal to reach the appropriations
27 referenced in this act; however, under no circumstances shall the Escheat Fund principal be
28 reduced below the sum required in G.S. 116B-6(f). If any funds appropriated from the Escheat
29 Fund by this act for student financial aid remain uncommitted aid as of the end of a fiscal year,
30 the funds shall be returned to the Escheat Fund, but only to the extent the funds exceed the
31 amount of the Escheat Fund income for that fiscal year.

32 **SECTION 11.1.(b)** The State Education Assistance Authority (SEAA) shall
33 conduct periodic evaluations of expenditures of the student financial aid programs administered
34 by SEAA to determine if allocations are utilized to ensure access to institutions of higher
35 learning and to meet the goals of the respective programs. The SEAA may make
36 recommendations for redistribution of funds to The University of North Carolina, and the
37 President of the Community College System regarding their respective student financial aid
38 programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

39 **SECTION 11.1.(c)** G.S. 116B-7(b) reads as rewritten:

40 "(b) An amount specified in the Current Operations Appropriations Act shall be
41 transferred annually from the Escheat Fund to the Department of ~~Administration~~ Military and
42 Veterans Affairs to partially fund the program of Scholarships for Children of War Veterans
43 established by Article 4 of Chapter 165 of the General Statutes. Those funds may be used only
44 for residents of this State who (i) are worthy and needy as determined by the Department of
45 ~~Administration~~ Military and Veterans Affairs and (ii) are enrolled in public institutions of
46 higher education of this State."

47 **SECTION 11.1.(d)** G.S. 116B-6 reads as rewritten:

48 "**§ 116B-6. Administration of Escheat Fund; Escheat Account.**

49 ...

50 (g) Additional Funds for Refunds. – If at any time the amount of the refund reserve
51 shall be insufficient to make refunds required to be made, the Treasurer, in addition, may use

1 all current receipts derived from escheated or abandoned property, exclusive of earnings and
 2 profits on investments of the Escheat Fund and the Escheat Account, for the purpose of making
 3 such refunds; and if all such funds shall be inadequate for such refunds, the Treasurer may
 4 apply to the Council of State, pursuant to the ~~Executive State~~ Budget Act, to the limit of funds
 5 available from the Contingency and Emergency Fund, for a loan, without interest, to supply
 6 any deficiencies, in whole or in part. No receipts derived from escheated or abandoned
 7 property, other than earnings or profits on investments, shall be paid to the Authority until: (i)
 8 all valid claims for refund have been paid; (ii) the reserve for refund shall equal five million
 9 dollars (\$5,000,000); and (iii) the amount loaned from the Contingency and Emergency Fund
 10 shall have been repaid by the Escheat Fund.

11 (h) Expenditures. – The Treasurer may expend the funds in the Escheat Fund, other
 12 than funds in the Escheat Account, for the payment of claims for refunds to owners, holders
 13 and claimants under G.S. 116B-4; for the payment of costs of maintenance and upkeep of
 14 abandoned or escheated property; costs of preparing lists of names of owners of abandoned
 15 property to be furnished to clerks of superior court; costs of notice and publication; costs of
 16 appraisals; fees of persons employed pursuant to G.S. 116B-8 costs involved in determining
 17 whether a decedent died without heirs; fees of persons employed pursuant to G.S. 116B-8 to
 18 conduct audits; costs of a title search of real property that has escheated; and costs of auction or
 19 sale under this Chapter. All other costs, including salaries of personnel, necessary to carry out
 20 the duties of the Treasurer under this Chapter, shall be appropriated from the funds of the
 21 Escheat Fund pursuant to the provisions of ~~Article 1, Chapter 143~~ Chapter 143C of the General
 22 Statutes.

23"

24 25 **AMEND REGULATION OF UNC INSTITUTIONAL TRUST FUNDS AND FUNDS OF** 26 **UNC HEALTH CARE SYSTEM**

27 **SECTION 11.2.(a)** G.S. 116-36.1(h) reads as rewritten:

28 "(h) The Board may authorize, through the President, that the chancellors may deposit or
 29 invest each institution's available trust fund cash balances in interest-bearing accounts and other
 30 investments as may be authorized by the Board in the exercise of its sound discretion, without
 31 regard to any statute or rule of law relating to the investment of funds by ~~fiduciaries~~.fiduciaries;
 32 provided however, funds deposited and invested under this section are subject to
 33 G.S. 116-36.1A."

34 **SECTION 11.2.(b)** Article 1 of Chapter 116 of the General Statutes is amended by
 35 adding a new section to read:

36 **"§116-36.1A. Institutional trust fund deposits to be secured; reports of depositories.**

37 (a) The amount of funds deposited pursuant to G.S. 116-36.1 in an official depository
 38 shall be adequately secured by deposit insurance, surety bonds, or investment securities of such
 39 nature in such amounts and in such manner as may be prescribed by policy of the Board of
 40 Governors. No security is required for the protection of funds remitted to and received by a
 41 bank or trust company designated by the Board of Governors under Chapter 116D or Part 4 of
 42 Article 1 of Chapter 116 of the General Statutes and acting as paying agent for the payment of
 43 the principal of or interest on bonds or notes of the State.

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

51 (c) Violation of the provisions of this section shall be a Class 1 misdemeanor."

1
2 **IN-STATE TUITION FOR CERTAIN VETERANS AND OTHER INDIVIDUALS**
3 **ENTITLED TO FEDERAL EDUCATIONAL BENEFITS**

4 **SECTION 11.3.(a)** Article 14 of Chapter 116 of the General Statutes is amended
5 by adding a new section to read:

6 **"§ 116-143.3A. Waiver of 12-month residency requirement for certain veterans and other**
7 **individuals entitled to federal education benefits under 38 U.S.C. Chapter 30 or**
8 **38 U.S.C. Chapter 33.**

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

10 (1) Abode. – Has the same meaning as G.S. 116-143.3(a)(1).

11 (2) Armed Forces. – Has the same meaning as G.S. 116-143.3(a)(2).

12 (3) Veteran. – A person who served active duty for not less than 90 days in the
13 Armed Forces, the Commissioned Corps of the U.S. Public Health Service,
14 or the National Oceanic and Atmospheric Administration and who was
15 discharged or released from such service under conditions other than
16 dishonorable.

17 (b) Waiver of 12-Month Residency Requirement for Veteran. – Any veteran who
18 qualifies for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3)
19 is eligible to be charged the in-State tuition rate and applicable mandatory fees for enrollment
20 without satisfying the 12-month residency requirement under G.S. 116-143.1, provided the
21 veteran meets all of the following criteria:

22 (1) The veteran applies for admission to the institution of higher education and
23 enrolls within three years of the veteran's discharge or release from the
24 Armed Forces, the Commissioned Corps of the U.S. Public Health Service,
25 or the National Oceanic and Atmospheric Administration.

26 (2) The veteran qualifies for and uses educational benefits pursuant to 38 U.S.C.
27 Chapter 30 (Montgomery G.I. Bill Active Duty Education Assistance
28 Program) or 38 U.S.C. Chapter 33 (Post-9/11 Educational Assistance), as
29 administered by the U.S. Department of Veterans Affairs.

30 (3) The veteran's abode is North Carolina.

31 (4) The veteran provides the institution of higher education at which the veteran
32 intends to enroll a letter of intent to establish residence in North Carolina.

33 (c) Eligibility of Other Individuals Entitled to Federal Educational Benefits Under 38
34 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33. – Any person who is entitled to federal educational
35 benefits under 38 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33 is also eligible to be charged the
36 in-State tuition rate and applicable mandatory fees for enrollment without satisfying the
37 12-month residency requirement under G.S. 116-143.1 if the person meets all of the following
38 criteria:

39 (1) The person qualifies for admission to the institution of higher education as
40 defined in G.S. 116-143.1(a)(3) and enrolls in the institution of higher
41 education within three years of the veteran's discharge or release from the
42 Armed Forces, the Commissioned Corps of the U.S. Public Health Service,
43 or the National Oceanic and Atmospheric Administration.

44 (2) The person is the recipient of federal educational benefits pursuant to 38
45 U.S.C. Chapter 30 (Montgomery G.I. Bill Active Duty Education Assistance
46 Program) or 38 U.S.C. Chapter 33 (Post-9/11 Educational Assistance), as
47 administered by the U.S. Department of Veterans Affairs.

48 (3) The person's abode is North Carolina.

49 (4) The person provides the institution of higher education at which the person
50 intends to enroll a letter of intent to establish residence in North Carolina.

1 (d) After the expiration of the three-year period following discharge or death as
2 described in 38 U.S.C. § 3679(c), any enrolled veteran entitled to federal educational benefits
3 under 38 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33 and any other enrolled individual entitled
4 to federal educational benefits under 38 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33 who is
5 eligible for in-State tuition under this section shall continue to be eligible for the in-State tuition
6 rate so long as the covered individual remains continuously enrolled (other than during
7 regularly scheduled breaks between courses, quarters, terms, or semesters) at that institution of
8 higher education."

9 **SECTION 11.3.(b)** G.S. 116-143.8 is repealed.

10 **SECTION 11.3.(c)** This section applies to qualifying veterans and other
11 individuals entitled to federal educational benefits under 38 U.S.C. Chapter 30 or 38 U.S.C.
12 Chapter 33 who are enrolled or who enroll in institutions of higher education for any academic
13 quarter, term, or semester that begins on or after the effective date of this act.
14

15 **UNC MANAGEMENT FLEXIBILITY REDUCTION**

16 **SECTION 11.4.(a)** The management flexibility reduction for The University of
17 North Carolina shall not be allocated by the Board of Governors to the constituent institutions
18 and affiliated entities using an across-the-board method but shall be done in a manner that
19 recognizes the importance of the academic missions and differences among The University of
20 North Carolina entities.

21 Before taking reductions in instructional budgets, the Board of Governors and the
22 campuses of the constituent institutions shall consider all of the following:

- 23 (1) Reducing State funding for centers and institutes, speaker series, and other
24 nonacademic activities.
- 25 (2) Faculty workload adjustments.
- 26 (3) Restructuring of research activities.
- 27 (4) Implementing cost-saving span of control measures.
- 28 (5) Reducing the number of senior and middle management positions.
- 29 (6) Eliminating low-performing, redundant, or low-enrollment programs.
- 30 (7) Using alternative funding sources.
- 31 (8) Protecting direct classroom services.

32 The Board of Governors and the campuses of the constituent institutions also shall
33 review the institutional trust funds and the special funds held by or on behalf of The University
34 of North Carolina and its constituent institutions to determine whether there are monies
35 available in those funds that can be used to assist with operating costs. In addition, the
36 campuses of the constituent institutions also shall require their faculty to have a teaching
37 workload equal to the national average in their Carnegie classification.

38 **SECTION 11.4.(b)** In allocating the management flexibility reduction, no
39 reduction in State funds shall be allocated in either fiscal year of the 2015-2017 biennium to
40 any of the following:

- 41 (1) UNC Need-Based Financial Aid.
- 42 (2) NC School of Science and Mathematics.
- 43 (3) University of North Carolina at Asheville.
- 44 (4) University of North Carolina School of the Arts.

45 **SECTION 11.4.(c)** The University of North Carolina shall report on the
46 implementation of the management flexibility reduction in subsection (a) of this section to the
47 Office of State Budget and Management and the Fiscal Research Division no later than April 1,
48 2016. This report shall identify both of the following by campus:

- 49 (1) The total number of positions eliminated by type (faculty/nonfaculty).
- 50 (2) The low-performing, redundant, and low-enrollment programs that were
51 eliminated.

UNC TO FUND NORTH CAROLINA RESEARCH CAMPUS

SECTION 11.5. Of the funds appropriated in this act to the Board of Governors of The University of North Carolina, the Board of Governors shall use twenty-nine million dollars (\$29,000,000) for the 2015-2016 fiscal year and twenty-nine million dollars (\$29,000,000) for the 2016-2017 fiscal year to support UNC-related activities at the North Carolina Research Campus at Kannapolis.

PROGRAM EVALUATION DIVISION STUDY GRADUATION RATES AT CONSTITUENT INSTITUTIONS AND RECOMMENDATIONS REGARDING POLICIES TO INCREASE GRADUATION RATES

SECTION 11.7.(a) The General Assembly finds that the six-year graduation rate for students pursuing a baccalaureate degree from any constituent institution of The University of North Carolina is too low. The General Assembly further finds that it is important to design and implement a program for the purpose of achieving the following goals: to assist more students to obtain a baccalaureate degree within a shorter time period; to provide students with a college education at significantly lower costs for both the student and the State; to help decrease the amount of debt resulting from loans that a student may owe upon graduation; to provide a student with an interim degree that may increase a student's job opportunities if the student chooses not to continue postsecondary education; and to provide easier access to academic counseling that will assist a student in selecting coursework that reflects the student's educational and career goals and helps the student succeed academically.

SECTION 11.7.(b) To address the issues and goals set out in subsection (a) of this section, the Program Evaluation Division shall review current six-year graduation rates for each constituent institution in the University of North Carolina system, determine what factors are associated with academic success and failure, and make recommendations on any policy changes needed to increase graduation rates at specific institutions, including, but not limited to, increasing the minimum high school GPA required for admission to 3.00 and implementing a deferred admission program, to be known as the North Carolina Guaranteed Admission Program (NCGAP), for students identified as academically at risk. The University of North Carolina and its constituent institutions shall provide any data necessary and perform any analyses for this study as directed by the Program Evaluation Division. The Program Evaluation Division shall report on the findings of this study and make recommendations to the Joint Legislative Program Evaluation Oversight Committee by April 1, 2016.

SPECIAL EDUCATION SCHOLARSHIP CHANGES AND REEVALUATION FUNDS

SECTION 11.11.(a) G.S. 115C-112.6 reads as rewritten:

"§ 115C-112.6. Scholarships.

(a) **Scholarship Applications.** – The Authority shall make available no later than May 1 annually applications to eligible students for the award of scholarships. Information about scholarships and the application process shall be made available on the Authority's Web site. The Authority shall give priority in awarding scholarships to eligible students who received a scholarship during the previous semester. Except as otherwise provided by the Authority for prior scholarship recipients, scholarships shall be awarded to eligible students in the order in which the applications are received.

(a1) **Web Site Availability.** – Information about scholarships and the application process shall be made available on the Authority's Web site. The Authority shall also include information on the Web site notifying parents that federal regulations adopted under IDEA provide that no parentally placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

1 (b) Scholarship Awards. – Scholarships awarded to eligible students shall be for
2 amounts of not more than ~~three-four~~ thousand dollars ~~(\$3,000)–(\$4,000)~~ per semester per
3 eligible student. Eligible students awarded scholarships may not be enrolled in a public school
4 to which that student has been assigned as provided in G.S. 115C-366. Scholarships shall be
5 awarded only for tuition and for the reimbursement of ~~tuition~~, special education, related
6 services, and educational technology, as provided in subsection (b1) of this section. The
7 Authority shall notify parents in writing of their eligibility to receive scholarships for costs that
8 will be incurred during the spring semester of the following year by December 1 and for costs
9 incurred during the fall semester of that year by July 1.

10 (b1) Disbursement of Scholarship Funds. – The Authority shall disburse scholarship
11 funds for tuition and for the reimbursement of costs incurred by the parent of an eligible student
12 as follows:

13 (1) Scholarship endorsement for tuition. – The Authority shall remit, at least two
14 times each school year, scholarship funds awarded to eligible students for
15 endorsement by at least one of the student's parents or guardians for tuition
16 to attend (i) a North Carolina public school other than the public school to
17 which that student has been assigned as provided in G.S. 115C-366 or (ii) a
18 nonpublic school that meets the requirements of Part 1 or Part 2 of Article 39
19 of this Chapter as identified by the Department of Administration, Division
20 of Nonpublic Education. Scholarship funds shall not be provided for tuition
21 for home schooled students. If the student is attending a nonpublic school,
22 the school must be deemed eligible by the Division of Nonpublic Education,
23 pursuant to G.S. 115C-562.4, and the school shall be subject to the
24 requirements of G.S. 115C-562.5. The parent or guardian shall restrictively
25 endorse the scholarship funds awarded to the eligible student to the school
26 for deposit into the account of the school. The parent or guardian shall not
27 designate any entity or individual associated with the school as the parent's
28 attorney-in-fact to endorse the scholarship funds but shall endorse the
29 scholarship funds in person at the site of the school. A parent's or guardian's
30 failure to comply with this section shall result in forfeiture of the scholarship
31 funds. A scholarship forfeited for failure to comply with this section shall be
32 returned to the Authority to be awarded to another student.

33 (2) Scholarship Reimbursements.—~~reimbursements for costs.~~ – Scholarship
34 reimbursement for costs incurred shall be provided as follows:

35 ~~(1)~~a. Preapproval process. – Prior to the start of each school semester, the
36 parent of an eligible student may submit documentation of the
37 ~~tuition~~, special education, related services, or educational technology
38 the parent anticipates incurring costs on in that semester for
39 preapproval by the Authority.

40 ~~(2)~~b. Reimbursement submissions. – Following the conclusion of each
41 school semester, the parent of an eligible student shall submit to the
42 Authority any receipts or other documentation approved by the
43 Authority to demonstrate the costs incurred during the semester. In
44 addition, parents shall provide documentation of the following to
45 seek reimbursement:

46 a. ~~Tuition reimbursement.~~— Parents may only receive
47 ~~reimbursement for tuition if the parent provides~~
48 ~~documentation that the student was enrolled in nonpublic~~
49 ~~school or public school for which payment of tuition is~~
50 ~~required for no less than 75 days of the semester for which~~

1 the parent seeks reimbursement. Tuition reimbursement shall
 2 not be provided for home schooled students.

3 ~~b~~.1. Special education reimbursement. – Parents may only receive
 4 reimbursement for special education if the parent provides
 5 documentation that the student received special education for
 6 no less than 75 days of the semester for which the parent
 7 seeks reimbursement. Special education reimbursement shall
 8 not be provided for special education instruction provided to
 9 a home schooled student by a member of the household of a
 10 home school, as defined in G.S. 115C-563(a).

11 ~~e~~.2. Related services reimbursement. – Parents may only receive
 12 reimbursement for related services if the parent provides
 13 documentation that the student also received special
 14 education for no less than 75 days of the semester for which
 15 the parent seeks reimbursement for the related services.
 16 Related services reimbursement shall not be provided for
 17 related services provided to a home schooled student by a
 18 member of the household of a home school, as defined in
 19 G.S. 115C-563(a).

20 ~~d~~.3. Educational technology reimbursement. – Parents may only
 21 receive reimbursement for educational technology if the
 22 parent provides documentation that the student used the
 23 educational technology for no less than 75 days of the
 24 semester for which the parent seeks reimbursement.

25 ~~(3)~~c. Scholarship award. – The Authority shall award a scholarship in the
 26 amount of costs demonstrated by the parent up to the maximum
 27 amount. If the costs incurred by the parent do not meet the maximum
 28 amount, the Authority shall use the remainder of those funds for the
 29 award of scholarships to eligible students for the following semester.
 30 The Authority shall award scholarships to the parents of eligible
 31 students at least semiannually.

32 (c) Student Reevaluation. – After an eligible student's initial receipt of a scholarship,
 33 the Authority shall ensure that the student is reevaluated at least every three years by the local
 34 educational agency in order to verify that the student continues to be a child with a disability.

35 (d) Rule Making. – The Authority shall establish rules and regulations for the
 36 administration and awarding of scholarships. The Authority shall adopt rules providing for pro
 37 rata return of funds if a student withdraws prior to the end of the semester from a school to
 38 which scholarship funds have been remitted. The Authority shall annually develop a list of
 39 educational technology for which scholarships may be used and shall provide scholarship
 40 recipients with information about the list.

41 (e) Public Records Exception. – Scholarship applications and personally identifiable
 42 information related to eligible students receiving scholarships shall not be a public record under
 43 Chapter 132 of the General Statutes. For the purposes of this section, personally identifiable
 44 information means any information directly related to a student or members of a student's
 45 household, including the name, birthdate, address, Social Security number, telephone number,
 46 e-mail address, financial information, or any other information or identification number that
 47 would provide information about a specific student or members of a specific student's
 48 household."

49 **SECTION 11.11.(b)** G.S. 115C-112.9 reads as rewritten:

50 "**§ 115C-112.9. Duties of State ~~Board of Education~~ agencies.**

1 (a) The State Board, as part of its duty to monitor all local educational agencies to
2 determine compliance with this Article and IDEA as provided in G.S. 115C-107.4, shall ensure
3 that local educational agencies do the following:

4 (1) Conduct evaluations requested by a child's parent or guardian of suspected
5 children with disabilities, as defined in G.S. 115C-107.3, in a timely manner
6 as required by IDEA.

7 (2) Provide reevaluations to identified children with disabilities receiving
8 scholarships as provided in Part 1H of this Article at the request of the parent
9 or guardian to ensure compliance with G.S. 115C-112.6(c).

10 (b) The Authority shall analyze, in conjunction with the Department of Public
11 Instruction, past trends in scholarship data on an annual basis to ensure that the amount of
12 funds transferred each fiscal year by the Authority to the Department for reevaluations by local
13 school administrative units of eligible students under G.S. 115C-112.6(c) are sufficient and
14 based on actual annual cost requirements."

15 **SECTION 11.11.(c)** The Authority shall adopt rules within 60 days of the date this
16 act becomes law providing for pro rata return of funds if a student withdraws prior to the end of
17 the semester from a school to which scholarship funds have been remitted.

18 **SECTION 11.11.(d)** This section applies to scholarships awarded for the
19 2015-2016 school year and each subsequent school year.

20 21 **INTERNSHIPS AND CAREER-BASED OPPORTUNITIES FOR STUDENTS** 22 **ATTENDING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES** 23 **(HBCU)**

24 **SECTION 11.12.(a)** The internship program created pursuant to S.L. 2014-100 to
25 provide internships and career-based opportunities for students attending Historically Black
26 Colleges and Universities may be offered to four or more HBCUs in the discretion of the Board
27 of Governors of The University of North Carolina. Further, there is no requirement that
28 Elizabeth City State University be a permanent participant in the internship program. The
29 internship program shall be administered as provided by subsection (b) of this section.

30 **SECTION 11.12.(b)** The Board of Governors shall conduct a competitive process
31 to select institutions of higher education that are Historically Black Colleges and Universities to
32 participate in the internship program which links 60 students attending Historically Black
33 Colleges and Universities with North Carolina-based companies. The Board of Governors shall
34 determine the number of institutions that may participate in the program; however, at least two
35 of the institutions shall be private institutions. Funds appropriated by this act for this internship
36 program shall be allocated only to constituent institutions of The University of North Carolina
37 that are designated as an HBCU and private colleges and universities located in North Carolina
38 that are designated as an HBCU.

39 **SECTION 11.12.(c)** Of the funds appropriated by this act for the support of the
40 internship program, The University of North Carolina may use up to five percent (5%) for costs
41 associated with administering this program.

42 **SECTION 11.12.(d)** This section applies to the 2015-2016 fiscal year and each
43 subsequent fiscal year.

44 45 **ELIZABETH CITY STATE UNIVERSITY BUDGET STABILIZATION FUNDS** 46 **REPORT**

47 **SECTION 11.13.** The President of The University of North Carolina shall report
48 each quarter of the 2015-2016 fiscal year to the Office of State Budget and Management and
49 the Fiscal Research Division of the General Assembly on the status of budget stabilization
50 funds appropriated to Elizabeth City State University by this act for the purpose of enhancing
51 technology related to enrollment and recruitment of students, campus access and safety, and

1 human resources management. The reports shall provide detailed descriptions of the scope of
2 work that has been completed to date, anticipated activities for the next quarter, and a plan with
3 time line to complete the full scope of work. The reports shall also include evidence of
4 improved services and outcomes achieved from improvements implemented using these funds.
5 The first quarterly report required by this section shall be made no later than October 1, 2015.
6

7 **UNC ENROLLMENT GROWTH REPORT**

8 **SECTION 11.14.** G.S. 116-30.7 reads as rewritten:

9 "**§ 116-30.7. Biennial projection of enrollment growth for The University of North**
10 **Carolina.**

11 By ~~October~~ December 15 of each even-numbered year, the General Administration of The
12 University of North Carolina shall provide to the Joint Education Legislative Oversight
13 Committee and to the Office of State Budget and Management a projection of the total student
14 enrollment in The University of North Carolina that is anticipated for the next biennium. The
15 enrollment projection shall be divided into the following categories and shall include the
16 projected growth for each year of the biennium in each category at each of the constituent
17 institutions: undergraduate students, graduate students (students earning master's and doctoral
18 degrees), first professional students, and any other categories deemed appropriate by General
19 Administration. The projection shall also distinguish between on-campus and distance
20 education students. The projections shall be considered by the Director of the Budget when
21 determining the amount the Director proposes to appropriate to The University of North
22 Carolina in the Recommended State Budget submitted pursuant to G.S. 143C-3-5(b)."
23

24 **EARLY COLLEGE GRADUATES/UNC ADMISSION POLICY**

25 **SECTION 11.16.(a)** The Board of Governors of The University of North Carolina
26 shall adopt a policy to require each constituent institution to offer to any student who graduated
27 from a cooperative innovative high school program with an associate degree and who applies
28 for admission to the constituent institution the option of being considered for admission as a
29 freshman or as a transfer student. The constituent institution shall also provide written
30 information to the student regarding the consequences that accompany each option and any
31 other relevant information that may be helpful to the student when considering which option to
32 select.

33 **SECTION 11.16.(b)** Beginning November 1, 2016, the Board of Governors shall
34 report annually to the Joint Legislative Education Oversight Committee regarding the number
35 of students who graduated from a cooperative innovative high school program with an
36 associate degree and which option was chosen by those students when applying for admission
37 to a constituent institution.

38 **SECTION 11.16.(c)** This section applies to the 2016-2017 academic year and each
39 subsequent academic year.
40

41 **SEAA FUNDS FOR ADMINISTRATION OF SPECIAL EDUCATION SCHOLARSHIP** 42 **GRANT PROGRAM**

43 **SECTION 11.18.** Section 5(b) of S.L. 2013-364, as amended by Section 3.2 of
44 S.L. 2013-363, reads as rewritten:

45 "**SECTION 5.(b)** Of the funds allocated to NCSEAA to be used for the award of
46 scholarship grants to eligible students under subsection (a) of this section, for fiscal year
47 2013-2014, NCSEAA may retain up to two hundred thousand dollars (\$200,000) for
48 administrative costs associated with the scholarship grant program. For fiscal year ~~2014-2015~~
49 2015-2016 and subsequent years, NCSEAA may retain up to ~~two percent (2%)~~ four percent
50 (4%) annually for administrative costs associated with the scholarship grant program."
51

WESTERN GOVERNORS UNIVERSITY CHALLENGE GRANT

SECTION 11.20. Of the funds appropriated in this act to the Board of Governors of The University of North Carolina, the sum of two million dollars (\$2,000,000) in nonrecurring funds for the 2015-2016 fiscal year shall be used as a challenge grant to Western Governors University to raise the sum of five million dollars (\$5,000,000) in private funds for the 2015-2016 fiscal year to establish a North Carolina campus. The allocation of two million dollars (\$2,000,000) under this section is contingent upon receipt by Western Governors University of five million dollars (\$5,000,000) in private funds for the purpose of establishing a North Carolina campus.

HUNT INSTITUTE/NO GENERAL FUNDS

SECTION 11.21. Notwithstanding any other provision of law, no monies from the General Fund shall be used for the support of The Hunt Institute which is an affiliate of the University of North Carolina at Chapel Hill.

PART XII. DEPARTMENT OF HEALTH AND HUMAN SERVICES**SUBPART XII-A. CENTRAL MANAGEMENT AND SUPPORT****FUNDING FOR PROGRAMS TO IMPROVE CHILDREN'S HEALTH/ESTABLISH COMPETITIVE GRANTS PROCESS**

SECTION 12A.2.(a) Findings. – The General Assembly finds that America spends twice as much on health care as any other nation, yet Americans are not the healthiest people in the world. Research indicates that spending on health care to treat people may actually come at the expense of investing in public health programs meant to keep people from getting sick in the first place. The General Assembly further finds that infant mortality rates are an indicator of a state's overall health status. North Carolina currently ranks fortieth in the nation on infant mortality. Implementing statewide policies to invest in evidence-based programs that are scientifically proven to lower infant mortality rates, and improve birth outcomes and the health of children ages birth to five, will assure that future rankings for North Carolina are among the best in the nation.

SECTION 12A.2.(b) Designation of Lead Agency. – The Secretary of the North Carolina Department of Health and Human Services (Secretary) shall designate a lead agency that is responsible for doing all of the following:

- (1) Assuming responsibility for controlling all funding and contracts designed to (i) improve North Carolina's birth outcomes, (ii) improve the overall health status of children in this State from ages birth to five, and (iii) lower this State's infant mortality rates.
- (2) Working in consultation with the University of North Carolina Gillings School of Global Public Health to develop a statewide, comprehensive plan to accomplish the goals described in subdivision (1) of this subsection.
- (3) Conducting a justification review of all programs and activities funded with State appropriations described in subsection (c) of this section.

SECTION 12A.2.(c) Nonrecurring Allocations. – For the 2015-2016 fiscal year only, the Department of Health and Human Services shall allocate the following designated amounts for the following programs on a nonrecurring basis:

- | | |
|---|----------------|
| (1) Maternal and Child Health Contracts | \$2,472,094 NR |
| (2) High-Risk Maternity Clinic | 375,000 NR |
| (3) Healthy Beginnings (Two Contracts) | 396,025 NR |
| (4) Pregnancy Care Case Management | 300,901 NR |
| (5) Maternal, Infant, and Early Childhood Home Visiting | 425,643 NR |

1	(6)	Triple P-Positive Parenting Program	828,233 NR
2	(7)	NC Perinatal and Maternal Substance Abuse Initiative	2,729,316 NR
3	(8)	Perinatal Substance Abuse Specialist	45,000 NR

4 **SECTION 12A.2.(d)** Statewide Proposal and Justification Review. – By March 1,
5 2016, the Secretary shall submit the statewide proposal developed pursuant to subsection (b) of
6 this section to the Joint Legislative Oversight Committee on Health and Human Services and
7 the Fiscal Research Division for consideration during the 2016 Regular Session of the 2015
8 General Assembly. The statewide proposal shall include at least all of the following:

- 9 (1) Details of the statewide plan and identification of the lead agency
10 responsible for assuring the success of the plan.
- 11 (2) Justification for continuing, reducing, or eliminating funding for the
12 programs and activities that receive nonrecurring allocations for the
13 2015-2016 fiscal year.
- 14 (3) Recommendations for reallocation of funding from programs and activities
15 that are not evidence-based and that are not producing positive returns on
16 investment consistent with the goals described in subdivision (1) of
17 subsection (b) of this section.
- 18 (4) Recommendations for investments in new initiatives that accomplish the
19 goals described in subdivision (1) of subsection (b) of this section.

20 **SECTION 12A.2.(e)** Establishment of Competitive Grants Process for Local
21 Health Departments. – It is the intent of the General Assembly that, beginning in the 2016-2017
22 fiscal year, the Department of Health and Human Services implement a competitive grants
23 process for local health departments based on a county's current health status and the county's
24 detailed proposal to invest in evidence-based programs to achieve the goals described in
25 subdivision (1) of subsection (b) of this section. To that end, the Department shall develop a
26 plan that establishes a competitive grants process to be administered by the Division of Central
27 Management and Support. The Department shall develop a plan that, at a minimum, includes
28 each of the following components:

- 29 (1) A request for application (RFA) process to allow local health departments to
30 apply for and receive State funds on a competitive basis.
- 31 (2) A requirement that the Secretary prioritize grant awards to those local health
32 departments that are able to leverage non-State funds in addition to the grant
33 award.
- 34 (3) A process that awards grants to local health departments dedicated to
35 providing services on a countywide basis and that supports the goals
36 described in subdivision (1) of subsection (b) of this section.
- 37 (4) Ensures that funds received by the Department to implement the plan
38 supplement and do not supplant existing funds for health and wellness
39 programs and initiatives.

40 **SECTION 12A.2.(f)** Funds for Competitive Grants Process. – Of the funds
41 appropriated in this act to the Department of Health and Human Services, Division of Public
42 Health, the sum of two million five hundred thousand dollars (\$2,500,000) in recurring funds
43 for each year of the 2015-2017 fiscal biennium shall be used to establish the competitive grants
44 process for local health departments described in subsection (e) of this section. The Department
45 shall not use more than five percent (5%) of these funds for administrative purposes.

46 **SECTION 12A.2.(g)** Evaluation Protocol for Future Program Funding. – The
47 Department shall work with the University of North Carolina Gillings School of Global Public
48 Health (School of Global Public Health) to establish an evaluation protocol for determining
49 program effectiveness and future funding requirements at the local level. By April 1, 2016, the
50 Department, in consultation with the School of Global Public Health, shall submit a report to
51 the Joint Legislative Oversight Committee on Health and Human Services on the request for

1 application process to allow local health departments to apply for and receive State funds on a
2 competitive basis. The report shall include the counties awarded, the amount of the award, the
3 types of programs to be funded, and the evaluation process to be used in determining county
4 performance.
5

6 **HEALTH INFORMATION TECHNOLOGY**

7 **SECTION 12A.4.(a)** The Department of Health and Human Services
8 (Department), in cooperation with the State Chief Information Officer (State CIO), shall
9 coordinate health information technology (HIT) policies and programs within the State of
10 North Carolina. The goal of the DHHS CIO in coordinating State HIT policy and programs
11 shall be to avoid duplication of efforts and to ensure that each State agency, public entity, and
12 private entity that undertakes health information technology activities does so within the area of
13 its greatest expertise and technical capability and in a manner that supports coordinated State
14 and national goals, which shall include at least all of the following:

- 15 (1) Ensuring that patient health information is secure and protected, in
16 accordance with applicable law.
- 17 (2) Improving health care quality, reducing medical errors, reducing health
18 disparities, and advancing the delivery of patient-centered medical care.
- 19 (3) Providing appropriate information to guide medical decisions at the time and
20 place of care.
- 21 (4) Ensuring meaningful public input into HIT infrastructure development.
- 22 (5) Improving the coordination of information among hospitals, laboratories,
23 physicians' offices, and other entities through an effective infrastructure for
24 the secure and authorized exchange of health care information.
- 25 (6) Improving public health services and facilitating early identification and
26 rapid response to public health threats and emergencies, including
27 bioterrorist events and infectious disease outbreaks.
- 28 (7) Facilitating health and clinical research.
- 29 (8) Promoting early detection, prevention, and management of chronic diseases.

30 **SECTION 12A.4.(b)** The Department, in cooperation with the State CIO, shall
31 establish and direct an HIT management structure that is efficient and transparent and that is
32 compatible with the Office of the National Health Coordinator for Information Technology
33 (National Coordinator) governance mechanism. The HIT management structure shall be
34 responsible for all of the following:

- 35 (1) Developing a State plan for implementing and ensuring compliance with
36 national HIT standards and for the most efficient, effective, and widespread
37 adoption of HIT.
- 38 (2) Ensuring that (i) specific populations are effectively integrated into the State
39 plan, including aging populations, populations requiring mental health
40 services, and populations utilizing the public health system, and (ii) unserved
41 and underserved populations receive priority consideration for HIT support.
- 42 (3) Identifying all HIT stakeholders and soliciting feedback and participation
43 from each stakeholder in the development of the State plan.
- 44 (4) Ensuring that existing HIT capabilities are considered and incorporated into
45 the State plan.
- 46 (5) Identifying and eliminating conflicting HIT efforts where necessary.
- 47 (6) Identifying available resources for the implementation, operation, and
48 maintenance of health information technology, including identifying
49 resources and available opportunities for North Carolina institutions of
50 higher education.

- 1 (7) Ensuring that potential State plan participants are aware of HIT policies and
2 programs and the opportunity for improved health information technology.
- 3 (8) Monitoring HIT efforts and initiatives in other states and replicating
4 successful efforts and initiatives in North Carolina.
- 5 (9) Monitoring the development of the National Coordinator's strategic plan and
6 ensuring that all stakeholders are aware of and in compliance with its
7 requirements.
- 8 (10) Monitoring the progress and recommendations of the HIT Policy and
9 Standards Committee and ensuring that all stakeholders remain informed of
10 the Committee's recommendations.
- 11 (11) Monitoring all studies and reports provided to the United States Congress
12 and reporting to the Joint Legislative Oversight Committee on Information
13 Technology and the Fiscal Research Division on the impact of report
14 recommendations on State efforts to implement coordinated HIT.

15 **SECTION 12A.4.(c)** By no later than January 15, 2016, the Department shall
16 provide a written report on the status of HIT efforts to the Joint Legislative Oversight
17 Committees on Health and Human Services and Information Technology and to the Fiscal
18 Research Division. The report shall be comprehensive and shall include all of the following:

- 19 (1) Current status of federal HIT initiatives.
- 20 (2) Current status of State HIT efforts and initiatives among both public and
21 private entities.
- 22 (3) Other State information technology initiatives with potential applicability to
23 State HIT efforts.
- 24 (4) Efforts to ensure coordination and avoid duplication of HIT efforts within
25 the State.
- 26 (5) A breakdown of current public and private funding sources and dollar
27 amounts for State HIT initiatives.
- 28 (6) Efforts by the DHHS CIO to coordinate HIT initiatives within the State and
29 any obstacles or impediments to coordination.
- 30 (7) HIT research efforts being conducted within the State and sources of funding
31 for research efforts.
- 32 (8) Opportunities for stakeholders to participate in HIT funding and other efforts
33 and initiatives during the next quarter.
- 34 (9) Issues associated with the implementation of HIT in North Carolina and
35 recommended solutions to these issues.

36
37 **FUNDS FOR OVERSIGHT AND ADMINISTRATION OF STATEWIDE HEALTH**
38 **INFORMATION EXCHANGE NETWORK**

39 **SECTION 12A.5.(a)** It is the intent of the General Assembly to do all of the
40 following with respect to health information exchange:

- 41 (1) Establish a successor HIE Network to which (i) all Medicaid providers shall
42 be connected by July 1, 2017, and (ii) all other entities that receive State
43 funds for the provision of health services shall be connected by January 1,
44 2018.
- 45 (2) Establish (i) a State-controlled Health Information Exchange Authority to
46 oversee and administer the successor HIE Network and (ii) a Health
47 Information Exchange Advisory Board to provide consultation to the
48 Authority on matters pertaining to administration and operation of the HIE
49 Network and on statewide health information exchange, generally.
- 50 (3) Have the successor HIE Network gradually become and remain one hundred
51 percent (100%) receipt-supported by establishing reasonable participation

1 fees approved by the General Assembly and by drawing down available
2 matching funds whenever possible.

3 **SECTION 12A.5.(b)** In order to achieve the objectives described in subsection (a)
4 of this section, funds appropriated in this act to the Department of Health and Human Services,
5 Division of Central Management and Support, for the 2015-2016 fiscal year and for the
6 2016-2017 fiscal year to continue efforts toward the implementation of a statewide health
7 information exchange network shall be transferred to the Department of Information
8 Technology. By 30 days after the effective date of this section, the Secretary of the Department
9 of Health and Human Services and the State Chief Information Officer (State CIO) shall enter
10 into a written memorandum of understanding pursuant to which the State CIO will have sole
11 authority to direct the expenditure of these funds until (i) the North Carolina Health
12 Information Exchange Authority (Authority) is established and the State CIO has appointed an
13 Authority Director and (ii) the North Carolina Health Information Exchange Advisory Board
14 (Advisory Board) is established with members appointed pursuant to Article 29B of Chapter 90
15 of the General Statutes, as enacted by subsection (d) of this section. The State CIO shall use
16 these transferred funds to accomplish the following:

- 17 (1) Beginning immediately upon receipt of the transferred funds, facilitate the
18 following:
 - 19 a. Establishment of the successor HIE Network described in subsection
20 (a) of this section.
 - 21 b. Termination or assignment to the Authority by December 31, 2015,
22 of any contracts pertaining to the HIE Network established under
23 Article 29A of Chapter 90 of the General Statutes (i) between the
24 State and the NC HIE and (ii) between the NC HIE and any third
25 parties.
- 26 (2) Fund the monthly operational expenses incurred or encumbered by the NC
27 HIE from July 1, 2015, until December 31, 2015. Notwithstanding any other
28 provision of law to the contrary, the total amount of monthly operating
29 expenses paid for with these funds shall not exceed one hundred
30 seventy-seven thousand dollars (\$177,000) per month, or a total of one
31 million sixty-two thousand dollars (\$1,062,000) for the six-month period
32 commencing July 1, 2015, and ending December 31, 2015. The State CIO
33 shall terminate payments for these monthly operational expenses upon the
34 earlier of December 31, 2015, or upon the termination or assignment to the
35 Authority of all contracts pertaining to the HIE Network established under
36 Article 29A of Chapter 90 of the General Statutes (i) between the State and
37 the NC HIE and (ii) between the NC HIE and any third parties.

38 The State CIO is encouraged to explore all available opportunities for the State to receive
39 federal grant funds and federal matching funds for health information exchange.

40 **SECTION 12A.5.(c)** Once the Authority Director has been hired and the Advisory
41 Board has been established with members appointed pursuant to Article 29B of Chapter 90 of
42 the General Statutes, as enacted by subsection (d) of this section, the Authority shall use these
43 funds to do the following:

- 44 (1) Fund the operational expenses of the Authority and the Advisory Board.
- 45 (2) Establish, oversee, administer, and provide ongoing support of a successor
46 HIE Network to the HIE Network established under Article 29A of Chapter
47 90 of the General Statutes.
- 48 (3) Enter into any contracts necessary for the establishment, administration, and
49 operation of the successor HIE Network.
- 50 (4) Facilitate the termination or assignment to the Authority by December 31,
51 2015, of any contracts pertaining to the HIE Network established under

1 Article 29A of Chapter 90 of the General Statutes (i) between the State and
2 the NC HIE and (ii) between the NC HIE and any third parties.

- 3 (5) Fund the monthly operational expenses incurred or encumbered by the NC
4 HIE from July 1, 2015, until December 31, 2015. Notwithstanding any other
5 provision of law to the contrary, the total amount of monthly operating
6 expenses paid for with these funds shall not exceed one hundred
7 seventy-seven thousand dollars (\$177,000) per month, or a total of one
8 million sixty-two thousand dollars (\$1,062,000) for the six-month period
9 commencing July 1, 2015, and ending December 31, 2015. The Authority
10 shall terminate payments for these monthly operational expenses upon the
11 earlier of December 31, 2015, or upon the termination or assignment to the
12 Authority of all contracts pertaining to the HIE Network established under
13 Article 29A of Chapter 90 of the General Statutes (i) between the State and
14 the NC HIE and (ii) between the NC HIE and any third parties.

15 The Authority is encouraged to explore all available opportunities for the State to receive
16 federal grant funds and federal matching funds for health information exchange.

17 **SECTION 12A.5.(d)** Chapter 90 of the General Statutes is amended by adding a
18 new Article to read:

19 "Article 29B.

20 "Statewide Health Information Exchange Act.

21 **"§ 90-414.1. Title.**

22 This act shall be known and may be cited as the "Statewide Health Information Exchange
23 Act."

24 **"§ 90-414.2. Purpose.**

25 This Article is intended to improve the quality of health care delivery within this State by
26 facilitating and regulating the use of a voluntary, statewide health information exchange
27 network for the secure electronic transmission of individually identifiable health information
28 among health care providers, health plans, and health care clearinghouses in a manner that is
29 consistent with the Health Insurance Portability and Accountability Act, Privacy Rule and
30 Security Rule, 45 C.F.R. §§ 160, 164.

31 **"§ 90-414.3. Definitions.**

32 The following definitions apply in this Article:

- 33 (1) Business associate. – As defined in 45 C.F.R. § 160.103.
34 (2) Business associate contract. – The documentation required by 45 C.F.R. §
35 164.502(e)(2) that meets the applicable requirements of 45 C.F.R. §
36 164.504(e).
37 (3) Covered entity. – Any entity described in 45 C.F.R. § 160.103 or any other
38 facility or practitioner licensed by the State to provide health care services.
39 (4) Disclose or disclosure. – The release, transfer, provision of access to, or
40 divulging in any other manner an individual's protected health information
41 through the HIE Network.
42 (5) Emergency medical condition. – A medical condition manifesting itself by
43 acute symptoms of sufficient severity, including severe pain, such that the
44 absence of immediate medical attention could reasonably be expected to
45 result in (i) placing an individual's health in serious jeopardy, (ii) serious
46 impairment of an individual's bodily functions, or (iii) serious dysfunction of
47 any bodily organ or part of an individual.
48 (6) GDAC. – The North Carolina Government Data Analytics Center.
49 (7) Health Benefits Authority. – The Authority established under Article 14 of
50 Chapter 143B of the General Statutes to operate the Medicaid and NC
51 Health Choice programs.

- 1 (8) HIE Network. – The voluntary, statewide health information exchange
2 network overseen and administered by the Authority.
- 3 (9) HIPAA. – The Health Insurance Portability and Accountability Act of 1996,
4 P.L. 104-191, as amended.
- 5 (10) Individual. – As defined in 45 C.F.R. § 160.103.
- 6 (11) North Carolina Health Information Exchange Authority or Authority. – The
7 entity established pursuant to G.S. 90-414.5.
- 8 (12) North Carolina Health Information Exchange Advisory Board or Advisory
9 Board. – The Advisory Board established under G.S. 90-414.6.
- 10 (13) Opt out. – An individual's affirmative decision to disallow his or her
11 protected health information maintained by or on behalf of one or more
12 specific covered entities from being disclosed to other covered entities
13 through the HIE Network.
- 14 (14) Protected health information. – As defined in 45 C.F.R. § 160.103.
- 15 (15) Public health purposes. – The public health activities and purposes described
16 in 45 C.F.R. § 164.512(b).
- 17 (16) Qualified organization. – An entity designated by the Authority to contract
18 with covered entities on behalf of the Authority to facilitate the participation
19 of such covered entities in the HIE Network.
- 20 (17) Research purposes. – Research that meets the standard described in 45
21 C.F.R. § 164.512(i).
- 22 (18) State CIO. – The State Chief Information Officer.

23 **§ 90-414.4. Required participation in HIE Network for some providers.**

24 (a) The General Assembly makes the following findings:

- 25 (1) That controlling escalating health care costs of the Medicaid program and
26 other State-funded health services is of significant importance to the State,
27 its taxpayers, its Medicaid recipients, and other recipients of State-funded
28 health services.
- 29 (2) That the Health Benefits Authority needs timely access to claims and clinical
30 information in order to assess performance, improve health care outcomes,
31 pinpoint medical expense trends, identify beneficiary health risks, and
32 evaluate how the State is spending money on Medicaid and other
33 State-funded health services.
- 34 (3) That making this clinical information available through the HIE Network
35 will improve care coordination within and across health systems, increase
36 care quality, enable more effective population health management, reduce
37 duplication of medical services, augment syndromic surveillance, allow
38 more accurate measurement of care services and outcomes, increase strategic
39 knowledge about the health of the population, and facilitate health care cost
40 containment.

41 (b) As a condition of receiving State funds, including Medicaid funds, the following
42 entities shall connect to the HIE Network and submit individual patient demographic and
43 clinical data on services paid for with State funds, including Medicaid funds, based on the
44 findings set forth in subsection (a) of this section and notwithstanding the voluntary nature of
45 the HIE Network under G.S. 90-414.2:

- 46 (1) Each hospital, as defined in G.S. 131E-76(3), that has an electronic health
47 record system.
- 48 (2) Each Medicaid provider.
- 49 (3) Each provider that receives State funds for the provision of health services.

50 (c) The Authority shall give the Health Benefits Authority real-time access to data and
51 information disclosed through the HIE Network. At the request of the Director of the Fiscal

1 Research, Bill Drafting, Research, or Program Evaluation Divisions of the General Assembly
2 for data and information disclosed through the HIE Network or for a consolidation or analysis
3 of the data and information disclosed through the HIE Network, the Authority shall provide the
4 professional staff of these Divisions with data and information responsive to the Director's
5 request. Prior to providing the General Assembly's staff with any data or information disclosed
6 through the HIE Network or with any compilation or analysis of data or information disclosed
7 through the HIE Network, the Authority shall redact any personal identifying information in a
8 manner consistent with the standards specified for de-identification of health information under
9 the HIPAA Privacy Rule, 45 C.F.R. § 164.15, as amended.

10 **"§ 90-414.4A. State ownership of data disclosed through HIE Network.**

11 Any data disclosed through the HIE Network pursuant to G.S. 90-414.4 or any other
12 provision of this Article shall be and will remain the sole property of the State. Any data or
13 product derived from the data disclosed to the HIE Network pursuant to G.S. 90-414.4 or any
14 other provision of this Article, including a consolidation or analysis of the data, shall be and
15 will remain the sole property of the State. The Authority shall not allow proprietary information
16 it receives pursuant to G.S. 90-414.4 or any other provision of this Article to be used by any
17 person or entity for commercial purposes.

18 **"§ 90-414.5. North Carolina Health Information Exchange Authority.**

19 (a) Creation. – There is hereby established the North Carolina Health Information
20 Exchange Authority to oversee and administer the HIE Network in accordance with this
21 Article. The Authority shall be located within the Department of Information Technology and
22 shall be under the supervision, direction, and control of the State CIO. The State CIO shall
23 employ an Authority Director and may delegate to the Authority Director all powers and duties
24 associated with the daily operation of the Authority, its staff, and the performance of the
25 powers and duties set forth in subsection (b) of this section. In making this delegation,
26 however, the State CIO maintains the responsibility for the performance of these powers and
27 duties.

28 (b) Powers and Duties. – The Authority has the following powers and duties:

- 29 (1) Oversee and administer the HIE Network in a manner that ensures all of the
30 following:
- 31 a. Compliance with this Article.
 - 32 b. Compliance with HIPAA and any rules adopted under HIPAA,
33 including the Privacy Rule and Security Rule.
 - 34 c. Compliance with the terms of any business associate contract the
35 Authority or qualified organization enters into with a covered entity
36 participating in the HIE Network.
 - 37 d. Notice to the patient by the provider on the initial visit about the HIE
38 Network, including information and education about the right of
39 individuals on a continuing basis to opt out or rescind a decision to
40 opt out.
 - 41 e. Opportunity for all individuals to exercise on a continuing basis the
42 right to opt out or rescind a decision to opt out.
 - 43 f. Nondiscriminatory treatment by covered entities of individuals who
44 exercise the right to opt out.
- 45 (2) Employ staff necessary to carry out the provisions of this Article and
46 determine the compensation, duties, and other terms and conditions of
47 employment of hired staff.
- 48 (3) Enter into contracts pertaining to the oversight and administration of the HIE
49 Network, including contracts of a consulting or advisory nature.
50 G.S. 143-64.20 does not apply to this subdivision.

- 1 (4) Establish fees approved by the General Assembly for participation in the
2 HIE Network.
- 3 (5) Following consultation with the Advisory Board, develop and enter into
4 written participation agreements with covered entities that utilize the HIE
5 Network. The participation agreements shall specify the terms and
6 conditions governing participation in the HIE Network. The agreement shall
7 also require compliance with policies developed by the Authority pursuant to
8 this Article or pursuant to applicable laws of the state of residence for
9 entities located outside of North Carolina. In lieu of entering into a
10 participation agreement directly with covered entities, the Authority may
11 enter into participation agreements with qualified organizations, which in
12 turn enter into participation agreements with covered entities.
- 13 (6) Add, remove, disclose, and access protected health information through the
14 HIE Network in accordance with this Article.
- 15 (7) Following consultation with the Advisory Board, enter into a business
16 associate contract with each of the covered entities participating in the HIE
17 Network. In lieu of entering into a business associate contract directly with
18 covered entities, the Authority may enter into business associate contracts
19 with qualified organizations, which in turn may enter into business associate
20 contracts with covered entities.
- 21 (8) Following consultation with the Advisory Board, grant user rights to the HIE
22 Network to business associates of covered entities participating in the HIE
23 Network (i) at the request of the covered entities and (ii) at the discretion of
24 the Authority upon consideration of the business associates' legitimate need
25 for utilizing the HIE Network and privacy and security concerns.
- 26 (9) Facilitate and promote use of the HIE Network by covered entities.
- 27 (10) Periodically monitor compliance with this Article by covered entities
28 participating in the HIE Network.
- 29 (11) Collect clinical health data from all Medicaid providers and other providers
30 that receive State funds for the provision of health services in order to ensure
31 the efficient delivery of Medicaid and other health services and to improve
32 patient outcomes and measure performance.
- 33 (12) Collaborate with the State CIO to ensure that resources available through the
34 GDAC are properly leveraged, assigned, or deployed to support the work of
35 the Authority. The duty to collaborate under this subdivision includes
36 collaboration on data hosting and development, implementation, operation,
37 and maintenance of the HIE Network.
- 38 (13) Initiate or direct expansion of existing public-private partnerships within the
39 GDAC as necessary to meet the requirements, duties, and obligations of the
40 Authority. Notwithstanding any other provision of law and subject to the
41 availability of funds, the State CIO, at the request of the Authority, shall
42 assist and facilitate expansion of existing contracts related to the HIE
43 Network, provided that such request is made in writing by the Authority to
44 the State CIO with reference to specific requirements set forth in this Article.
- 45 (14) In consultation with the Advisory Board, develop a strategic plan for
46 achieving statewide participation in the HIE Network by all hospitals and
47 health care providers licensed in this State.
- 48 (15) In consultation with the Advisory Board, define the following with respect to
49 operation of the HIE Network:
50 a. Business policy.

1 b. Protocols for data integrity, data sharing, data security, HIPAA
2 compliance, and business intelligence as defined in
3 G.S. 143B-426.38A. To the extent permitted by HIPAA, protocols
4 for data sharing shall allow for the disclosure of data for academic
5 research.

6 c. Qualitative and quantitative performance measures.

7 d. An operational budget and assumptions.

8 (16) Annually report to the Joint Legislative Oversight Committees on the Health
9 Benefits Authority and Information Technology on the following:

10 a. The operation of the HIE Network.

11 b. Any efforts or progress in expanding participation in the HIE
12 Network.

13 c. Health care trends based on information disclosed through the HIE
14 Network.

15 **"§ 90-414.6. North Carolina Health Information Exchange Advisory Board.**

16 (a) Creation and Membership. – There is hereby established the North Carolina Health
17 Information Exchange Advisory Board within the Department of Information Technology. The
18 Advisory Board shall consist of the following nine members:

19 (1) The following three members appointed by the President Pro Tempore of the
20 Senate:

21 a. A licensed physician in good standing and actively practicing in this
22 State.

23 b. A patient representative.

24 c. An individual with technical expertise in health data analytics.

25 (2) The following three members appointed by the Speaker of the House of
26 Representatives:

27 a. A representative of a critical access hospital.

28 b. A representative of a federally qualified health center.

29 c. An individual with technical expertise in health information
30 technology.

31 (3) The following three ex officio, nonvoting members:

32 a. The State Chief Information Officer or a designee.

33 b. The Program Manager of GDAC or a designee.

34 c. The Chief Executive Officer of the Health Benefits Authority or a
35 designee.

36 (b) Chairperson. – A chairperson shall be elected from among the members. The
37 chairperson shall organize and direct the work of the Advisory Board.

38 (c) Administrative Support. – The Department of Information Technology shall provide
39 necessary clerical and administrative support to the Advisory Board.

40 (d) Meetings. – The Advisory Board shall meet at least quarterly and at the call of the
41 chairperson. A majority of the Advisory Board constitutes a quorum for the transaction of
42 business.

43 (e) Terms. – In order to stagger terms, in making initial appointments, the President Pro
44 Tempore shall designate two of the members appointed under subdivision (1) of subsection (a)
45 of this section to serve for a one-year period from the date of appointment, and the Speaker of
46 the House of Representatives shall designate two members appointed under subdivision (2) of
47 subsection (a) of this section to serve for a one-year period from the date of appointment. The
48 remaining voting members shall serve two-year periods. Future appointees who are voting
49 members shall serve terms of two years, with staggered terms based on this subsection. Voting
50 members may serve up to two consecutive terms, not including the abbreviated two-year terms
51 that establish staggered terms or terms of less than two years that result from the filling of a

1 vacancy. Ex officio, nonvoting members are not subject to these term limits. A vacancy other
2 than by expiration of a term shall be filled by the appointing authority.

3 (f) Expenses. – Members of the Advisory Board who are State officers or employees
4 shall receive no compensation for serving on the Advisory Board but may be reimbursed for
5 their expenses in accordance with G.S. 138-6. Members of the Advisory Board who are
6 full-time salaried public officers or employees other than State officers or employees shall
7 receive no compensation for serving on the Advisory Board but may be reimbursed for their
8 expenses in accordance with G.S. 138-5(b). All other members of the Advisory Board may
9 receive compensation and reimbursement for expenses in accordance with G.S. 138-5.

10 (g) Duties. – The Advisory Board shall provide consultation to the Authority with
11 respect to the advancement, administration, and operation of the HIE Network and on matters
12 pertaining to health information exchange, generally. In carrying out its responsibilities, the
13 Advisory Board may form committees of the Advisory Board to examine particular issues
14 related to the advancement, administration, or operation of the HIE Network.

15 **"§ 90-414.7. Participation by covered entities.**

16 (a) Each covered entity that elects to participate in the HIE Network shall enter into a
17 business associate contract and a written participation agreement with the Authority or
18 qualified organization prior to disclosing or accessing any protected health information through
19 the HIE Network.

20 (b) Each covered entity that elects to participate in the HIE Network may authorize its
21 business associates to disclose or access protected health information on behalf of the covered
22 entity through the HIE Network in accordance with this Article and at the discretion of the
23 Authority, as provided in G.S. 90-414.5(b)(8).

24 (c) Notwithstanding any State law or regulation to the contrary, each covered entity that
25 elects to participate in the HIE Network may disclose an individual's protected health
26 information through the HIE Network (i) to other covered entities for any purpose permitted by
27 HIPAA, unless the individual has exercised the right to opt out, and (ii) in order to facilitate the
28 provision of emergency medical treatment to the individual, subject to the requirements set
29 forth in G.S. 90-414.8(e).

30 (d) Any health care provider who relies in good faith upon any information provided
31 through the Authority or through a qualified organization in the health care provider's treatment
32 of a patient shall not incur criminal or civil liability for damages caused by the inaccurate or
33 incomplete nature of this information.

34 **"§ 90-414.8. Continuing right to opt out; effect of opt out; exception for emergency**
35 **medical treatment.**

36 (a) Each individual has the right on a continuing basis to opt out or rescind a decision to
37 opt out.

38 (b) The Authority or its designee shall enforce an individual's decision to opt out or
39 rescind an opt out prospectively from the date the Authority or its designee receives notice of
40 the individual's decision to opt out or rescind an opt out in the manner prescribed by the
41 Authority. An individual's decision to opt out or rescind an opt out does not affect any
42 disclosures made by the Authority or covered entities through the HIE Network prior to receipt
43 by the Authority or its designee of the individual's notice to opt out or rescind an opt out.

44 (c) A covered entity may not deny treatment or benefits to an individual because of the
45 individual's decision to opt out. However, nothing in this Article is intended to restrict a
46 treating physician from otherwise appropriately terminating a relationship with a patient in
47 accordance with applicable law and professional ethical standards.

48 (d) Except as otherwise permitted in subsection (e) of this section and
49 G.S. 90-414.9(a)(3), the protected health information of an individual who has exercised the
50 right to opt out may not be disclosed to covered entities through the HIE Network for any
51 purpose.

1 (e) The protected health information of an individual who has exercised the right to opt
2 out may be disclosed through the HIE Network in order to facilitate the provision of emergency
3 medical treatment to the individual if all of the following criteria are met:

4 (1) The reasonably apparent circumstances indicate to the treating health care
5 provider that (i) the individual has an emergency medical condition, (ii) a
6 meaningful discussion with the individual about whether to rescind a
7 previous decision to opt out is impractical due to the nature of the
8 individual's emergency medical condition, and (iii) information available
9 through the HIE Network could assist in the diagnosis or treatment of the
10 individual's emergency medical condition.

11 (2) The disclosure through the HIE Network is limited to the covered entities
12 providing diagnosis and treatment of the individual's emergency medical
13 condition.

14 (3) The circumstances and extent of the disclosure through the HIE Network is
15 recorded electronically in a manner that permits the Authority or its designee
16 to periodically audit compliance with this subsection.

17 **"§ 90-414.9. Construction and applicability.**

18 (a) Nothing in this Article shall be construed to do any of the following:

19 (1) Impair any rights conferred upon an individual under HIPAA, including all
20 of the following rights related to an individual's protected health
21 information:

22 a. The right to receive a notice of privacy practices.

23 b. The right to request restriction of use and disclosure.

24 c. The right of access to inspect and obtain copies.

25 d. The right to request amendment.

26 e. The right to request confidential forms of communication.

27 f. The right to receive an accounting of disclosures.

28 (2) Authorize the disclosure of protected health information through the HIE
29 Network to the extent that the disclosure is restricted by federal laws or
30 regulations, including the federal drug and alcohol confidentiality
31 regulations set forth in 42 C.F.R. Part 2.

32 (3) Restrict the disclosure of protected health information through the HIE
33 Network for public health purposes or research purposes, so long as
34 disclosure is permitted by both HIPAA and State law.

35 (4) Prohibit the Authority or any covered entity participating in the HIE
36 Network from maintaining in the Authority's or qualified organization's
37 computer system a copy of the protected health information of an individual
38 who has exercised the right to opt out, as long as the Authority or the
39 qualified organization does not access, use, or disclose the individual's
40 protected health information for any purpose other than for necessary system
41 maintenance or as required by federal or State law.

42 (b) This Article applies only to disclosures of protected health information made
43 through the HIE Network, including disclosures made within qualified organizations. It does
44 not apply to the use or disclosure of protected health information in any context outside of the
45 HIE Network, including the redisclosure of protected health information obtained through the
46 HIE Network.

47 **"§ 90-414.10. Penalties and remedies.**

48 A covered entity that discloses protected health information in violation of this Article is
49 subject to the following:

50 (1) Any civil penalty or criminal penalty, or both, that may be imposed on the
51 covered entity pursuant to the Health Information Technology for Economic

1 and Clinical Health (HITECH) Act, P.L. 111-5, Div. A, Title XIII, section
 2 13001, as amended, and any regulations adopted under the HITECH Act.

3 (2) Any civil remedy under the HITECH Act or any regulations adopted under
 4 the HITECH Act that is available to the Attorney General or to an individual
 5 who has been harmed by a violation of this Article, including damages,
 6 penalties, attorneys' fees, and costs.

7 (3) Disciplinary action by the respective licensing board or regulatory agency
 8 with jurisdiction over the covered entity.

9 (4) Any penalty authorized under Article 2A of Chapter 75 of the General
 10 Statutes if the violation of this Article is also a violation of Article 2A of
 11 Chapter 75 of the General Statutes.

12 (5) Any other civil or administrative remedy available to a plaintiff by State or
 13 federal law or equity."

14 **SECTION 12A.5.(e)** G.S. 126-5 is amended by adding a new subdivision to read:

15 **"§ 126-5. Employees subject to Chapter; exemptions.**

16 ...

17 (c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this
 18 Chapter shall not apply to:

19 ...

20 (31) Employees of the North Carolina Health Information Exchange Authority."

21 **SECTION 12A.5.(f)** Article 29A of Chapter 90 of the General Statutes is repealed.

22 **SECTION 12A.5.(g)** Subsections (d) and (e) of this section become effective
 23 October 1, 2015. Subsection (f) of this section becomes effective on the date the State Chief
 24 Information Officer notifies the Revisor of Statutes that all contracts pertaining to the HIE
 25 Network established under Article 29A of Chapter 90 of the General Statutes (i) between the
 26 State and the NC HIE, as defined in G.S. 90-413.3, and (ii) between the NC HIE and any third
 27 parties have been terminated or assigned to the North Carolina Health Information Exchange
 28 Authority established under Article 29B of Chapter 90 of the General Statutes, as enacted by
 29 subsection (d) of this section. The remainder of this section becomes effective July 1, 2015.

30
 31 **FUNDS FOR NCTRACKS, THE REPLACEMENT MULTIPAYER MEDICAID**
 32 **MANAGEMENT INFORMATION SYSTEM**

33 **SECTION 12A.6.** Of the funds appropriated in this act to the Department of Health
 34 and Human Services, Division of Central Management and Support, for NCTRACKS, the sum
 35 of four hundred thousand dollars (\$400,000) for the 2015-2016 fiscal year and the sum of four
 36 hundred thousand dollars (\$400,000) for the 2016-2017 fiscal year shall be used to operate and
 37 maintain NCTRACKS; and the sum of two million three hundred thousand dollars
 38 (\$2,300,000) in nonrecurring funds for the 2015-2016 fiscal year and the sum of nine hundred
 39 forty thousand dollars (\$940,000) in nonrecurring funds for the 2016-2017 fiscal year shall be
 40 used to develop and implement the ICD-10 Project and the Business Process Automated
 41 System for the Division of Health Service Regulation. In addition, overrealized receipts are
 42 hereby appropriated to the Department of Health and Human Services, Division of Central
 43 Management and Support, up to the amounts necessary to implement this section. In the event
 44 it becomes necessary for the Department to utilize these overrealized receipts or any other
 45 funds appropriated to the Department to implement this section, the Department shall first (i)
 46 obtain prior approval from the Office of State Budget and Management (OSBM) and (ii)
 47 consult with the Joint Legislative Oversight Committees on Health and Human Services and
 48 Information Technology and the Fiscal Research Division. As part of the consultation required
 49 by this section, the Department shall provide the amounts of any overrealized receipts or other
 50 funds it intends to use to make up for any shortfall in funding for NCTRACKS and an

1 explanation of the circumstances necessitating the use of overrealized receipts or other funds to
2 make up for the shortfall.

3
4 **FUNDS FOR NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH**
5 **TECHNOLOGY (NC FAST)**

6 **SECTION 12A.7.(a)** Departmental receipts appropriated in this act in the amount
7 of nine million eight hundred seventy-one thousand fifty-nine dollars (\$9,871,059) for the
8 2015-2016 fiscal year and thirteen million two hundred twenty thousand six hundred sixty-five
9 dollars (\$13,220,665) for the 2016-2017 fiscal year shall be used to provide ongoing
10 maintenance and operations for the NC FAST system, including the creation of three full-time
11 equivalent technology support analyst positions.

12 **SECTION 12A.7.(b)** Prior year earned revenue appropriated in this act in the
13 amount of six million six hundred forty-seven thousand eight hundred forty-nine dollars
14 (\$6,647,849) for the 2015-2016 fiscal year and five million two hundred ninety-eight thousand
15 one hundred seventy-eight dollars (\$5,298,178) for the 2016-2017 fiscal year and the cash
16 balance in Budget Code 24410 Fund 2411 for the North Carolina Families Accessing Services
17 through Technology (NC FAST) project shall be used to match federal funds in the 2015-2016
18 and 2016-2017 fiscal years to expedite the development and implementation of Child Care,
19 Low Income Energy Assistance, Crisis Intervention Programs, Child Services, and NC FAST
20 Federally-Facilitated Marketplace (FFM) Interoperability components of the NC FAST
21 program. The Department shall report any changes in approved federal funding or federal
22 match rates within 30 days after the change to the Joint Legislative Oversight Committees on
23 Health and Human Services and Information Technology and the Fiscal Research Division.

24
25 **COMPETITIVE GRANTS/NONPROFIT ORGANIZATIONS, HEALTH**
26 **DISPARITY-RELATED INITIATIVES, AND PHYSICAL HEALTH AND**
27 **NUTRITION**

28 **SECTION 12A.8.(a)** Of the funds appropriated in this act to the Department of
29 Health and Human Services, Division of Central Management and Support, the following
30 amounts shall be used for the specified purposes:

- 31 (1) The sum of ten million three hundred twenty-eight thousand nine hundred
32 eleven dollars (\$10,328,911) for each year of the 2015-2017 fiscal biennium
33 and the sum of three million eight hundred fifty-two thousand five hundred
34 dollars (\$3,852,500) appropriated in Section 12I.1 of this act in Social
35 Services Block Grant funds for each year of the 2015-2017 fiscal biennium
36 shall be used to allocate funds for nonprofit organizations.
- 37 (2) The sum of three million two hundred ninety-nine thousand five hundred
38 seventy-six dollars (\$3,299,576), offset by receipts in the amount of one
39 hundred fifty-five thousand four hundred sixty-eight dollars (\$155,468) for
40 each year of the 2015-2017 fiscal biennium and the sum of two million
41 seven hundred fifty-six thousand eight hundred fifty-five dollars
42 (\$2,756,855) appropriated in Section 12I.1 of this act in Preventive Health
43 Services Block Grant funds for the 2015-2016 fiscal year shall be used to
44 continue the established competitive grants process for health
45 disparity-related initiatives.
- 46 (3) The sum of four hundred twenty-six thousand three hundred thirty-three
47 dollars (\$426,333), offset by receipts in the amount of one hundred sixty
48 thousand twenty-one dollars (\$160,021) for each year of the 2015-2017
49 fiscal biennium and the sum of one million two hundred forty-three thousand
50 eight hundred ninety-nine dollars (\$1,243,899) appropriated in Section 12I.1
51 of this act in Preventive Health Services Block Grant funds for the

1 2015-2016 fiscal year shall be used to establish a competitive grants process
2 for physical health and nutrition-related initiatives.

3 **SECTION 12A.8.(b) Nonprofit Organizations. –**

4 (1) The Department shall continue administering a competitive grants process
5 for nonprofit funding. The Department shall administer a plan that, at a
6 minimum, includes each of the following:

- 7 a. A request for application (RFA) process to allow nonprofits to apply
8 for and receive State funds on a competitive basis. The Department
9 shall require nonprofits to include in the application, a plan to
10 evaluate the effectiveness, including measurable impact or outcomes,
11 of the activities, services, and programs for which the funds are being
12 requested.
- 13 b. A requirement that nonprofits match a minimum of fifteen percent
14 (15%) of the total amount of the grant award.
- 15 c. A requirement that the Secretary prioritize grant awards to those
16 nonprofits that are able to leverage non-State funds in addition to the
17 grant award.
- 18 d. A process that awards grants to nonprofits that have the capacity to
19 provide services on a statewide basis and that support any of the
20 following State health and wellness initiatives:
- 21 1. A program targeting advocacy, support, education, or
22 residential services for persons diagnosed with autism.
 - 23 2. A system of residential supports for those afflicted with
24 substance abuse addiction.
 - 25 3. A program of advocacy and supports for individuals with
26 intellectual and developmental disabilities or severe and
27 persistent mental illness, substance abusers, or the elderly.
 - 28 4. Supports and services to children and adults with
29 developmental disabilities or mental health diagnoses.
 - 30 5. A food distribution system for needy individuals.
 - 31 6. The provision and coordination of services for the homeless.
 - 32 7. The provision of services for individuals aging out of foster
33 care.
 - 34 8. Programs promoting wellness, physical activity, and health
35 education programming for North Carolinians.
 - 36 9. The provision of services and screening for blindness.
 - 37 10. Provision for the delivery of after-school services for
38 apprenticeships or mentoring at-risk youth.
 - 39 11. The provision of direct services for amyotrophic lateral
40 sclerosis (ALS) and those diagnosed with the disease.
 - 41 12. A comprehensive smoking prevention and cessation program
42 that screens and treats tobacco use in pregnant women and
43 postpartum mothers.
 - 44 13. A program providing short-term or long-term residential
45 substance abuse services. For purposes of this
46 sub-subdivision, "long-term" means a minimum of 12
47 months.
- 48 e. Ensures that funds received by the Department to implement the plan
49 supplement and do not supplant existing funds for health and
50 wellness programs and initiatives.
- 51 f. Allows grants to be awarded to nonprofits for up to two years.

- 1 g. With grants awarded beginning July 1, 2016, a requirement that of
2 the funds provided for competitive grants pursuant to this section, a
3 minimum of five percent (5%) of the grants be awarded to new grant
4 recipients who did not receive grant awards during the previous
5 competitive grants process.
- 6 (2) No later than July 1, 2015, and every two years thereafter, as applicable, the
7 Secretary shall announce the recipients of the competitive grant awards and
8 allocate funds to the grant recipients for the respective grant period pursuant
9 to the amounts designated under subdivision (1) of subsection (a) of this
10 section. After awards have been granted, the Secretary shall submit a report
11 to the Joint Legislative Oversight Committee on Health and Human Services
12 on the grant awards that includes at least all of the following:
- 13 a. The identity and a brief description of each grantee and each program
14 or initiative offered by the grantee.
- 15 b. The amount of funding awarded to each grantee.
- 16 c. The number of persons served by each grantee, broken down by
17 program or initiative.
- 18 (3) No later than December 1 of each fiscal year, each nonprofit organization
19 receiving funding pursuant to this subsection in the respective fiscal year
20 shall submit to the Division of Central Management and Support a written
21 report of all activities funded by State appropriations. The report shall
22 include the following information about the fiscal year preceding the year in
23 which the report is due:
- 24 a. The entity's mission, purpose, and governance structure.
- 25 b. A description of the types of programs, services, and activities
26 funded by State appropriations.
- 27 c. Statistical and demographical information on the number of persons
28 served by these programs, services, and activities, including the
29 counties in which services are provided.
- 30 d. Outcome measures that demonstrate the impact and effectiveness of
31 the programs, services, and activities.
- 32 e. A detailed program budget and list of expenditures, including all
33 positions funded, matching expenditures, and funding sources.
- 34 (4) For the 2015-2017 fiscal biennium only, from the funds identified in
35 subdivision (1) of subsection (a) of this section, the Department shall
36 allocate the sum of two million four hundred twenty-seven thousand nine
37 hundred seventy-five dollars (\$2,427,975) in each year of the 2015-2017
38 fiscal biennium to provide grants to Boys and Girls Clubs across the State to
39 implement (i) programs that improve the motivation, performance, and self-
40 esteem of youth and (ii) other initiatives that would be expected to reduce
41 gang participation, school dropout, and teen pregnancy rates. Boys and Girls
42 Clubs shall be required to seek future funding through the competitive grants
43 process in accordance with subdivision (1) of this subsection.

44 **SECTION 12A.8.(c) Health Disparity-Related Initiatives. –**

- 45 (1) Funds identified in subdivision (2) of subsection (a) of this section shall be
46 used to continue the competitive grants process established to close the gap
47 in the health status of African-Americans, Hispanics/Latinos, and American
48 Indians as compared to the health status of white persons. These grants shall
49 continue to focus on the use of measures to eliminate or reduce health
50 disparities among minority populations in this State with respect to heart

- 1 disease, stroke, diabetes, obesity, asthma, HIV/AIDS, cancer, infant
2 mortality, and low birth weight.
- 3 (2) It is the intent of the General Assembly that the Department continue
4 implementing the competitive grants process established for health
5 disparity-related initiatives funding to be administered by the Division of
6 Central Management and Support. The Department shall continue
7 implementing a process that, at a minimum, includes each of the following:
- 8 a. A request for application (RFA) process to allow an entity to apply
9 for and receive State funds on a competitive basis. The Department
10 shall require entities to include in the application, a plan to evaluate
11 the effectiveness, including measurable impact or outcomes, of
12 activities, services, and programs for which the funds are being
13 requested.
- 14 b. The amount of any grant award is limited to three hundred thousand
15 dollars (\$300,000).
- 16 c. Only community-based organizations, faith-based organizations,
17 local health departments, and hospitals located in urban and rural
18 areas of the western, eastern, and Piedmont areas of this State are
19 eligible to apply for these grants. No more than four grants shall be
20 awarded to applicants located in any one of the three areas specified
21 in this sub-subdivision.
- 22 d. Each eligible applicant shall be required to demonstrate substantial
23 participation and involvement with all other categories of eligible
24 applicants in order to ensure an evidence-based medical home model
25 that will affect change in health and geographic disparities.
- 26 e. Eligible applicants shall select one or more of the following chronic
27 illnesses or conditions specific to the applicant's geographic area as
28 the basis for applying for a grant under this subdivision to affect
29 change in the health status of African-Americans, Hispanics/Latinos,
30 or American Indians:
- 31 1. Heart disease.
32 2. Stroke.
33 3. Diabetes.
34 4. Obesity.
35 5. Asthma.
36 6. HIV/AIDS.
37 7. Cancer.
38 8. Infant mortality.
39 9. Low birth weight.
- 40 f. The minimum duration of the grant period for any grant awarded
41 under this subsection is two years.
- 42 g. The maximum duration of the grant period for any grant awarded
43 under this subsection is three years.
- 44 h. If approved for a grant award, the grantee (i) shall not use more than
45 eight percent (8%) of the grant funds for overhead costs and (ii) shall
46 be required at the end of the grant period to demonstrate significant
47 gains in addressing one or more of the health disparity focus areas
48 identified in subdivision (1) of this subsection.
- 49 i. An independent panel with expertise in the delivery of services to
50 minority populations, health disparities, chronic illnesses and
51 conditions, and HIV/AIDS shall conduct the review of applications

1 for grants. The Department shall establish the independent panel
2 required by this sub-subdivision.

3 (3) The grants awarded under this subsection shall be awarded in honor of the
4 memory of the following deceased members of the General Assembly:
5 Bernard Allen, Pete Cunningham, John Hall, Robert Holloman, Howard
6 Hunter, Ed Jones, Jeanne Lucas, Vernon Malone, William Martin, and
7 William Wainwright. These funds shall be used for concerted efforts to
8 address large gaps in health status among North Carolinians who are
9 African-American, as well as disparities among other minority populations
10 in North Carolina.

11 (4) By October 1, 2017, the Department shall submit a report to the Joint
12 Legislative Oversight Committee on Health and Human Services and the
13 Fiscal Research Division on funds appropriated for grants allocated pursuant
14 to this subsection for the 2015-2017 fiscal biennium. The report shall include
15 specific activities undertaken by grantees pursuant to subdivision (1) of this
16 subsection to address large gaps in health status among North Carolinians
17 who are African-American and other minority populations in this State and
18 shall also address all of the following:

- 19 a. Which community-based organizations, faith-based organizations,
20 local health departments, and hospitals received grants.
- 21 b. The amount of funding awarded to each grantee.
- 22 c. Which of the minority populations were served by each grantee.
- 23 d. Which community-based organizations, faith-based organizations,
24 local health departments, and hospitals were involved in fulfilling the
25 goals and activities of each grant-in-aid awarded under this section
26 and what activities were planned and implemented by the grantee to
27 fulfill the community focus of grants awarded pursuant to this
28 subsection.
- 29 e. How the activities implemented by the grantee fulfilled the goal of
30 reducing health disparities among minority populations and the
31 specific success in reducing particular incidences.

32 **SECTION 12A.8.(d) Physical Health and Nutrition-Related Activities. –**

33 (1) Funds identified in subdivision (3) of subsection (a) of this section shall be
34 used to establish and administer a competitive grants process for programs
35 demonstrated to improve physical health and nutrition across the State.

36 (2) It is the intent of the General Assembly that, beginning fiscal year
37 2015-2016, the Department implements a competitive grants process for
38 physical health and nutrition-related initiatives funding. To that end, the
39 Department shall develop a plan that establishes a competitive grants process
40 to be administered by the Division of Central Management and Support. The
41 Department shall develop a plan that, at a minimum, includes each of the
42 following:

- 43 a. A request for application (RFA) process to allow an entity to apply
44 for and receive State funds on a competitive basis. The Department
45 shall require entities to include in the application, a plan to evaluate
46 the effectiveness, including measurable impact or outcomes, of
47 activities, services, and programs for which the funds are being
48 requested.
- 49 b. A process that awards grants to entities that have the capacity to
50 provide services on a statewide basis and support physical health and
51 nutrition initiatives.

- 1 c. Ensures that funds received by the Department to implement the plan
2 supplement and do not supplant existing funds for physical health
3 and nutrition programs and initiatives.
- 4 d. Allows grants to be awarded for up to two years.
- 5 (3) No later than February 1, 2016, the Secretary of Health and Human Services
6 shall develop a plan for the implementation of the competitive grants process
7 for physical health and nutrition-related initiative funding and shall report to
8 the Joint Legislative Oversight Committee on Health and Human Services
9 on the plan.
- 10 (4) No later than March 1, 2016, the Secretary of Health and Human Services
11 shall implement the plan for the competitive grants process.
- 12 (5) No later than July 1, 2016, the Secretary shall announce the recipients of the
13 competitive grant awards and allocate funds to the grant recipients for the
14 2016-2017 fiscal year pursuant to the amounts designated under subdivision
15 (3) of subsection (a) of this section. After awards have been granted, the
16 Secretary shall submit a report to the Joint Legislative Oversight Committee
17 on Health and Human Services on the grant awards that includes at least all
18 of the following:
- 19 a. The identity and a brief description of each grantee and each program
20 or initiative offered by the grantee.
- 21 b. The amount of funding awarded to each grantee.
- 22 c. The number of persons served by each grantee, broken down by
23 program or initiative.
- 24 (6) No later than December 1, 2016, each program receiving funding pursuant to
25 subdivision (3) of subsection (a) of this section shall submit to the Division
26 of Central Management and Support a written report of all activities funded
27 by State appropriations. The report shall include the following information
28 about the fiscal year preceding the year in which the report is due:
- 29 a. The entity's mission, purpose, and governance structure.
- 30 b. A description of the type of program, service, or activity funded by
31 State appropriations.
- 32 c. Statistical and demographical information on the number of persons
33 served by the program, service, or activity, including the counties in
34 which services are provided.
- 35 d. Outcome measures that demonstrate the impact and effectiveness of
36 the program, service, or activity.
- 37 e. A detailed program budget and list of expenditures, including all
38 positions funded and funding sources.
- 39 f. The source and amount of any matching funds received by the entity.
- 40

41 **COMMUNITY HEALTH GRANT PROGRAM CHANGES**

42 **SECTION 12A.9.** The Department of Health and Human Services, Office of Rural
43 Health and Community Care, shall repurpose two million two hundred fifty thousand dollars
44 (\$2,250,000) in Health Net appropriations to the Community Health Grant Program. The new
45 appropriation for this program is seven million six hundred eighty-seven thousand one hundred
46 sixty-nine dollars (\$7,687,169) in recurring funds. To ensure continuity of care, safety-net
47 agencies receiving Health Net funds at the end of the 2014-2015 fiscal year shall be eligible to
48 apply for and receive Community Health Grant funds at their current level of funding for the
49 2015-2016 and 2016-2017 fiscal years. After the 2016-2017 fiscal year, these agencies must
50 submit an application for funding through the competitive Community Health Grant process.
51 The Community Health Grant Program is available to rural health centers, free clinics, public

1 health departments, school-based health centers, federally qualified health centers, and other
2 nonprofit organizations that provide primary care and preventive health services to low-income
3 populations, including uninsured, underinsured, Medicaid, and Medicare residents across the
4 State.

6 **RURAL HEALTH LOAN REPAYMENT PROGRAMS**

7 **SECTION 12A.10.(a)** The Department of Health and Human Services, Office of
8 Rural Health and Community Care, shall use funds appropriated in this act for loan repayment
9 to medical, dental, and psychiatric providers practicing in State hospitals or in rural or
10 medically underserved communities in this State to combine the following loan repayment
11 programs in order to achieve efficient and effective management of these programs:

- 12 (1) The Physician Loan Repayment Program.
- 13 (2) The Psychiatric Loan Repayment Program.
- 14 (3) The Loan Repayment Initiative at State Facilities.

15 **SECTION 12A.10.(b)** These funds may be used for the following additional
16 purposes:

- 17 (1) Continued funding of the State Loan Repayment Program for primary care
18 providers and expansion of State incentives to general surgeons practicing in
19 Critical Access Hospitals (CAHs) located across the State.
- 20 (2) Expansion of the State Loan Repayment Program to include eligible
21 providers residing in North Carolina who use telemedicine in rural and
22 underserved areas.

23 **FUNDS FOR COMMUNITY PARAMEDICINE PILOT PROGRAM**

24 **SECTION 12A.12.(a)** Of the funds appropriated in this act to the Department of
25 Health and Human Services, Division of Central Management and Support, for the 2015-2016
26 fiscal year, the sum of three hundred fifty thousand dollars (\$350,000) shall be used to
27 implement a community paramedicine pilot program. The pilot program shall focus on
28 expanding the role of paramedics to allow for community-based initiatives that result in
29 providing care that avoids nonemergency use of emergency rooms and 911 services and avoids
30 unnecessary admissions into health care facilities.

31 **SECTION 12A.12.(b)** The North Carolina Office of Emergency Medical Services
32 (NCOEMS) shall set the education standards and other requirements necessary to qualify as a
33 community paramedic eligible to participate in the pilot program established in subsection (a)
34 of this section. The Department shall consult with the NCOEMS to define the objectives, set
35 standards, and establish the required outcomes for the pilot program.

36 **SECTION 12A.12.(c)** The Department of Health and Human Services shall
37 establish up to three program sites to implement the community paramedicine pilot program,
38 one of which shall be New Hanover Regional Emergency Medical Services. For the 2015-2016
39 fiscal year, the New Hanover Regional Emergency Medical Services program site shall be
40 awarded up to two hundred ten thousand dollars (\$210,000), and each of the remaining
41 program sites may be awarded up to seventy thousand dollars (\$70,000). In selecting the
42 remaining program sites, the Department may give preference to counties that currently have an
43 established community paramedic program.

44 **SECTION 12A.12.(d)** The Department of Health and Human Services shall submit
45 a report to the Senate Appropriations Committee on Health and Human Services, the House of
46 Representatives Appropriations Committee on Health and Human Services, and the Fiscal
47 Research Division by June 1, 2016, on the progress of the pilot program and shall include an
48 evaluation plan based on the U.S. Department of Health and Human Services, Health
49 Resources and Services Administration Office of Rural Health Policy's Community
50 Paramedicine Evaluation Tool published in March 2012.

1 **SECTION 12A.12.(e)** The Department of Health and Human Services shall submit
2 a final report to the Joint Legislative Oversight Committee on Health and Human Services and
3 the Fiscal Research Division by November 1, 2016. At a minimum, the final report shall
4 include all of the following:

- 5 (1) An updated version of the evaluation plan required by subsection (d) of this
6 section.
- 7 (2) An estimate of the cost to expand the program incrementally and statewide.
- 8 (3) An estimate of any potential savings of State funds associated with
9 expansion of the program.
- 10 (4) If expansion of the program is recommended, a time line for expanding the
11 program.

12
13 **FUNDS FOR DESIGN AND IMPLEMENTATION OF CONTRACTING SPECIALIST**
14 **AND CERTIFICATION PROGRAM**

15 **SECTION 12A.13.** Funds appropriated in this act to the Department of Health and
16 Human Services, Division of Central Management and Support, for the design of a contracting
17 specialist training and certification program for management level personnel within the
18 Department of Health and Human Services (DHHS) shall be used as follows:

- 19 (1) For the 2015-2016 fiscal year, the sum of one hundred fifty thousand dollars
20 (\$150,000) in nonrecurring funds shall be allocated to the University of
21 North Carolina School of Government (SOG) to design the program for
22 permanent administration by the Office of State Human Resources (OSHR).
23 SOG shall design a program that is similar to its Certified Local Government
24 Purchasing Officer program and local purchasing and contracts program.
25 OSHR, SOG, and the Office of the State Chief Information Officer shall
26 provide assistance on program design and implementation as requested by
27 DHHS, OSHR, or SOG. To the extent practical, DHHS, OSHR, and SOG
28 shall design and develop the program as a prototype for a State
29 government-wide program. Although designed for personal and professional
30 services contracting, the design may incorporate any applicable best
31 practices for construction and technology contracting.
- 32 (2) For the 2016-2017 fiscal year:
 - 33 a. The sum of twenty-five thousand dollars (\$25,000) in nonrecurring
34 funds shall be used to assist both DHHS and OSHR with program
35 implementation.
 - 36 b. The sum of one hundred seventy-five thousand dollars (\$175,000) in
37 recurring funds shall be used for program support and to fund two
38 full-time equivalent positions within OSHR dedicated to oversight
39 of, and training for, this new program.

40
41 **CHILD WELFARE CASE MANAGEMENT SYSTEM**

42 **SECTION 12A.14.(a)** Funds appropriated in this act to the Department of Health
43 and Human Services, Division of Central Management and Support, in the amount of five
44 million eight hundred three thousand dollars (\$5,803,000) in nonrecurring funds and prior year
45 earned revenue in the amount of two million seven hundred fifty-two thousand one hundred
46 fifty-one dollars (\$2,752,151) for the 2015-2016 fiscal year and in the amount of thirteen
47 million fifty-two thousand dollars (\$13,052,000) in nonrecurring funds and prior year earned
48 revenue in the amount of four million one hundred one thousand eight hundred twenty-four
49 dollars (\$4,101,824) for the 2016-2017 fiscal year shall be used to purchase a child welfare
50 case management system that has demonstrated its ability to provide child welfare case
51 management services in another state within the United States. The Division shall purchase a

1 system that can be integrated with North Carolina Families Accessing Services through
2 Technology (NC FAST) and the work product of the Child Protective Services Pilot Project
3 being conducted in accordance with Section 12C.11 of this act. The Division shall issue a
4 request for proposals (RFP) in selecting a system for purchase. The Department shall not move
5 forward with implementing the child welfare case management system in NC FAST.

6 **SECTION 12A.14.(b)** It is the intent of the General Assembly that beginning fiscal
7 year 2016-2017, all Department of Health and Human Services' information technology assets,
8 resources, and personnel transfer to the Department of Information Technology, as created in
9 this act. To that end, the planning, development, and implementation of the child welfare case
10 management system described in this section shall be coordinated with the Department of
11 Information Technology.

12 **SECTION 12A.14.(c)** The Department shall report on the results of the RFP to the
13 Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative
14 Oversight Committee on Information Technology, and the Fiscal Research Division no later
15 than October 1, 2016.

16 17 **HEALTH CARE COST REDUCTION AND TRANSPARENCY ACT REVISIONS**

18 **SECTION 12A.15.** G.S. 131E-214.13 reads as rewritten:

19 **"§ 131E-214.13. Disclosure of prices for most frequently reported DRGs, CPTs, and**
20 **HCPCSs.**

21 (a) The following definitions apply in this Article:

- 22 (1) Ambulatory surgical facility. – A facility licensed under Part 4 of Article 6
23 of this Chapter.
- 24 (2) Commission. – The North Carolina Medical Care Commission.
- 25 (3) Health insurer. – An entity that writes a health benefit plan and is one of the
26 following:
- 27 a. An insurance company under Article 3 of Chapter 58 of the General
28 Statutes.
- 29 b. A service corporation under Article 65 of Chapter 58 of the General
30 Statutes.
- 31 c. A health maintenance organization under Article 67 of Chapter 58 of
32 the General Statutes.
- 33 d. A third-party administrator of one or more group health plans, as
34 defined in section 607(1) of the Employee Retirement Income
35 Security Act of 1974 (29 U.S.C. § 1167(1)).
- 36 (4) Hospital. – A medical care facility licensed under Article 5 of this Chapter or
37 under Article 2 of Chapter 122C of the General Statutes.
- 38 (5) Public or private third party. – Includes the State, the federal government,
39 employers, health insurers, third-party administrators, and managed care
40 organizations.

41 (b) Beginning with the ~~quarter ending June 30, 2014, reporting period ending~~
42 September 30, 2015, and quarterly-annually thereafter, each hospital shall provide to the
43 Department of Health and Human Services, utilizing electronic health records software, the
44 following information about the 100 most frequently reported admissions by DRG for
45 inpatients as established by the Department:

- 46 (1) The amount that will be charged to a patient for each DRG if all charges are
47 paid in full without a public or private third party paying for any portion of
48 the charges.
- 49 (2) The average negotiated settlement on the amount that will be charged to a
50 patient required to be provided in subdivision (1) of this subsection.

- 1 (3) The amount of Medicaid reimbursement for each DRG, including claims and
2 pro rata supplemental payments.
3 (4) The amount of Medicare reimbursement for each DRG.
4 (5) For each of the five largest health insurers providing payment to the hospital
5 on behalf of insureds and teachers and State employees, the range and the
6 average of the amount of payment made for each DRG. Prior to providing
7 this information to the Department, each hospital shall redact the names of
8 the health insurers and any other information that would otherwise identify
9 the health insurers.

10 A hospital shall not be required to report the information required by this subsection for any
11 of the 100 most frequently reported admissions where the reporting of that information
12 reasonably could lead to the identification of the person or persons admitted to the hospital in
13 violation of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA)
14 or other federal law.

15 (c) The Commission shall adopt rules on or before ~~January 1, 2015,~~ March 1, 2016, to
16 ensure that subsection (b) of this section is properly implemented and that hospitals report this
17 information to the Department in a uniform manner. The rules shall include all of the
18 following:

- 19 (1) The method by which the Department shall determine the 100 most
20 frequently reported DRGs for inpatients for which hospitals must provide the
21 data set out in subsection (b) of this section.
22 (2) Specific categories by which hospitals shall be grouped for the purpose of
23 disclosing this information to the public on the Department's Internet Web
24 site.

25 (d) Beginning with the ~~quarter ending September 30, 2014,~~ reporting period ending
26 September 30, 2015, and ~~quarterly~~ annually thereafter, each hospital and ambulatory surgical
27 facility shall provide to the Department, utilizing electronic health records software,
28 information on the total costs for the 20 most common surgical procedures and the 20 most
29 common imaging procedures, by volume, performed in hospital outpatient settings or in
30 ambulatory surgical facilities, along with the related CPT and HCPCS codes. Hospitals and
31 ambulatory surgical facilities shall report this information in the same manner as required by
32 subdivisions (b)(1) through (5) of this section, provided that hospitals and ambulatory surgical
33 facilities shall not be required to report the information required by this subsection where the
34 reporting of that information reasonably could lead to the identification of the person or persons
35 admitted to the hospital in violation of the federal Health Insurance Portability and
36 Accountability Act of 1996 (HIPAA) or other federal law.

37 (e) The Commission shall adopt rules on or before ~~January 1, 2015,~~ March 1, 2016, to
38 ensure that subsection (d) of this section is properly implemented and that hospitals and
39 ambulatory surgical facilities report this information to the Department in a uniform manner.
40 The rules shall include the method by which the Department shall determine the 20 most
41 common surgical procedures and the 20 most common imaging procedures for which the
42 hospitals and ambulatory surgical facilities must provide the data set out in subsection (d) of
43 this section.

44 (e1) The Commission shall adopt rules to establish and define no fewer than 10 quality
45 measures identical to those established by the Joint Commission for each of the following for
46 licensed hospitals and licensed ambulatory surgical facilities.

- 47 a. ~~Primary cesarean section rate, uncomplicated (TJC PC-02)~~
48 b. ~~Early elective delivery rate (TJC PC-01)~~
49 c. ~~C. difficile infection SIR (NHSN)~~
50 d. ~~Multidrug resistant organisms (NHSN)~~
51 e. ~~Surgical site infection SRI for colon surgeries (NSHN)~~

- 1 f. ~~Post-op sepsis rate (PSH3)~~
2 g. ~~Thrombolytic therapy for acute ischemic stroke patients (STK-4)~~
3 h. ~~Stroke education (STK-8)~~
4 i. ~~Venous thrombolism prophylaxis (VTE-1)~~
5 j. ~~Venous thrombolism discharge instructions (VTE-5)~~

6 (f) Upon request of a patient for a particular DRG, imaging procedure, or surgery
7 procedure reported in this section, a hospital or ambulatory surgical facility shall provide the
8 information required by subsection (b) or subsection (d) of this section to the patient in writing,
9 either electronically or by mail, within three business days after receiving the request.

10 (g) G.S. 150B-21.3 does not apply to rules adopted under subsections (c) and (e) of this
11 section. A rule adopted under subsections (c) and (e) of this section becomes effective on the
12 last day of the month following the month in which the rule is approved by the Rules Review
13 Commission.

14 (h) A fine of five hundred dollars (\$500.00) shall be imposed on the licensed hospital or
15 licensed ambulatory surgical facility for each instance of failure to report as required."

17 **SUBPART XII-B. DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION**

18 **NC PRE-K PROGRAM/STANDARDS FOR FOUR- AND FIVE-STAR RATED** 19 **FACILITIES**

20 **SECTION 12B.1.(a) Eligibility.** – The Department of Health and Human Services,
21 Division of Child Development and Early Education, shall continue implementing the
22 prekindergarten program (NC Pre-K). The NC Pre-K program shall serve children who are four
23 years of age on or before August 31 of the program year. In determining eligibility, the
24 Division shall establish income eligibility requirements for the program not to exceed
25 seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children
26 enrolled may have family incomes in excess of seventy-five percent (75%) of median income if
27 those children have other designated risk factors. Furthermore, any age-eligible child who is a
28 child of either of the following shall be eligible for the program: (i) an active duty member of
29 the Armed Forces of the United States, including the North Carolina National Guard, State
30 military forces, or a reserve component of the Armed Forces who was ordered to active duty by
31 the proper authority within the last 18 months or is expected to be ordered within the next 18
32 months or (ii) a member of the Armed Forces of the United States, including the North
33 Carolina National Guard, State military forces, or a reserve component of the Armed Forces
34 who was injured or killed while serving on active duty. Eligibility determinations for
35 prekindergarten participants may continue through local education agencies and local North
36 Carolina Partnership for Children, Inc., partnerships.

37
38 Other than developmental disabilities or other chronic health issues, the Division
39 shall not consider the health of a child as a factor in determining eligibility for participation in
40 the NC Pre-K program.

41 **SECTION 12B.1.(b) Multiyear Contracts.** – The Division of Child Development
42 and Early Education shall require the NC Pre-K contractor to issue multiyear contracts for
43 licensed private child care centers providing NC Pre-K classrooms.

44 **SECTION 12B.1.(c) Programmatic Standards.** – All entities operating
45 prekindergarten classrooms shall adhere to all of the policies prescribed by the Division of
46 Child Development and Early Education regarding programmatic standards and classroom
47 requirements.

48 **SECTION 12B.1.(d) NC Pre-K Committees.** – Local NC Pre-K committees shall
49 use the standard decision-making process developed by the Division of Child Development and
50 Early Education in awarding prekindergarten classroom slots and student selection.

1 **SECTION 12B.1.(e)** Reporting. – The Division of Child Development and Early
 2 Education shall submit an annual report no later than March 15 of each year to the Joint
 3 Legislative Oversight Committee on Health and Human Services, the Office of State Budget
 4 and Management, and the Fiscal Research Division. The report shall include the following:

- 5 (1) The number of children participating in the NC Pre-K program by county.
- 6 (2) The number of children participating in the NC Pre-K program who have
 7 never been served in other early education programs such as child care,
 8 public or private preschool, Head Start, Early Head Start, or early
 9 intervention programs.
- 10 (3) The expected NC Pre-K expenditures for the programs and the source of the
 11 local contributions.
- 12 (4) The results of an annual evaluation of the NC Pre-K program.

13 **SECTION 12B.1.(f)** Audits. – The administration of the NC Pre-K program by
 14 local partnerships shall be subject to the financial and compliance audits authorized under
 15 G.S. 143B-168.14(b).

17 **CHILD CARE SUBSIDY RATES**

18 **SECTION 12B.2.(a)** The maximum gross annual income for initial eligibility,
 19 adjusted biennially, for subsidized child care services shall be determined based on a
 20 percentage of the federal poverty level as follows:

21 AGE	21 INCOME PERCENTAGE LEVEL
22 0 – 5	200%
23 6 – 12	133%

24 The eligibility for any child with special needs, including a child who is 13 years of
 25 age or older, shall be two hundred percent (200%) of the federal poverty level.

26 **SECTION 12B.2.(b)** Effective July 1, 2015, the Department of Health and Human
 27 Services, Division of Child Development and Early Education, shall revise its child care
 28 subsidy policy to exclude from the policy's definition of "income unit" a nonparent relative
 29 caretaker, and the caretaker's spouse and child, if applicable, when the parent of the child
 30 receiving child care subsidy does not live in the home with the child.

31 **SECTION 12B.2.(c)** Fees for families who are required to share in the cost of care
 32 are established based on ten percent (10%) of gross family income. Co-payments shall not be
 33 prorated for part-time care.

34 **SECTION 12B.2.(d)** Payments for the purchase of child care services for
 35 low-income children shall be in accordance with the following requirements:

- 36 (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106
 37 and licensed child care centers and homes that meet the minimum licensing
 38 standards that are participating in the subsidized child care program shall be
 39 paid the one-star county market rate or the rate they charge privately paying
 40 parents, whichever is lower, unless prohibited by subsection (g) of this
 41 section.
- 42 (2) Licensed child care centers and homes with two or more stars shall receive
 43 the market rate for that rated license level for that age group or the rate they
 44 charge privately paying parents, whichever is lower, unless prohibited by
 45 subsection (g) of this section.
- 46 (3) Nonlicensed homes shall receive fifty percent (50%) of the county market
 47 rate or the rate they charge privately paying parents, whichever is lower.
- 48 (4) No payments shall be made for transportation services or registration fees
 49 charged by child care facilities.
- 50 (5) Payments for subsidized child care services for postsecondary education
 51 shall be limited to a maximum of 20 months of enrollment.

- 1 (6) The Department of Health and Human Services shall implement necessary
2 rule changes to restructure services, including, but not limited to, targeting
3 benefits to employment.

4 **SECTION 12B.2.(e)** Provisions of payment rates for child care providers in
5 counties that do not have at least 50 children in each age group for center-based and
6 home-based care are as follows:

- 7 (1) Except as applicable in subdivision (2) of this subsection, payment rates
8 shall be set at the statewide or regional market rate for licensed child care
9 centers and homes.
- 10 (2) If it can be demonstrated that the application of the statewide or regional
11 market rate to a county with fewer than 50 children in each age group is
12 lower than the county market rate and would inhibit the ability of the county
13 to purchase child care for low-income children, then the county market rate
14 may be applied.

15 **SECTION 12B.2.(f)** A market rate shall be calculated for child care centers and
16 homes at each rated license level for each county and for each age group or age category of
17 enrollees and shall be representative of fees charged to parents for each age group of enrollees
18 within the county. The Division of Child Development and Early Education shall also calculate
19 a statewide rate and regional market rate for each rated license level for each age category.

20 **SECTION 12B.2.(g)** The Division of Child Development and Early Education
21 shall continue implementing policies that improve the quality of child care for subsidized
22 children, including a policy in which child care subsidies are paid, to the extent possible, for
23 child care in the higher-quality centers and homes only. The Division shall define
24 higher-quality, and subsidy funds shall not be paid for one- or two-star-rated facilities. For
25 those counties with an inadequate number of four- and five-star-rated facilities, the Division
26 shall continue a transition period that allows the facilities to continue to receive subsidy funds
27 while the facilities work on the increased star ratings. The Division may allow exemptions in
28 counties where there is an inadequate number of four- and five-star-rated facilities for
29 non-star-rated programs, such as religious programs.

30 **SECTION 12B.2.(h)** Facilities licensed pursuant to Article 7 of Chapter 110 of the
31 General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the
32 program that provides for the purchase of care in child care facilities for minor children of
33 needy families. Except as authorized by subsection (g) of this section, no separate licensing
34 requirements shall be used to select facilities to participate. In addition, child care facilities
35 shall be required to meet any additional applicable requirements of federal law or regulations.
36 Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of
37 the General Statutes shall meet the requirements established by other State law and by the
38 Social Services Commission.

39 County departments of social services or other local contracting agencies shall not
40 use a provider's failure to comply with requirements in addition to those specified in this
41 subsection as a condition for reducing the provider's subsidized child care rate.

42 **SECTION 12B.2.(i)** Payment for subsidized child care services provided with
43 Temporary Assistance for Needy Families Block Grant funds shall comply with all regulations
44 and policies issued by the Division of Child Development and Early Education for the
45 subsidized child care program.

46 **SECTION 12B.2.(j)** Noncitizen families who reside in this State legally shall be
47 eligible for child care subsidies if all other conditions of eligibility are met. If all other
48 conditions of eligibility are met, noncitizen families who reside in this State illegally shall be
49 eligible for child care subsidies only if at least one of the following conditions is met:

- 50 (1) The child for whom a child care subsidy is sought is receiving child
51 protective services or foster care services.

1 (2) The child for whom a child care subsidy is sought is developmentally
2 delayed or at risk of being developmentally delayed.

3 (3) The child for whom a child care subsidy is sought is a citizen of the United
4 States.

5 **SECTION 12B.2.(k)** The Department of Health and Human Services, Division of
6 Child Development and Early Education, shall require all county departments of social services
7 to include on any forms used to determine eligibility for child care subsidy whether the family
8 waiting for subsidy is receiving assistance through the NC Pre-K Program or Head Start.

9
10 **CHILD CARE SUBSIDY MARKET RATE INCREASES/CERTAIN AGE GROUPS**
11 **AND COUNTIES**

12 **SECTION 12B.2A.** Beginning September 1, 2015, the Department of Health and
13 Human Services, Division of Child Development and Early Education, shall increase the child
14 care subsidy market rates to the rates recommended by the 2013 Child Care Market Rate Study
15 from birth through two years of age in three-, four-, and five-star-rated child care centers and
16 homes in tier one and tier two counties. For purposes of this section, tier one and tier two
17 counties shall have the same designations as those established by the N.C. Department of
18 Commerce.

19
20 **CHILD CARE ALLOCATION FORMULA**

21 **SECTION 12B.3.(a)** The Department of Health and Human Services shall allocate
22 child care subsidy voucher funds to pay the costs of necessary child care for minor children of
23 needy families. The mandatory thirty-percent (30%) North Carolina Partnership for Children,
24 Inc., subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each
25 county's child care subsidy allocation. The Department of Health and Human Services shall use
26 the following method when allocating federal and State child care funds, not including the
27 aggregate mandatory thirty-percent (30%) North Carolina Partnership for Children, Inc.,
28 subsidy allocation:

29 (1) Funds shall be allocated to a county based upon the projected cost of serving
30 children under age 11 in families with all parents working who earn less than
31 the applicable federal poverty level percentage set forth in Section 12B.2 of
32 this act.

33 (2) The Department of Health and Human Services shall allocate to counties all
34 State funds appropriated for child care subsidy and shall not withhold funds
35 during the 2015-2016 and 2016-2017 fiscal years.

36 **SECTION 12B.3.(b)** The Department of Health and Human Services may
37 reallocate unused child care subsidy voucher funds in order to meet the child care needs of
38 low-income families. Any reallocation of funds shall be based upon the expenditures of all
39 child care subsidy voucher funding, including North Carolina Partnership for Children, Inc.,
40 funds within a county.

41 **SECTION 12B.3.(c)** When implementing the formula under subsection (a) of this
42 section, the Department of Health and Human Services, Division of Child Development and
43 Early Education, shall include the market rate increase in the formula process, rather than
44 calculating the increases outside of the formula process. Additionally, the Department shall do
45 the following:

46 (1) For fiscal year 2015-2016, (i) continue implementing one-third of the change
47 in a county's allocation based on the new Census data; (ii) implement an
48 additional one-third of the change in a county's allocation beginning fiscal
49 year 2016-2017; and (iii) the final one-third change in a county's allocation
50 beginning fiscal year 2018-2019. However, beginning fiscal year 2015-2016,
51 a county's initial allocation shall be the county's expenditure in the previous

1 fiscal year. With the exception of market rate increases consistent with any
2 increases approved by the General Assembly, a county whose spending
3 coefficient is less than ninety-five percent (95%) in the previous fiscal year
4 shall receive its prior year's expenditure as its allocation and shall not receive
5 an increase in its allocation in the following year. A county whose spending
6 coefficient is at least ninety-five percent (95%) in the previous fiscal year
7 shall receive, at a minimum, the amount it expended in the previous fiscal
8 year and may receive additional funding, if available. The Division may
9 waive this requirement and allow an increase if the spending coefficient is
10 below ninety-five percent (95%) due to extraordinary circumstances, such as
11 a State or federal disaster declaration in the affected county. By October 1 of
12 each year, the Division shall report to the Joint Legislative Oversight
13 Committee on Health and Human Services and the Fiscal Research Division
14 the counties that received a waiver pursuant to this subdivision and the
15 reasons for the waiver.

- 16 (2) Effective immediately following the next new Census data release,
17 implement (i) one-third of the change in a county's allocation in the year
18 following the data release; (ii) an additional one-third of the change in a
19 county's allocation beginning two years after the initial change under this
20 subdivision; and (iii) the final one-third change in a county's allocation
21 beginning the following two years thereafter.
22

23 **CHILD CARE FUNDS MATCHING REQUIREMENTS**

24 **SECTION 12B.4.** No local matching funds may be required by the Department of
25 Health and Human Services as a condition of any locality's receiving its initial allocation of
26 child care funds appropriated by this act unless federal law requires a match. If the Department
27 reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing
28 agencies beyond their initial allocation, local purchasing agencies must provide a twenty
29 percent (20%) local match to receive the reallocated funds. Matching requirements shall not
30 apply when funds are allocated because of an emergency as defined in G.S. 166A-19.3(6).
31

32 **CHILD CARE REVOLVING LOAN**

33 **SECTION 12B.5.** Notwithstanding any law to the contrary, funds budgeted for the
34 Child Care Revolving Loan Fund may be transferred to and invested by the financial institution
35 contracted to operate the Fund. The principal and any income to the Fund may be used to make
36 loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's
37 cost of operating the Fund, or pay the Department's cost of administering the program.
38

39 **ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL 40 SERVICES/USE OF SUBSIDY FUNDS FOR FRAUD DETECTION**

41 **SECTION 12B.6.(a)** The Department of Health and Human Services, Division of
42 Child Development and Early Education, shall fund the allowance that county departments of
43 social services may use for administrative costs at four percent (4%) of the county's total child
44 care subsidy funds allocated in the Child Care and Development Fund Block Grant plan or
45 eighty thousand dollars (\$80,000), whichever is greater.

46 **SECTION 12B.6.(b)** Each county department of social services may use up to two
47 percent (2%) of child care subsidy funds allocated to the county for fraud detection and
48 investigation initiatives.

49 **SECTION 12B.6.(c)** The Division of Child Development and Early Education may
50 adjust the allocations in the Child Care and Development Fund Block Grant under Section
51 12I.1 of this act according to (i) the final allocations for local departments of social services

1 under subsection (a) of this section and (ii) the funds allocated for fraud detection and
2 investigation initiatives under subsection (b) of this section. The Division shall submit a report
3 on the final adjustments to the allocations of the four percent (4%) administrative costs to the
4 Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research
5 Division no later than September 30 of each year.

6
7 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**
8 **ENHANCEMENTS**

9 **SECTION 12B.7.(a) Policies.** – The North Carolina Partnership for Children, Inc.,
10 and its Board shall ensure policies focus on the North Carolina Partnership for Children, Inc.'s
11 mission of improving child care quality in North Carolina for children from birth to five years
12 of age. North Carolina Partnership for Children, Inc.-funded activities shall include assisting
13 child care facilities with (i) improving quality, including helping one-, two-, and
14 three-star-rated facilities increase their star ratings and (ii) implementing prekindergarten
15 programs. State funding for local partnerships shall also be used for evidence-based or
16 evidence-informed programs for children from birth to five years of age that do the following:

- 17 (1) Increase children's literacy.
- 18 (2) Increase the parents' ability to raise healthy, successful children.
- 19 (3) Improve children's health.
- 20 (4) Assist four- and five-star-rated facilities in improving and maintaining
21 quality.

22 **SECTION 12B.7.(b) Administration.** – Beginning fiscal year 2015-2016,
23 administrative costs for central administration shall be equivalent to not more than three and
24 twenty-five hundredths percent (3.25%). Administrative costs shall be equivalent to, on an
25 average statewide basis for all local partnerships, not more than seven and seventy-five
26 hundredths percent (7.75%) of the total statewide allocation to all local partnerships for the
27 2015-2016 fiscal year and beginning fiscal year 2016-2017, equivalent to not more than seven
28 and five-tenths percent (7.5%) of the total statewide allocation to all local partnerships. For
29 purposes of this subsection, administrative costs shall include costs associated with partnership
30 oversight, business and financial management, general accounting, human resources,
31 budgeting, purchasing, contracting, and information systems management. The North Carolina
32 Partnership for Children, Inc., shall continue using a single statewide contract management
33 system that incorporates features of the required standard fiscal accountability plan described in
34 G.S. 143B-168.12(a)(4). All local partnerships are required to participate in the contract
35 management system and, directed by the North Carolina Partnership for Children, Inc., to
36 collaborate, to the fullest extent possible, with other local partnerships to increase efficiency
37 and effectiveness.

38 **SECTION 12B.7.(c) Salaries.** – The salary schedule developed and implemented
39 by the North Carolina Partnership for Children, Inc., shall set the maximum amount of State
40 funds that may be used for the salary of the Executive Director of the North Carolina
41 Partnership for Children, Inc., and the directors of the local partnerships. The North Carolina
42 Partnership for Children, Inc., shall base the schedule on the following criteria:

- 43 (1) The population of the area serviced by a local partnership.
- 44 (2) The amount of State funds administered.
- 45 (3) The amount of total funds administered.
- 46 (4) The professional experience of the individual to be compensated.
- 47 (5) Any other relevant factors pertaining to salary, as determined by the North
48 Carolina Partnership for Children, Inc.

49 The salary schedule shall be used only to determine the maximum amount of State
50 funds that may be used for compensation. Nothing in this subsection shall be construed to

1 prohibit a local partnership from using non-State funds to supplement an individual's salary in
2 excess of the amount set by the salary schedule established under this subsection.

3 **SECTION 12B.7.(d) Match Requirements.** – The North Carolina Partnership for
4 Children, Inc., and all local partnerships shall, in the aggregate, be required to match one
5 hundred percent (100%) of the total amount budgeted for the program in each fiscal year of the
6 2015-2017 biennium. Of the funds the North Carolina Partnership for Children, Inc., and the
7 local partnerships are required to match, contributions of cash shall be equal to at least twelve
8 percent (12%) and in-kind donated resources shall be equal to no more than five percent (5%)
9 for a total match requirement of seventeen percent (17%) for the 2015-2016 fiscal year; and
10 contributions of cash shall be equal to at least thirteen percent (13%) and in-kind donated
11 resources shall be equal to no more than six percent (6%) for a total match requirement of
12 nineteen percent (19%) for the 2016-2017 fiscal year. The North Carolina Partnership for
13 Children, Inc., may carry forward any amount in excess of the required match for a fiscal year
14 in order to meet the match requirement of the succeeding fiscal year. Only in-kind
15 contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer
16 services may be treated as an in-kind contribution for the purpose of the match requirement of
17 this subsection. Volunteer services that qualify as professional services shall be valued at the
18 fair market value of those services. All other volunteer service hours shall be valued at the
19 statewide average wage rate as calculated from data compiled by the Division of Employment
20 Security of the Department of Commerce in the Employment and Wages in North Carolina
21 Annual Report for the most recent period for which data are available. Expenses, including
22 both those paid by cash and in-kind contributions, incurred by other participating non-State
23 entities contracting with the North Carolina Partnership for Children, Inc., or the local
24 partnerships, also may be considered resources available to meet the required private match. In
25 order to qualify to meet the required private match, the expenses shall:

- 26 (1) Be verifiable from the contractor's records.
- 27 (2) If in-kind, other than volunteer services, be quantifiable in accordance with
28 generally accepted accounting principles for nonprofit organizations.
- 29 (3) Not include expenses funded by State funds.
- 30 (4) Be supplemental to and not supplant preexisting resources for related
31 program activities.
- 32 (5) Be incurred as a direct result of the Early Childhood Initiatives Program and
33 be necessary and reasonable for the proper and efficient accomplishment of
34 the Program's objectives.
- 35 (6) Be otherwise allowable under federal or State law.
- 36 (7) Be required and described in the contractual agreements approved by the
37 North Carolina Partnership for Children, Inc., or the local partnership.
- 38 (8) Be reported to the North Carolina Partnership for Children, Inc., or the local
39 partnership by the contractor in the same manner as reimbursable expenses.

40 Failure to obtain a seventeen-percent (17%) match by June 30 of the 2015-2016
41 fiscal year and a nineteen-percent (19%) match by June 30 of the 2016-2017 fiscal year shall
42 result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent
43 fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for
44 compiling information on the private cash and in-kind contributions into a report that is
45 submitted to the Joint Legislative Oversight Committee on Health and Human Services in a
46 format that allows verification by the Department of Revenue. The same match requirements
47 shall apply to any expansion funds appropriated by the General Assembly.

48 **SECTION 12B.7.(e) Bidding.** – The North Carolina Partnership for Children, Inc.,
49 and all local partnerships shall use competitive bidding practices in contracting for goods and
50 services on contract amounts as follows:

- 1 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures
2 specified by a written policy as developed by the Board of Directors of the
3 North Carolina Partnership for Children, Inc.
- 4 (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen
5 thousand dollars (\$15,000), three written quotes.
- 6 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than
7 forty thousand dollars (\$40,000), a request for proposal process.
- 8 (4) For amounts of forty thousand dollars (\$40,000) or more, a request for
9 proposal process and advertising in a major newspaper.

10 **SECTION 12B.7.(f)** Allocations. – The North Carolina Partnership for Children,
11 Inc., shall not reduce the allocation for counties with less than 35,000 in population below the
12 2012-2013 funding level.

13 **SECTION 12B.7.(g)** Performance-Based Evaluation. – The Department of Health
14 and Human Services shall continue to implement the performance-based evaluation system.

15 **SECTION 12B.7.(h)** Expenditure Restrictions. – The Department of Health and
16 Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the
17 allocation of funds for Early Childhood Education and Development Initiatives for the
18 2015-2017 fiscal biennium shall be administered and distributed in the following manner:

- 19 (1) Capital expenditures are prohibited for the 2015-2017 fiscal biennium. For
20 the purposes of this section, "capital expenditures" means expenditures for
21 capital improvements as defined in G.S. 143C-1-1(d)(5).
- 22 (2) Expenditures of State funds for advertising and promotional activities are
23 prohibited for the 2015-2017 fiscal biennium.

24 For the 2015-2017 fiscal biennium, local partnerships shall not spend any State funds on
25 marketing campaigns, advertising, or any associated materials. Local partnerships may spend
26 any private funds the local partnerships receive on those activities.

27 28 **PLAN FOR MERGER OF EARLY EDUCATION AND FAMILY SUPPORT** 29 **PROGRAMS**

30 **SECTION 12B.8.** The Joint Legislative Program Evaluation Oversight Committee
31 shall include in the 2015-2017 Work Plan a directive for the Program Evaluation Division to
32 plan a merger of the Child Care Subsidy, NC Prekindergarten (NC Pre-K), and Smart Start
33 programs. The Director of the Program Evaluation Division shall recommend a firm for
34 approval by the Legislative Services Commission to prepare the plan under the supervision of
35 the Program Evaluation Division. The sum of three hundred thousand dollars (\$300,000) is
36 hereby appropriated to the Legislative Services Commission from the General Fund for the
37 2015-2016 fiscal year in nonrecurring funds to pay for the contract. The Program Evaluation
38 Division shall submit the merger plan prepared by the contractor to the Joint Legislative
39 Program Evaluation Oversight Committee, the Joint Legislative Oversight Committee on
40 Health and Human Services, the Joint Legislative Education Oversight Committee, and the
41 Fiscal Research Division no later than March 1, 2016.

42 43 **U.S. DEPARTMENT OF DEFENSE-CERTIFIED CHILD CARE FACILITIES** 44 **PARTICIPATION IN STATE-SUBSIDIZED CHILD CARE PROGRAM**

45 **SECTION 12B.9.(a)** Article 7 of Chapter 110 of the General Statutes is amended
46 by adding a new section to read:

47 **"§ 110-106.2. Department of Defense-certified child care facilities.**

48 (a) As used in this section, the phrase "Department of Defense-certified child care
49 facility" shall include child development centers, family child care homes, and school-aged
50 child care facilities operated aboard a military installation under the authorization of the United
51 States Department of Defense (Department of Defense) certified by the Department of Defense.

(b) Procedure Regarding Department of Defense-Certified Child Care Facilities. –

(1) Department of Defense-certified child care facilities shall file with the Department a notice of intent to operate a child care facility in a form determined by the Department of Defense.

(2) As part of its notice, each Department of Defense-certified child care facility shall file a report to the Department indicating that it meets the minimum standards for child care facilities as provided by the Department of Defense.

(3) Department of Defense-certified child care facilities that meet all the requirements of this section shall be exempt from all other requirements of this Article and shall not be subject to licensure.

(4) For purposes of the North Carolina Subsidized Child Care Program, Department of Defense-certified child care facilities shall be reimbursed as follows:

a. Department of Defense-certified child care facilities that are accredited by the National Association for the Education of Young Children (NAEYC) shall be reimbursed at the five-star-rated license rate.

b. All other Department of Defense-certified child care facilities shall be reimbursed at the four-star-rated license rate."

SECTION 12B.9.(b) G.S. 143B-168.15(g) reads as rewritten:

"(g) Not less than thirty percent (30%) of the funds spent in each year of each local partnership's direct services allocation shall be used to expand child care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child care services as described in this section. The North Carolina Partnership may increase this percentage requirement up to a maximum of fifty percent (50%) when, based upon a significant local waiting list for subsidized child care, the North Carolina Partnership determines a higher percentage is justified. Local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars (\$52,000,000) for the Temporary Assistance to Needy Families (TANF) maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement. Funds allocated under this section shall supplement and not supplant any federal or State funds allocated to Department of Defense-certified child care facilities licensed under G.S. 110-106.2."

SECTION 12B.9.(c) Department of Defense-certified child care facilities licensed pursuant to G.S. 110-106.2, as enacted in subsection (a) of this section, may participate in the State-subsidized child care program that provides for the purchase of care in child care facilities for minor children in needy families; provided, that funds allocated from the State-subsidized child care program to Department of Defense-certified child care facilities shall supplement and not supplant funds allocated in accordance with G.S. 143B-168.15(g). Payment rates and fees for military families who choose Department of Defense-certified child care facilities and who are eligible to receive subsidized child care shall be as set forth in Section 12B.2 of this act.

SECTION 12B.9.(d) This section becomes effective January 1, 2016.

SUBPART XII-C. DIVISION OF SOCIAL SERVICES

TANF BENEFIT IMPLEMENTATION

SECTION 12C.1.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2013-2016," 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, 2013, through September 30, 2016. The Department shall submit the State Plan, as revised in

1 accordance with subsection (b) of this section, to the United States Department of Health and
2 Human Services.

3 **SECTION 12C.1.(b)** The counties approved as Electing Counties in the North
4 Carolina Temporary Assistance for Needy Families State Plan FY 2013-2016, as approved by
5 this section, are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

6 **SECTION 12C.1.(c)** Counties that submitted the letter of intent to remain as an
7 Electing County or to be redesignated as an Electing County and the accompanying county plan
8 for years 2013 through 2016, pursuant to G.S. 108A-27(e), shall operate under the Electing
9 County budget requirements effective July 1, 2015. For programmatic purposes, all counties
10 referred to in this subsection shall remain under their current county designation through
11 September 30, 2016.

12 **SECTION 12C.1.(d)** For each year of the 2015-2017 fiscal biennium, Electing
13 Counties shall be held harmless to their Work First Family Assistance allocations for the
14 2014-2015 fiscal year, provided that remaining funds allocated for Work First Family
15 Assistance and Work First Diversion Assistance are sufficient for payments made by the
16 Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

17 **SECTION 12C.1.(e)** In the event that departmental projections of Work First
18 Family Assistance and Work First Diversion Assistance for the 2015-2016 fiscal year or the
19 2016-2017 fiscal year indicate that remaining funds are insufficient for Work First Family
20 Assistance and Work First Diversion Assistance payments to be made on behalf of Standard
21 Counties, the Department is authorized to deallocate funds, of those allocated to Electing
22 Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11,
23 up to the requisite amount for payments in Standard Counties. Prior to deallocation, the
24 Department shall obtain approval by the Office of State Budget and Management. If the
25 Department adjusts the allocation set forth in subsection (d) of this section, then a report shall
26 be made to the Joint Legislative Oversight Committee on Health and Human Services and the
27 Fiscal Research Division.

28 29 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND** 30 **PERFORMANCE ENHANCEMENTS**

31 **SECTION 12C.2.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the
32 Intensive Family Preservation Services (IFPS) Program shall provide intensive services to
33 children and families in cases of abuse, neglect, and dependency where a child is at imminent
34 risk of removal from the home and to children and families in cases of abuse where a child is
35 not at imminent risk of removal. The Program shall be developed and implemented statewide
36 on a regional basis. The IFPS shall ensure the application of standardized assessment criteria
37 for determining imminent risk and clear criteria for determining out-of-home placement.

38 **SECTION 12C.2.(b)** The Department of Health and Human Services shall require
39 that any program or entity that receives State, federal, or other funding for the purpose of IFPS
40 shall provide information and data that allows for the following:

- 41 (1) An established follow-up system with a minimum of six months of
42 follow-up services.
- 43 (2) Detailed information on the specific interventions applied, including
44 utilization indicators and performance measurement.
- 45 (3) Cost-benefit data.
- 46 (4) Data on long-term benefits associated with IFPS. This data shall be obtained
47 by tracking families through the intervention process.
- 48 (5) The number of families remaining intact and the associated interventions
49 while in IFPS and 12 months thereafter.

- 1 (6) The number and percentage, by race, of children who received IFPS
2 compared to the ratio of their distribution in the general population involved
3 with Child Protective Services.

4 **SECTION 12C.2.(c)** The Department shall establish a performance-based funding
5 protocol and shall only provide funding to those programs and entities providing the required
6 information specified in subsection (b) of this section. The amount of funding shall be based on
7 the individual performance of each program.

8 9 **CHILD CARING INSTITUTIONS**

10 **SECTION 12C.3.** Until the Social Services Commission adopts rules setting
11 standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the
12 maximum reimbursement for child caring institutions shall not exceed the rate established for
13 the specific child caring institution by the Department of Health and Human Services, Office of
14 the Controller. In determining the maximum reimbursement, the State shall include county and
15 IV-E reimbursements.

16 17 **USE OF FOSTER CARE BUDGET FOR GUARDIANSHIP ASSISTANCE PROGRAM**

18 **SECTION 12C.4.** Of the funds available for the provision of foster care services,
19 the Department of Health and Human Services, Division of Social Services, may provide for
20 the financial support of children who are deemed to be (i) in a permanent family placement
21 setting, (ii) eligible for legal guardianship, and (iii) otherwise unlikely to receive permanency.
22 The Division of Social Services shall design the Guardianship Assistance Program (GAP) to
23 include provisions for extending guardianship services for individuals who have attained the
24 age of 18 years and opt to continue to receive guardianship services until reaching 21 years of
25 age if the individual is (i) completing secondary education or a program leading to an
26 equivalent credential, (ii) enrolled in an institution that provides postsecondary or vocational
27 education, (iii) participating in a program or activity designed to promote, or remove barriers
28 to, employment, (iv) employed for at least 80 hours per month, or (v) incapable of completing
29 the educational or employment requirements of this section due to a medical condition or
30 disability. The Guardianship Assistance Program rates shall reimburse the legal guardian for
31 room and board and be set at the same rate as the foster care room and board rates in
32 accordance with rates established under G.S. 108A-49.1. The Social Services Board shall adopt
33 rules establishing a Guardianship Assistance Program to implement this section, including
34 defining the phrase "legal guardian" as used in this section.

35 36 **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM (NC REACH)**

37 **SECTION 12C.5.(a)** Funds appropriated from the General Fund to the Department
38 of Health and Human Services for the child welfare postsecondary support program shall be
39 used to continue providing assistance with the "cost of attendance" as that term is defined in 20
40 U.S.C. § 108711 for the educational needs of foster youth aging out of the foster care system
41 and special needs children adopted from foster care after age 12. These funds shall be allocated
42 by the State Education Assistance Authority.

43 **SECTION 12C.5.(b)** Of the funds appropriated from the General Fund to the
44 Department of Health and Human Services, the sum of fifty thousand dollars (\$50,000) for the
45 2015-2016 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2016-2017 fiscal
46 year shall be allocated to the North Carolina State Education Assistance Authority (SEAA).
47 The SEAA shall use these funds only to perform administrative functions necessary to manage
48 and distribute scholarship funds under the child welfare postsecondary support program.

49 **SECTION 12C.5.(c)** Of the funds appropriated from the General Fund to the
50 Department of Health and Human Services, the sum of three hundred thirty-nine thousand four
51 hundred ninety-three dollars (\$339,493) for the 2015-2016 fiscal year and the sum of three

1 hundred thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the 2016-2017
2 fiscal year shall be used to contract with an entity to administer the child welfare postsecondary
3 support program described under subsection (a) of this section, which administration shall
4 include the performance of case management services.

5 **SECTION 12C.5.(d)** Funds appropriated to the Department of Health and Human
6 Services for the child welfare postsecondary support program shall be used only for students
7 attending public institutions of higher education in this State.

9 **FEDERAL CHILD SUPPORT INCENTIVE PAYMENTS**

10 **SECTION 12C.7.(a)** Centralized Services. – The North Carolina Child Support
11 Services Section (NCCSS) of the Department of Health and Human Services, Division of
12 Social Services, shall retain up to fifteen percent (15%) of the annual federal incentive
13 payments it receives from the federal government to enhance centralized child support services.
14 To accomplish this requirement, NCCSS shall do the following:

- 15 (1) In consultation with representatives from county child support services
16 programs, identify how federal incentive funding could improve centralized
17 services.
- 18 (2) Use federal incentive funds to improve the effectiveness of the State's
19 centralized child support services by supplementing and not supplanting
20 State expenditures for those services.
- 21 (3) Develop and implement rules that explain the State process for calculating
22 and distributing federal incentive funding to county child support services
23 programs.

24 **SECTION 12C.7.(b)** County Child Support Services Programs. – NCCSS shall
25 allocate no less than eighty-five percent (85%) of the annual federal incentive payments it
26 receives from the federal government to county child support services programs to improve
27 effectiveness and efficiency using the federal performance measures. To that end, NCCSS shall
28 do the following:

- 29 (1) In consultation with representatives from county child support services
30 programs, examine the current methodology for distributing federal
31 incentive funding to the county programs and determine whether an
32 alternative formula would be appropriate. NCCSS shall use its current
33 formula for distributing federal incentive funding until an alternative
34 formula is adopted.
- 35 (2) Upon adopting an alternative formula, develop a process to phase-in the
36 alternative formula for distributing federal incentive funding over a
37 four-year period.

38 **SECTION 12C.7.(c)** Reporting by County Child Support Services Programs. –
39 NCCSS shall establish guidelines that identify appropriate uses for federal incentive funding.
40 To ensure those guidelines are properly followed, NCCSS shall require county child support
41 services programs to comply with each of the following:

- 42 (1) Submit an annual plan describing how federal incentive funding would
43 improve program effectiveness and efficiency as a condition of receiving
44 federal incentive funding.
- 45 (2) Report annually on: (i) how federal incentive funding has improved program
46 effectiveness and efficiency and been reinvested into their programs, (ii)
47 provide documentation that the funds were spent according to their annual
48 plans, and (iii) explain any deviations from their plans.

49 **SECTION 12C.7.(d)** Plan/Report by NCCSS. – The NCCSS shall develop a plan
50 to implement the requirements of this section. Prior to implementing the plan, NCCSS shall

1 submit a progress report on the plan to the Joint Legislative Oversight Committee on Health
2 and Human Services and the Fiscal Research Division by November 1, 2015.

3 After implementing the plan, NCCSS shall submit a report on federal child support
4 incentive funding to the Joint Legislative Oversight Committee on Health and Human Services
5 and the Fiscal Research Division by November 1 of each year. The report shall describe how
6 federal incentive funds enhanced centralized child support services to benefit county child
7 support services programs and improved the effectiveness and efficiency of county child
8 support services programs. The report shall further include any changes to the State process the
9 NCCSS used in calculating and distributing federal incentive funding to county child support
10 services programs and any recommendations for further changes.

11
12 **CHILD PROTECTIVE SERVICES IMPROVEMENT INITIATIVE/REVISE**
13 **STATEWIDE EVALUATION REPORT DATE**

14 **SECTION 12C.8.** The Department of Health and Human Services, Division of
15 Social Services, shall report on the findings and recommendations from the comprehensive,
16 statewide evaluation of the State's child protective services system required by Section 12C.1(f)
17 of S.L. 2014-100 to the Joint Legislative Oversight Committee on Health and Human Services
18 on or before March 1, 2016.

19
20 **FOSTERING SUCCESS/EXTEND FOSTER CARE TO 21 YEARS OF AGE**

21 **SECTION 12C.9.(a)** G.S. 108A-48 reads as rewritten:

22 **"§ 108A-48. State Foster Care Benefits Program.**

23 (a) The Department is authorized to establish a State Foster Care Benefits Program with
24 appropriations by the General Assembly for the purpose of providing assistance to children
25 who are placed in foster care facilities by county departments of social services in accordance
26 with the rules and regulations of the Social Services Commission. Such appropriations, together
27 with county contributions for this purpose, shall be expended to provide for the costs of
28 keeping children in foster care facilities.

29 ~~(b) No benefits provided by this section shall be granted to any individual who has~~
30 ~~passed his eighteenth birthday unless he is less than 21 years of age and is a full-time student or~~
31 ~~has been accepted for enrollment as a full-time student for the next school term pursuing a high~~
32 ~~school diploma or its equivalent; a course of study at the college level; or a course of vocational~~
33 ~~or technical training designed to fit him for gainful employment.~~

34 (c) The Department may continue to provide benefits pursuant to this section to an
35 individual who has attained the age of 18 years and chosen to continue receiving foster care
36 services until reaching 21 years of age if the individual is (i) completing secondary education or
37 a program leading to an equivalent credential, (ii) enrolled in an institution that provides
38 postsecondary or vocational education, (iii) participating in a program or activity designed to
39 promote, or remove barriers to, employment, (iv) employed for at least 80 hours per month, or
40 (v) incapable of completing the educational or employment requirements of this subsection due
41 to a medical condition or disability.

42 (d) With monthly supervision and oversight by the director of the county department of
43 social services or a supervising agency, an individual receiving benefits pursuant to subsection
44 (c) of this section may reside outside a foster care facility in a college or university dormitory
45 or other semi-supervised housing arrangement approved by the director of the county
46 department of social services and continue to receive benefits pursuant to this section."

47 **SECTION 12C.9.(b)** G.S. 108A-49 is amended by adding a new subsection to
48 read:

49 "(e) If all other eligibility criteria are met, adoption assistance payments may continue
50 until the beneficiary reaches the age of 21 if the beneficiary was adopted after reaching the age
51 of 16 but prior to reaching the age of 18."

1 **SECTION 12C.9.(c)** G.S. 108A-49.1 reads as rewritten:

2 "**§ 108A-49.1. Foster care and adoption assistance payment rates.**

3 (a) The maximum rates for State participation in the foster care assistance program are
4 established on a graduated scale as follows:

5 (1) \$475.00 per child per month for children from birth through five years of
6 age.

7 (2) \$581.00 per child per month for children six through 12 years of age.

8 (3) \$634.00 per child per month for children at least 13 through 18 but less than
9 21 years of age.

10 (b) The maximum rates for the State adoption assistance program are established
11 consistent with the foster care rates as follows:

12 (1) \$475.00 per child per month for children from birth through five years of
13 age.

14 (2) \$581.00 per child per month for children six through 12 years of age.

15 (3) \$634.00 per child per month for children at least 13 through 18 but less than
16 21 years of age.

17 (c) The maximum rates for the State participation in human immunodeficiency virus
18 (HIV) foster care and adoption assistance are established on a graduated scale as follows:

19 (1) \$800.00 per child per month with indeterminate HIV status.

20 (2) \$1,000 per child per month with confirmed HIV infection, asymptomatic.

21 (3) \$1,200 per child per month with confirmed HIV infection, symptomatic.

22 (4) \$1,600 per child per month when the child is terminally ill with complex
23 care needs.

24 In addition to providing board payments to foster and adoptive families of HIV-infected
25 children, any additional funds remaining that are appropriated for purposes described in this
26 subsection shall be used to provide medical training in avoiding HIV transmission in the home.

27 (d) The State and a county participating in foster care and adoption assistance shall each
28 contribute fifty percent (50%) of the nonfederal share of the cost of care for a child placed by a
29 county department of social services or child-placing agency in a family foster home or
30 residential child care facility. A county shall be held harmless from contributing fifty percent
31 (50%) of the nonfederal share of the cost for a child placed in a family foster home or
32 residential child care facility under an agreement with that provider as of October 31, 2008,
33 until the child leaves foster care or experiences a placement change.

34 (e) A county shall be held harmless from contributing fifty percent (50%) of the
35 nonfederal share of the cost for an individual receiving benefits pursuant to G.S. 108A-48(c)."

36 **SECTION 12C.9.(d)** G.S. 131D-10.2 reads as rewritten:

37 "**§ 131D-10.2. Definitions.**

38 For purposes of this Article, unless the context clearly implies otherwise:

39 ...

40 (3) "Child" means an individual less than ~~18-21~~ years of age, who has not been
41 emancipated under the provisions of Article 35 of Chapter 7B of the General
42 Statutes.

43 ...

44 (9a) "Foster Parent" means any individual who is ~~18-21~~ years of age or older who
45 is licensed by the State to provide foster care.

46 "

47 **SECTION 12C.9.(e)** Part 1 of Article 1A of Chapter 131D of the General Statutes
48 is amended by adding a new section to read:

49 "**§ 131D-10.2A. Foster care until 21 years of age.**

50 (a) A child placed in foster care who has attained the age of 18 years may continue
51 receiving foster care services until reaching 21 years of age as provided by law. A child who

1 initially chooses to opt out of foster care upon attaining the age of 18 years may opt to receive
2 foster care services at a later date until reaching 21 years of age.

3 (b) A child who has attained the age of 18 years and chosen to continue receiving foster
4 care services until reaching 21 years of age may continue to receive benefits pursuant to Part 4
5 of Article 2 of Chapter 108A of the General Statutes upon meeting the requirements under
6 G.S. 108A-48(c)."

7 **SECTION 12C.9.(f)** G.S. 131D-10.5 reads as rewritten:

8 **"§ 131D-10.5. Powers and duties of the Commission.**

9 In addition to other powers and duties prescribed by law, the Commission shall exercise the
10 following powers and duties:

- 11 (1) Adopt, amend and repeal rules consistent with the laws of this State and the
12 laws and regulations of the federal government to implement the provisions
13 and purposes of this ~~Article;~~Article.
- 14 (2) Issue declaratory rulings as may be needed to implement the provisions and
15 purposes of this ~~Article;~~Article.
- 16 (3) Adopt rules governing procedures to appeal Department decisions pursuant
17 to this Article granting, denying, suspending or revoking ~~licenses;~~licenses.
- 18 (4) Adopt criteria for waiver of licensing rules adopted pursuant to this
19 ~~Article;~~Article.
- 20 (5) Adopt rules on documenting the use of physical restraint in residential
21 child-care ~~facilities;~~facilities.
- 22 (6) Adopt rules establishing personnel and training requirements related to the
23 use of physical restraints and time-out for staff employed in residential
24 child-care ~~facilities;~~ ~~and~~facilities.
- 25 (7) Adopt rules establishing educational requirements, minimum age, relevant
26 experience, and criminal record status for executive directors and staff
27 employed by child placing agencies and residential child care facilities.
- 28 (8) Adopt any rules necessary for the expansion of foster care for individuals
29 who have attained the age of 18 years and chosen to continue receiving
30 foster care services to 21 years of age in accordance with G.S. 131D-10.2A."

31 **SECTION 12C.9.(g)** Article 9 of Chapter 7B of the General Statutes is amended
32 by adding a new section to read:

33 **"§ 7B-910.1. Review of voluntary foster care placements with young adults.**

34 (a) The court shall review the placement of a young adult in foster care authorized by
35 G.S. 108A-48(c) when the director of social services and a young adult who was in foster care
36 as a juvenile enter into a voluntary placement agreement. The review hearing shall be held not
37 more than 90 days from the date the agreement was executed, and the court shall make findings
38 from evidence presented at this review hearing with regard to all of the following:

- 39 (1) Whether the placement is in the best interest of the young adult in foster
40 care.
- 41 (2) The services that have been or should be provided to the young adult in
42 foster care to improve the placement.
- 43 (3) The services that have been or should be provided to the young adult in
44 foster care to further the young adult's educational or vocational ambitions, if
45 relevant.

46 (b) Upon written request of the young adult or the director of social services, the court
47 may schedule additional hearings to monitor the placement and progress toward the young
48 adult's educational or vocational ambitions.

49 (c) No guardian ad litem under G.S. 7B-601 will be appointed to represent the young
50 adult in the initial or any subsequent hearing.

1 (d) The clerk shall give written notice of the initial and any subsequent review hearings
2 to the young adult and foster care and the director of social services at least 15 days prior to the
3 date of the hearing."

4 **SECTION 12C.9.(h)** G.S. 7B-401.1 is amended by adding a new subsection to
5 read:

6 "(i) Young Adult in Foster Care. – In proceedings held pursuant to G.S. 7B-910.1, the
7 young adult in foster care and the director of the department of social services are parties."

8 **SECTION 12C.9.(i)** The Department of Health and Human Services, Division of
9 Social Services (Division), shall develop a plan for the expansion of foster care services for
10 individuals who have attained the age of 18 years and opt to continue receiving foster care
11 services until reaching 21 years of age. The Division shall report on the plan to the Joint
12 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
13 Division by October 1, 2015. The Division shall report on the plan as implemented to the Joint
14 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
15 Division by November 1, 2016.

16 **SECTION 12C.9.(j)** No later than 60 days after the Department implements the
17 plan for the expansion of foster care services as required under subsection (i) of this section, the
18 Division shall submit a State plan amendment to the U.S. Department of Health and Human
19 Services Administration for Children and Families to make federal payments for foster care and
20 adoption assistance, as applicable, under Title IV-E, available to a person meeting the
21 requirements of G.S. 108A-48(c), as enacted in subsection (a) of this section.

22 **SECTION 12C.9.(k)** Any agreement entered into pursuant to G.S. 108A-48(b)
23 prior to the effective date of subsection (a) of this section shall remain in full force and effect,
24 and no provision of this section shall be construed to affect or alter such an agreement.

25 **SECTION 12C.9.(l)** Subsection (a) of this section becomes effective August 1,
26 2016, and applies to agreements entered into on or after that date. Subsections (i), (j), and (k) of
27 this section are effective when they become law. The remainder of this section becomes
28 effective August 1, 2016.

29 30 **REQUIRE TRANSFER OF CERTAIN SERVICES TO EASTERN BAND OF** 31 **CHEROKEE INDIANS**

32 **SECTION 12C.10.(a)** G.S. 108A-25 reads as rewritten:

33 "**§ 108A-25. Creation of programs; assumption by federally recognized tribe of**
34 **programs.**

35 ...

36 (e) When any federally recognized Native American tribe within the State assumes
37 responsibility for any social services, Medicaid and NC Health Choice healthcare benefit
38 programs, and ancillary services, including Medicaid administrative and service functions, that
39 are otherwise the responsibility of a county under State law, then, notwithstanding any other
40 provision of law, the county shall be relieved of the legal responsibility related to the tribe's
41 assumption of those services. With respect to a tribe's assumption of any responsibilities for
42 administration of any aspects of the NC Medicaid program, NC Health Choice, and the
43 Supplemental Nutrition Assistance Program (SNAP), the State and the tribe shall execute an
44 agreement to set forth the general terms, definitions, and conditions by which the parties shall
45 operate. Upon the execution of the agreement, to allow the tribe to assume certain duties and
46 responsibilities for the administration of the NC Medicaid program, NC Health Choice, and
47 SNAP, the agreement between the State and the tribe shall require the tribe to accept the
48 oversight authority of the State and the Department of Health and Human Services
49 (Department) in the administration and supervision of these programs. In addition to the other
50 necessary terms and conditions, the agreement shall include the following conditions:

- 1 (1) All requirements as prescribed by federal law, as well as the tribe and State's
2 responsibilities in complying with federal law, including, but not limited to,
3 any specific provisions pertaining to accounting and auditing compliance,
4 maintenance of liability insurance, confidentiality, reporting requirements,
5 indemnity, waiver of immunity, or due process.
- 6 (2) As the Department is the federally recognized single State agency for the NC
7 Medicaid program, NC Health Choice, and SNAP, provisions stating the
8 Department retains ultimate administrative discretion in the administration
9 and supervision of the program, including, but not limited to, issuance and
10 interpretation of all applicable policies, rules, and regulations regarding
11 application processing, eligibility determinations and redeterminations, and
12 other functions related to the eligibility process.
- 13 (3) Provisions by the tribe to ensure that individuals who will be responsible for
14 the tribe's duties and responsibilities under this agreement shall be employed
15 under standards equivalent to current standards for a Merit System of
16 Personnel Administration or any standards later prescribed by the Office of
17 Personnel Management under section 208 of the Intergovernmental
18 Personnel Act of 1970 and shall provide the Department with information
19 for verification of this condition.
- 20 (4) Either party may terminate the agreement without cause with at least 30
21 days' notice prior to the date the terminating party seeks to terminate the
22 agreement. The Department may terminate all or part of the agreement when
23 federal or State funding becomes unavailable for any reason.

24 (f) With respect to programs federally administered by the Administration for Children
25 and Families (ACF), the Department shall maintain oversight authority for all federal
26 protections to individuals living on federal reservations held in trust by the United States until
27 such time as ACF has approved the Eastern Band of Cherokee Indians to administer these
28 programs."

29 **SECTION 12C.10.(b)** G.S. 108A-87(c) reads as rewritten:

30 "(c) Notwithstanding subsections (a) and (b) of this section, when the Eastern Band of
31 Cherokee Indians assumes responsibility for a program described under G.S. 108A-25(e), the
32 following shall occur:

- 33 (1) Nonfederal matching funds designated to Jackson and Swain counties to
34 serve the Eastern Band of Cherokee Indians for that program previously
35 borne by the State shall be allocated directly to the Eastern Band of
36 Cherokee Indians rather than to those ~~counties~~ counties and shall not exceed
37 the amount expended by the State for fiscal year 2014-2015 for programs or
38 services assumed by the Eastern Band of Cherokee Indians, as applicable,
39 plus the growth rate equal to the growth in State-funded nonfederal share for
40 all counties.
- 41 (2) Any portion of nonfederal matching funds borne by counties for public
42 assistance and social services programs and related administrative costs shall
43 be borne by the Eastern Band of Cherokee Indians."

44 **SECTION 12C.10.(c)** Of the funds appropriated in this act from the General Fund
45 to the Department of Health and Human Services, Division of Social Services, the sum of three
46 hundred sixty thousand dollars (\$360,000) in recurring funds for fiscal year 2015-2016 and the
47 sum of three million two hundred thousand dollars (\$3,200,000) in nonrecurring funds for
48 fiscal year 2015-2016 shall be deposited in the Department's information technology budget
49 code to be used for ongoing operation and maintenance pursuant to implementing the
50 provisions of this section.

1 **SECTION 12C.10.(d)** Approval for the tribe to administer the eligibility process
2 for Medicaid and NC Health Choice is contingent upon federal approval of a state plan
3 amendment and Medicaid waivers by the Centers for Medicare and Medicaid Services (CMS).
4 The Department of Health and Human Services, Division of Medical Assistance, shall make
5 any necessary amendments to its previous SPA 14-001, including amendment of its effective
6 date. The new effective date shall be October 1, 2016. If CMS does not approve the SPA, the
7 counties shall continue serving individuals living on the federal lands held in trust by the
8 United States.

9 **SECTION 12C.10.(e)** Within 30 days of CMS approval of the amended SPA
10 14-001, the Department of Health and Human Services shall submit an Advanced Planning
11 Document Update (APDU) to CMS, the United States Department of Agriculture (USDA), and
12 the Administration for Children and Families (ACF). If CMS, USDA, and ACF do not approve
13 the APDU, the counties shall continue serving individuals living on the federal lands held in
14 trust by the United States.

15 **SECTION 12C.10.(f)** Upon CMS, USDA, and ACF approval of the APDU, the
16 Department of Health and Human Services (Department) shall begin functional and detailed
17 design, development, testing, and training of NC FAST, NCTracks, and legacy systems to
18 allow the Eastern Band of Cherokee Indians to assume certain administrative duties consistent
19 with approval given by federal funding partners and any agreements between the Eastern Band
20 of Cherokee Indians and the Department.

21 **SECTION 12C.10.(g)** If federal law allows the Eastern Band of Cherokee Indians
22 to assume responsibility for the NC Medicaid program, NC Health Choice, or SNAP, the
23 Eastern Band of Cherokee Indians shall be allowed to assume responsibility for those programs
24 if they choose to assume such responsibility.
25

26 **CHILD PROTECTIVE SERVICES PILOT PROJECT**

27 **SECTION 12C.11.(a)** Of the funds appropriated in this act to the Department of
28 Health and Human Services, Division of Social Services, the sum of three hundred thousand
29 dollars (\$300,000) shall be used for the continuation of the Child Protective Services Pilot
30 Project established by Section 12C.1(e) of S.L. 2014-100. The Division shall continue to
31 collaborate with the Government Data Analytics Center (GDAC) and shall utilize the funds to
32 support and enhance the Pilot by doing the following:

- 33 (1) Developing a dashboard linking the family to the child.
- 34 (2) Integrating additional Department of Health and Human Services and other
35 State department data sources to build a more comprehensive view of the
36 child and family, including (i) matching the child to the caretaker; (ii)
37 linking child, family, and address information; and (iii) integrating Criminal
38 Justice Law Enforcement Automated Data Services (CJLEADS) data to
39 determine if the caretaker or someone living in the house is a sex offender or
40 has a criminal history.
- 41 (3) Developing a comprehensive profile of a child that includes demographic
42 and caretaker information and indicators or flags of other services, including,
43 but not limited to, prior assessments of the child, eligibility for food and
44 nutrition programs, Medicaid, and subsidized child care.

45 **SECTION 12C.11.(b)** The Division of Social Services shall interface the work
46 product from the Child Protective Services Pilot Program with the statewide child welfare case
47 management system operated by the Department of Health and Human Services by utilizing
48 resources and subject matter expertise available through existing public-private partnerships
49 within the GDAC for the purposes of analyzing risk and improving outcomes for children. The
50 Division of Social Services shall submit its findings and recommendations in a final report on

1 the Child Protective Services Pilot Program to the Joint Legislative Oversight Committee on
2 Health and Human Services no later than March 1, 2016.

3
4 **FOSTER CARE FAMILY ACT**

5 **SECTION 12C.12.(a)** This section shall be known and may be cited as the "Foster
6 Care Family Act."

7 **SECTION 12C.12.(b)** Part 1 of Article 1A of Chapter 131D of the General
8 Statutes is amended by adding a new section to read:

9 **"§ 131D-10.2A. Reasonable and prudent parenting standard.**

10 (a) The reasonable and prudent parenting standard is characterized by careful and
11 sensible parental decisions that maintain a child's health, safety, and best interests while
12 encouraging the child's emotional and developmental growth.

13 (b) Every child care institution shall designate an on-site official who is authorized to
14 apply the reasonable and prudent parenting standard pursuant to this section.

15 (c) A caregiver, including the child's foster parent, whether the child is in a family
16 foster home or a therapeutic foster home, the designated official at a child care institution
17 where the child is placed, or the county department of social services, must use the reasonable
18 and prudent parenting standard when determining whether to allow a child in foster care to
19 participate in extracurricular, enrichment, and social activities.

20 (d) A caregiver, including the child's foster parent, whether the child is in a family
21 foster home or a therapeutic foster home, the designated official at a child care institution
22 where the child is placed, the county department of social services, or the Department of Health
23 and Human Services with custody of or placement authority over a child in foster care shall not
24 be held liable for an act or omission of the child if the caregiver or county department of social
25 services is acting in accordance with the reasonable and prudent parenting standard under this
26 section.

27 (e) Unless otherwise ordered by a court with jurisdiction pursuant to G.S. 7B-200, a
28 caregiver, including the child's foster parent, whether the child is in a family foster home or a
29 therapeutic foster home, exercising the reasonable and prudent parenting standard has the
30 authority to provide or withhold permission, without prior approval of the court or a county
31 department of social services, allowing a child in foster care, in the custody of a county
32 department of social services, or under the placement authority of a county department of social
33 services through a voluntary placement agreement, to participate in normal childhood activities.
34 Normal childhood activities shall include, but are not limited to, extracurricular, enrichment,
35 and social activities and may include overnight activities outside the direct supervision of the
36 caregiver for periods of over 24 hours and up to 72 hours.

37 (f) The caregiver, including the child's foster parent, whether the child is in a family
38 foster home or a therapeutic foster home, the designated official at a child care institution
39 where the child is placed, the county department of social services, or the Department of Health
40 and Human Services, shall not be liable for injuries to the child that occur as a result of the
41 reasonable and prudent parenting standard. The burden of proof with respect to a breach of the
42 reasonable and prudent parenting standard shall be by clear and convincing evidence.

43 (g) The caregiver, including the child's foster parent, whether the child is in a family
44 foster home or a therapeutic foster home, the designated official at a child care institution
45 where the child is placed, the county department of social services, or the Department of Health
46 and Human Services, shall be liable for any action or inaction of gross negligence, willful and
47 wanton conduct, or intentional wrongdoing that results in the injury to the child."

48 **SECTION 12C.12.(c)** G.S. 7B-505(b) reads as rewritten:

49 "(b) The court shall order the Department to make diligent efforts to notify relatives and
50 any custodial parents of the juvenile's siblings that the juvenile is in nonsecure custody and of
51 any hearings scheduled to occur pursuant to G.S. 7B-506, unless the court finds such

1 notification would be contrary to the best interests of the juvenile. In placing a juvenile in
2 nonsecure custody under this section, the court shall first consider whether a relative of the
3 juvenile is willing and able to provide proper care and supervision of the juvenile in a safe
4 home. If the court finds that the relative is willing and able to provide proper care and
5 supervision in a safe home, then the court shall order placement of the juvenile with the relative
6 unless the court finds that placement with the relative would be contrary to the best interests of
7 the juvenile."

8 **SECTION 12C.12.(d)** G.S. 7B-800.1(a)(4) reads as rewritten:

9 "(a) Prior to the adjudicatory hearing, the court shall consider the following:

10 ...

11 (4) Whether relatives or parents with custody of a sibling of the juvenile have
12 been identified and notified as potential resources for placement or support."

13 **SECTION 12C.12.(e)** G.S. 7B-901 reads as rewritten:

14 **"§ 7B-901. Dispositional hearing.**

15 The dispositional hearing shall take place immediately following the adjudicatory hearing
16 and shall be concluded within 30 days of the conclusion of the adjudicatory hearing. The
17 dispositional hearing may be informal and the court may consider written reports or other
18 evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian,
19 or custodian shall have the right to present evidence, and they may advise the court concerning
20 the disposition they believe to be in the best interests of the juvenile. The court may consider
21 any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, including
22 testimony or evidence from any person who is not a party, that the court finds to be relevant,
23 reliable, and necessary to determine the needs of the juvenile and the most appropriate
24 disposition. The court may exclude the public from the hearing unless the juvenile moves that
25 the hearing be open, which motion shall be granted.

26 At the dispositional hearing, the court shall inquire as to the identity and location of any
27 missing parent and whether paternity is at issue. The court shall include findings of the efforts
28 undertaken to locate the missing parent and to serve that parent and efforts undertaken to
29 establish paternity when paternity is an issue. The order may provide for specific efforts in
30 determining the identity and location of any missing parent and specific efforts in establishing
31 paternity. The court shall also inquire about efforts made to identify and notify ~~relatives~~
32 relatives or parents with custody of a sibling of the juvenile, as potential resources for
33 placement or support."

34 **SECTION 12C.12.(f)** Article 9 of Chapter 7B of the General Statutes is amended
35 by adding the following new sections to read:

36 **"§ 7B-903.1. Juvenile placed in custody of a county department of social services.**

37 (a) To the extent authorized by federal law, a county department of social services with
38 custody of a juvenile is authorized to make decisions about matters not addressed in this section
39 that are generally made by a juvenile's custodian including, but not limited to, educational
40 decisions and consenting to the sharing of the juvenile's information. The county department of
41 social services may delegate any part of this authority to the juvenile's parent, foster parent, or
42 another individual.

43 (b) When a juvenile is in the custody or placement responsibility of a county
44 department of social services, the placement provider may, in accordance with
45 G.S. 131D-10.2A, provide or withhold permission, without prior approval of the court or
46 county department of social services, allowing a juvenile to participate in normal childhood
47 activities. If such authorization is not in the juvenile's best interest, the court shall set forth
48 alternative parameters for approving normal childhood activities.

49 **"§ 7B-912. Juveniles 14 years of age and older; Another Planned Permanent Living**
50 **Arrangement.**

1 (a) In addition to the permanency planning requirements under G.S. 7B-906.1, at every
2 permanency planning hearing for a juvenile in the custody of a county department of social
3 services who has attained the age of 14 years, the court shall inquire and make written findings
4 regarding each of the following:

5 (1) The services provided to assist the juvenile in making a transition to
6 adulthood.

7 (2) The steps the county department of social services is taking to ensure that
8 the foster family or other licensed placement provider follows the reasonable
9 and prudent parenting standard as provided in G.S. 131D-10.2A.

10 (3) Whether the juvenile has regular opportunities to engage in age-appropriate
11 or developmentally appropriate activities.

12 (b) At or before the last scheduled permanency planning hearing, but at least 90 days
13 before a juvenile attains 18 years of age, the court shall (i) inquire as to whether the juvenile
14 has a copy of the juvenile's birth certificate, Social Security card, health insurance information,
15 drivers license or other identification card, and any educational or medical records the juvenile
16 requests and (ii) determine the person or entity that should assist the juvenile in obtaining these
17 documents before the juvenile attains the age of 18 years.

18 (c) If the court finds each of the following conditions applies, the court shall approve
19 Another Planned Permanent Living Arrangement (APPLA) as the juvenile's primary permanent
20 plan:

21 (1) The juvenile is 16 or 17 years old.

22 (2) The county department of social services has made diligent efforts to place
23 the juvenile permanently with a parent or relative or in a guardianship or
24 adoptive placement.

25 (3) Compelling reasons exist that it is not in the best interest of the juvenile to
26 be placed permanently with a parent or relative or in a guardianship or
27 adoptive placement.

28 (4) APPLA is the best permanency plan for the juvenile.

29 (d) If the court approves APPLA as the juvenile's permanent plan, the court shall, after
30 questioning the juvenile, make written findings addressing the juvenile's desired permanency
31 outcome."

32 **SECTION 12C.12.(g)** Article 36 of Chapter 58 of the General Statutes is amended
33 by adding a new section to read:

34 **"§ 58-36-44. Development of policy form or endorsement for personal liability insurance**
35 **for foster parents.**

36 (a) The Rate Bureau shall develop an optional policy form or endorsement to be filed
37 with the Commissioner for approval no later than May 1, 2016, that provides liability insurance
38 for foster parents licensed under Article 1A of Chapter 131D of the General Statutes to provide
39 foster care in a family foster home or therapeutic foster home. The policy form or endorsement
40 shall provide coverage for acts or omissions of the foster parent while the parent is acting in his
41 or her capacity as a foster parent in a licensed family foster home or therapeutic foster home
42 licensed under Article 1A of Chapter 131D of the General Statutes.

43 (b) Nothing in this section is intended to require that the liability insurance policy or
44 endorsement required by this section cover an act or omission that results from any action or
45 inaction of gross negligence, willful and wanton conduct, or intentional wrongdoing that results
46 in injury to the child."

47 **SECTION 12C.12.(h)** Article 1 of Chapter 48A of the General Statutes is amended
48 by adding a new section to read:

49 **"§ 48A-4. Certain minors competent to contract.**

50 A minor who is 16 years of age or older and who is in the legal custody of the county
51 department of social services shall be qualified and competent to contract for the purchase of an

1 automobile insurance policy with the consent of the court with continuing jurisdiction over the
2 minor's placement under G.S. 7B-1000(b). The minor shall be responsible for paying the costs
3 of the insurance premiums and shall be liable for damages caused by the minor's negligent
4 operation of a motor vehicle. No State or local government agency, foster parent, or entity
5 providing services to the minor under contract or at the direction of a State or local government
6 agency shall be responsible for paying any insurance premiums or liable for damages of any
7 kind as a result of the operation of a motor vehicle by the minor."

8 **SECTION 12C.12.(i)** G.S. 20-11(i) reads as rewritten:

9 "(i) Application. — An application for a permit or license authorized by this section
10 must be signed by both the applicant and another person. That person must be:

- 11 (1) The applicant's parent or guardian;
- 12 (2) A person approved by the applicant's parent or guardian; or
- 13 (3) A person approved by the Division.
- 14 (4) With respect to minors in the legal custody of the county department of
15 social services, any of the following:
 - 16 a. A guardian ad litem or attorney advocate appointed to advocate for
17 the minor.
 - 18 b. The director or his or her designee or other type of caseworker
19 assigned to work with the minor.
 - 20 c. If no person listed in sub-subdivision a. or b. of this subdivision is
21 available, the court with continuing jurisdiction over the minor's
22 placement under G.S. 7B-1000(b)."

23 **SECTION 12C.12.(j)** G.S. 20-309 is amended by adding a new subsection to read:

24 "(a2) Notwithstanding any other provision of this Chapter, an owner's policy of liability
25 insurance issued to a foster parent or parents, which policy includes an endorsement excluding
26 coverage for one or more foster children residing in the foster parent's or parents' household,
27 may be certified as proof of financial responsibility, provided that each foster child for whom
28 coverage is excluded is insured in an amount equal to or greater than the minimum limits
29 required by G.S. 20-279.21 under some other owner's policy of liability insurance or a named
30 nonowner's policy of liability insurance. The North Carolina Rate Bureau shall establish, with
31 the approval of the Commissioner of Insurance, a named driver exclusion endorsement or
32 endorsements for foster children as described herein."

33 **SECTION 12C.12.(k)** G.S. 20-279.21(b) reads as rewritten:

34 "(b) ~~Such~~ Except as provided in G.S. 20-309(a2), such owner's policy of liability
35 insurance:

36"

37 **SECTION 12C.12.(l)** The Department of Health and Human Services, Division of
38 Medical Assistance, shall design and draft, but not submit, a 1915(c) Medicaid waiver to serve
39 children with Serious Emotional Disturbance (SED) in home and community-based settings.
40 The Department may submit drafts of the waiver to the Centers for Medicare and Medicaid
41 Services (CMS) to solicit feedback but shall not submit the waiver for CMS approval until
42 authorized by the General Assembly.

43 **SECTION 12C.12.(m)** The Department shall report, on the draft waiver required
44 by subsection (l) of this section, other findings and any other options or recommendations to
45 best serve children with SED to the Joint Legislative Oversight Committee on Health and
46 Human Services by December 1, 2015. Specifically, the report shall provide an in-depth
47 analysis of the cost per slot, including an analysis of the estimated number of waiver recipients
48 who would be transitioned from a facility to a home and community-based setting and the
49 estimated number of waiver recipients who would avoid placement in a facility.

1 **SECTION 12C.12.(n)** Subsections (b) through (f) and (h) through (k) of this
2 section become effective October 1, 2015. The remainder of this section is effective when this
3 act becomes law.

4
5 **SUBPART XII-D. DIVISION OF AGING AND ADULT SERVICES**

6
7 **STATE-COUNTY SPECIAL ASSISTANCE RATES**

8 **SECTION 12D.1.(a)** For each year of the 2015-2017 fiscal biennium, the
9 maximum monthly rate for residents in adult care home facilities shall be one thousand one
10 hundred eighty-two dollars (\$1,182) per month per resident.

11 **SECTION 12D.1.(b)** For each year of the 2015-2017 fiscal biennium, the
12 maximum monthly rate for residents in Alzheimer's/Dementia special care units shall be one
13 thousand five hundred fifteen dollars (\$1,515) per month per resident.

14
15 **SUBPART XII-E. DIVISION OF PUBLIC HEALTH**

16
17 **FUNDS FOR SCHOOL NURSES**

18 **SECTION 12E.1.(a)** Funds appropriated in this act for the School Nurse Funding
19 Initiative shall be used to supplement and not supplant other State, local, or federal funds
20 appropriated or allocated for this purpose. Communities shall maintain their current level of
21 effort and funding for school nurses. These funds shall not be used to fund nurses for State
22 agencies. These funds shall be distributed to local health departments according to a formula
23 that includes all of the following:

- 24 (1) School nurse-to-student ratio.
- 25 (2) Percentage of students eligible for free or reduced-price meals.
- 26 (3) Percentage of children in poverty.
- 27 (4) Per capita income.
- 28 (5) Eligibility as a low-wealth county.
- 29 (6) Mortality rates for children between one and 19 years of age.
- 30 (7) Percentage of students with chronic illnesses.
- 31 (8) Percentage of county population consisting of minority persons.

32 **SECTION 12E.1.(b)** The Division of Public Health shall ensure that school nurses
33 funded with State funds (i) do not assist in any instructional or administrative duties associated
34 with a school's curriculum and (ii) perform all of the following with respect to school health
35 programs:

- 36 (1) Serve as the coordinator of the health services program and provide nursing
37 care.
- 38 (2) Provide health education to students, staff, and parents.
- 39 (3) Identify health and safety concerns in the school environment and promote a
40 nurturing school environment.
- 41 (4) Support healthy food services programs.
- 42 (5) Promote healthy physical education, sports policies, and practices.
- 43 (6) Provide health counseling, assess mental health needs, provide interventions,
44 and refer students to appropriate school staff or community agencies.
- 45 (7) Promote community involvement in assuring a healthy school and serve as
46 school liaison to a health advisory committee.
- 47 (8) Provide health education and counseling and promote healthy activities and
48 a healthy environment for school staff.
- 49 (9) Be available to assist the county health department during a public health
50 emergency.

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

SECTION 12E.2. 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).

APPOINTMENT, MANDATORY TRAINING, AND REVOCATION OF APPOINTMENT OF COUNTY MEDICAL EXAMINERS

SECTION 12E.4.(a) G.S. 130A-382 reads as rewritten:

"§ 130A-382. County medical examiners; appointment; term of office; ~~vacancies.~~vacancies; training requirements; revocation for cause.

(a) The Chief Medical Examiner shall appoint ~~one~~two or more county medical examiners for each county for a three-year term. In appointing medical examiners for each county, the Chief Medical Examiner shall give preference to physicians licensed to practice medicine in this State but may also appoint licensed physician assistants, nurse practitioners, nurses, ~~examiners~~, or emergency medical technician paramedics. A medical examiner may serve more than one county. The Chief Medical Examiner may take jurisdiction in any case or appoint another medical examiner to do so.

(b) County medical examiners shall complete annual continuing education training as directed by the Office of the Chief Medical Examiner and based upon established and published guidelines for conducting death investigations. The continuing education training shall include training regarding sudden unexplained death in epilepsy. The Office of the Chief Medical Examiner shall annually update and publish these guidelines on its Internet Web site. Newly appointed county medical examiners shall complete mandatory orientation training as directed by the Office of the Chief Medical Examiner within 90 days of their appointment.

(c) The Chief Medical Examiner may revoke a county medical examiner's appointment for failure to adequately perform the duties of the office after providing the county medical examiner with written notice of the basis for the revocation and an opportunity to respond."

SECTION 12E.4.(b) This section becomes effective January 1, 2016.

INCREASE IN NORTH CAROLINA MEDICAL EXAMINER AUTOPSY FEE

SECTION 12E.5.(a) G.S. 130A-389(a) reads as rewritten:

"(a) If, in the opinion of the medical examiner investigating the case or of the Chief Medical Examiner, it is advisable and in the public interest that an autopsy or other study be made; or, if an autopsy or other study is requested by the district attorney of the county or by any superior court judge, an autopsy or other study shall be made by the Chief Medical Examiner or by a competent pathologist designated by the Chief Medical Examiner. A complete autopsy report of findings and interpretations, prepared on forms designated for the purpose, shall be submitted promptly to the Chief Medical Examiner. Subject to the limitations of G.S. 130A-389.1 relating to photographs and video or audio recordings of an autopsy, a copy of the report shall be furnished to any person upon request. A fee for the autopsy or other study shall be paid by the State. However, if the deceased is a resident of the county in which the death or fatal injury occurred, that county shall pay the fee. The fee shall be ~~one thousand two hundred fifty dollars (\$1,250).~~two thousand eight hundred dollars (\$2,800)."

SECTION 12E.5.(b) Subsection (a) of this section applies to fees imposed for autopsies performed on or after July 1, 2015.

SECTION 12E.5.(c) Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, Office of the Chief Medical Examiner, shall

1 not be used to provide a supplement to counties to offset any portion of the autopsy fee
2 authorized in G.S. 130A-389(a), as amended by subsection (a) of this section.
3

4 **INCREASE IN NORTH CAROLINA MEDICAL EXAMINER FEE**

5 **SECTION 12E.6.(a)** G.S. 130A-387 reads as rewritten:

6 "**§ 130A-387. Fees.**

7 For each investigation and prompt filing of the required report, the medical examiner shall
8 receive a fee paid by the State. However, if the deceased is a resident of the county in which the
9 death or fatal injury occurred, that county shall pay the fee. The fee shall be ~~one hundred~~
10 ~~dollars (\$100.00).~~ two hundred fifty dollars (\$250.00)."

11 **SECTION 12E.6.(b)** Subsection (a) of this section becomes effective July 1, 2015,
12 and applies to fees imposed for investigations and reports filed on or after that date.
13

14 **INCREASE IN TRANSPORTATION RATE FOR DEATH INVESTIGATIONS AND** 15 **AUTOPSIES**

16 **SECTION 12E.7.** Of the funds appropriated in this act to the Department of Health
17 and Human Services, Division of Public Health, Office of the Chief Medical Examiner, the
18 sum of four hundred thousand dollars (\$400,000) for the 2015-2016 fiscal year and the sum of
19 four hundred thousand dollars (\$400,000) for the 2016-2017 fiscal year shall be used to
20 increase the current base contract rate paid by the Department to transport bodies for death
21 investigations or autopsies to one hundred ninety dollars (\$190.00) for the first 40 miles and
22 then one dollar (\$1.00) per mile after the first 40 miles.
23

24 **TRANSFER OF FUNCTIONS OF OFFICE OF MINORITY HEALTH**

25 **SECTION 12E.8.** The Office of Minority Health of the Department of Health and
26 Human Services is hereby eliminated. The Department of Health and Human Services,
27 Division of Central Management, shall assume responsibility for establishing and administering
28 a competitive grants process in accordance with Section 12A.8(d) of this act for evidence-based
29 programs that are scientifically proven to eliminate or reduce health disparities among minority
30 populations in this State.
31

32 **TRANSFER OF FUNCTIONS OF PHYSICAL ACTIVITY AND NUTRITION** 33 **PROGRAM TO DIVISION OF CENTRAL MANAGEMENT AND SUPPORT**

34 **SECTION 12E.9.** The Physical Activity and Nutrition Program within the
35 Department of Health and Human Services, Division of Public Health, Chronic Disease and
36 Injury Section, is hereby eliminated. The Department of Health and Human Services, Central
37 Management and Support Division, shall assume responsibility for establishing and
38 administering a competitive grants process in accordance with Section 12A.8(c) of this act for
39 evidence-based programs that are scientifically proven to improve physical health and nutrition
40 across the State.
41

42 **RENAMING AND TRANSFER OF OFFICE OF RURAL HEALTH AND** 43 **COMMUNITY CARE TO DIVISION OF PUBLIC HEALTH**

44 **SECTION 12E.10.(a)** The Office of Rural Health and Community Care is hereby
45 transferred from the Department of Health and Human Services, Division of Central
46 Management and Support, to the Department of Health and Human Services, Division of
47 Public Health, by a Type I transfer, as defined in G.S. 143A-6, and renamed the Rural Health
48 Section.

49 **SECTION 12E.10.(b)** Consistent with subsection (a) of this section, the Revisor of
50 Statutes may conform names and titles changed by this section, and may correct statutory
51 references as required by this section, throughout the General Statutes. In making the changes

1 authorized by this section, the Revisor may also adjust subject and verb agreement and the
2 placement of conjunctions.

3
4 **SUBPART XII-F. DIVISION OF MH/DD/SAS AND STATE OPERATED**
5 **HEALTHCARE FACILITIES**

6
7 **FUNDS FOR LOCAL INPATIENT PSYCHIATRIC BEDS OR BED DAYS**

8 **SECTION 12F.1.(a)** Use of Funds. – Of the funds appropriated in Section 2.1 of
9 this act to the Department of Health and Human Services, Division of Mental Health,
10 Developmental Disabilities and Substance Abuse Services, for crisis services, the sum of
11 forty-three million forty-nine thousand one hundred forty-four dollars (\$43,049,144) for the
12 2015-2016 fiscal year and the sum of forty-three million forty-nine thousand one hundred
13 forty-four dollars (\$43,049,144) for the 2016-2017 fiscal year shall be used to purchase
14 additional local inpatient psychiatric beds or bed days not currently funded by or through
15 LME/MCOs. The Department shall continue to implement a two-tiered system of payment for
16 purchasing these local inpatient psychiatric beds or bed days based on acuity level with an
17 enhanced rate of payment for inpatient psychiatric beds or bed days for individuals with higher
18 acuity levels, as defined by the Department. The enhanced rate of payment for inpatient
19 psychiatric beds or bed days for individuals with higher acuity levels shall not exceed the
20 lowest average cost per patient bed day among the State psychiatric hospitals. In addition, at
21 the discretion of the Secretary of Health and Human Services, existing funds allocated to
22 LME/MCOs for community-based mental health, developmental disabilities, and substance
23 abuse services may be used to purchase additional local inpatient psychiatric beds or bed days.
24 Funds designated in this subsection for the purchase of local inpatient psychiatric beds or bed
25 days shall not be used to supplant other funds appropriated or otherwise available to the
26 Department for the purchase of inpatient psychiatric services through contracts with local
27 hospitals.

28 **SECTION 12F.1.(b)** Distribution and Management of Beds or Bed Days. – The
29 Department shall work to ensure that any local inpatient psychiatric beds or bed days purchased
30 in accordance with this section are utilized solely for individuals who are medically indigent,
31 defined as uninsured persons who (i) are financially unable to obtain private insurance
32 coverage as determined by the Department and (ii) are not eligible for government-funded
33 health coverage such as Medicare or Medicaid; and distributed across the State in LME/MCO
34 catchment areas and according to need as determined by the Department. The Department shall
35 ensure that beds or bed days for individuals with higher acuity levels are distributed across the
36 State in LME catchment areas, including any catchment areas served by managed care
37 organizations, and according to greatest need based on hospital bed utilization data. The
38 Department shall enter into contracts with LME/MCOs and local hospitals for the management
39 of these beds or bed days. The Department shall work to ensure that these contracts are
40 awarded equitably around all regions of the State. LME/MCOs shall manage and control these
41 local inpatient psychiatric beds or bed days, including the determination of the specific local
42 hospital or State psychiatric hospital to which an individual should be admitted pursuant to an
43 involuntary commitment order.

44 **SECTION 12F.1.(c)** Funds to Be Held in Statewide Reserve. – Funds appropriated
45 to the Department for the purchase of local inpatient psychiatric beds or bed days shall not be
46 allocated to LME/MCOs but shall be held in a statewide reserve at the Division of Mental
47 Health, Developmental Disabilities and Substance Abuse Services, to pay for services
48 authorized by the LME/MCOs and billed by the hospitals through the LME/MCOs.
49 LME/MCOs shall remit claims for payment to the Department within 15 working days after
50 receipt of a clean claim from the hospital and shall pay the hospital within 30 working days
51 after receipt of payment from the Department.

1 **SECTION 12F.1.(d)** Ineffective LME/MCO Management of Beds or Bed Days. –
2 If the Department determines that (i) an LME/MCO is not effectively managing the beds or bed
3 days for which it has responsibility, as evidenced by beds or bed days in the local hospital not
4 being utilized while demand for services at the State psychiatric hospitals has not reduced, or
5 (ii) the LME/MCO has failed to comply with the prompt payment provisions of subsection (c)
6 of this section, the Department may contract with another LME/MCO to manage the beds or
7 bed days or, notwithstanding any other provision of law to the contrary, may pay the hospital
8 directly.

9 **SECTION 12F.1.(e)** Reporting by LME/MCOs. – The Department shall establish
10 reporting requirements for LME/MCOs regarding the utilization of these beds or bed days.

11 **SECTION 12F.1.(f)** Reporting by Department. – By no later than December 1,
12 2016, and by no later than December 1, 2017, the Department shall report to the Joint
13 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
14 Division on all of the following:

- 15 (1) A uniform system for beds or bed days purchased during the preceding fiscal
16 year from (i) funds appropriated in this act that are designated for this
17 purpose in subsection (a) of this section, (ii) existing State appropriations,
18 and (iii) local funds.
- 19 (2) Other Department initiatives funded by State appropriations to reduce State
20 psychiatric hospital use.

21 22 **SINGLE STREAM FUNDING FOR MH/DD/SAS COMMUNITY SERVICES**

23 **SECTION 12F.2.(a)** For the purpose of mitigating cash flow problems that many
24 LME/MCOs experience at the beginning of each fiscal year relative to single stream funding,
25 the Department of Health and Human Services, Division of Mental Health, Developmental
26 Disabilities, and Substance Abuse Services (Division), shall distribute not less than one-twelfth
27 of each LME/MCO's continuation allocation at the beginning of the fiscal year and subtract the
28 amount of that distribution from the LME/MCO's total reimbursements for the fiscal year.

29 **SECTION 12F.2.(b)** The Division is directed to reduce its allocation for single
30 stream funding by one hundred eighty-five million six hundred four thousand six hundred
31 fifty-three dollars (\$185,604,653) in nonrecurring funds for the 2015-2016 fiscal year and by
32 one hundred eighty-five million six hundred four thousand six hundred fifty-three dollars
33 (\$185,604,653) for the 2016-2017 fiscal year. The Division is directed to allocate this reduction
34 among the LME/MCOs based on the percentage of the total single stream funding allocated to
35 each LME/MCO for the 2014-2015 fiscal year. During each year of the 2015-2017 fiscal
36 biennium, each LME/MCO shall use its cash reserves to provide at least the same level of
37 services paid for by single stream funding during the 2014-2015 fiscal year.

38 39 **FUNDS FOR THE NORTH CAROLINA CHILD TREATMENT PROGRAM**

40 **SECTION 12F.3.(a)** Recurring funds appropriated in this act to the Department of
41 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
42 Substance Abuse Services, for the 2015-2017 fiscal biennium for the North Carolina Child
43 Treatment Program (NC CTP) shall be used for the following purposes:

- 44 (1) To continue to provide clinical training and coaching to licensed clinicians
45 on an array of evidence-based treatments and to provide a statewide platform
46 to assure accountability and outcomes.
- 47 (2) To maintain and manage a public roster of program graduates, linking
48 high-quality clinicians with children, families, and professionals.
- 49 (3) To partner with State, LME/MCO, and private sector leadership to bring
50 effective mental health treatment to children in juvenile justice and mental
51 health facilities.

1 **SECTION 12F.3.(b)** All data, including any entered or stored in the State-funded
2 secure database developed for the NC CTP to track individual-level and aggregate-level data
3 with interface capability to work with existing networks within State agencies, is and remains
4 the sole property of the State.

5 6 **TRAUMATIC BRAIN INJURY FUNDING**

7 **SECTION 12F.6.** Of the funds appropriated in this act to the Department of Health
8 and Human Services, Division of Mental Health, Developmental Disabilities, and Substance
9 Abuse Services, for the 2015-2016 fiscal year, the sum of two million three hundred
10 seventy-three thousand eighty-six dollars (\$2,373,086) shall be used exclusively to support
11 traumatic brain injury (TBI) services as follows:

- 12 (1) The sum of three hundred fifty-nine thousand two hundred eighteen dollars
13 (\$359,218) shall be used to fund contracts with the Brain Injury Association
14 of North Carolina, Carolinas Rehabilitation, or other appropriate service
15 providers.
- 16 (2) The sum of seven hundred ninety-six thousand nine hundred thirty-four
17 dollars (\$796,934) shall be used to support residential programs across the
18 State that are specifically designed to serve individuals with TBI.
- 19 (3) The sum of one million two hundred sixteen thousand nine hundred
20 thirty-four dollars (\$1,216,934) shall be used to support requests submitted
21 by individual consumers for assistance with residential support services,
22 home modifications, transportation, and other requests deemed necessary by
23 the consumer's local management entity and primary care physician.

24 25 **CREATION OF SEPARATE DOROTHEA DIX HOSPITAL PROPERTY FUND** 26 **WITHIN THE MENTAL HEALTH TRUST FUND**

27 **SECTION 12F.6A.(a)** G.S. 143C-9-2 is amended by adding a new subsection to
28 read:

29 "(b1) The Dorothea Dix Hospital Property Fund is established as a separate fund within
30 the Trust Fund. The fund is established to receive the net proceeds from the sale of the
31 Dorothea Dix Hospital property. Moneys in the Dorothea Dix Hospital Property Fund shall be
32 allocated or expended only upon an act of appropriation by the General Assembly and shall not
33 be subject to the limitations of the moneys in the Trust Fund for Mental Health, Developmental
34 Disabilities, and Substance Abuse Services and Bridge Funding Needs as described in
35 subsection (b) of this section."

36 **SECTION 12F.6A.(b)** Notwithstanding G.S. 146-30 or any other provision of law,
37 the net proceeds of the sale of the Dorothea Dix Hospital property shall be deposited into the
38 Dorothea Dix Hospital Property Fund established in G.S. 143C-9-2(b1), as enacted by
39 subsection (a) of this section.

40 41 **JOINT STUDY OF JUSTICE AND PUBLIC SAFETY AND BEHAVIORAL HEALTH**

42 **SECTION 12F.10.** The Joint Legislative Oversight Committee on Health and
43 Human Services and the Joint Legislative Oversight Committee on Justice and Public Safety
44 shall each appoint a subcommittee to study the intersection of Justice and Public Safety and
45 behavioral health and report their findings and recommendations to their respective
46 Committees. The subcommittees shall meet jointly to study and report on the following issues:

- 47 (1) The impact of the Justice Reinvestment Act on the State's behavioral health
48 system, including the following:
 - 49 a. The impact of the Justice Reinvestment Act on the demand for
50 community-based behavioral health services available through local
51 management entities/managed care organizations (LME/MCOs).

- 1 b. The change in the number of criminal offenders referred to the
2 Treatment Accountability for Safer Communities (TASC) program
3 since 2010 and other demands on the TASC program that have arisen
4 since that time.
- 5 c. The sources and amounts of funding available to serve this
6 population, as well as any other support or resources that are
7 provided by the Department of Public Safety to the Department of
8 Health and Human Services or the LME/MCOs.
- 9 d. An analysis of the supply and demand for behavioral health providers
10 who serve this population.
- 11 (2) The impact of mental illness and substance abuse on county law
12 enforcement agencies, including the following:
- 13 a. The number of people with mental illness and substance abuse issues
14 held in county jails.
- 15 b. The impact on local law enforcement agencies, particularly with
16 respect to their budgets and personnel.
- 17 (3) The impact of judicial decisions on the State's behavioral health and social
18 services system, including the following:
- 19 a. The role and impact of family court decisions on the demand for and
20 delivery of county social services.
- 21 b. The role and impact of decisions by drug treatment courts, veterans'
22 mental health courts, and driving while impaired courts.
- 23 c. The impact of judicial decisions on the availability of beds in
24 State-operated psychiatric facilities as a result of involuntary
25 commitment orders and incapacity to proceed decisions.
- 26 (4) Any other relevant issues the subcommittees jointly deem appropriate.
- 27

28 **LME/MCO USE OF FUNDS TO PURCHASE INPATIENT ALCOHOL AND**
29 **SUBSTANCE ABUSE TREATMENT SERVICES**

30 **SECTION 12F.12.(a)** It is the intent of the General Assembly to terminate all
31 direct State appropriations for State-operated alcohol and drug abuse treatment centers
32 (ADATCs) beginning with the 2015-2016 fiscal year and instead appropriate funds to the
33 Department of Health and Human Services, Division of Mental Health, Developmental
34 Disabilities and Substance Abuse Services, for community services in order to allow local
35 management entities/managed care organizations (LME/MCOs) to assume responsibility for
36 managing the full array of publicly funded substance abuse services, including inpatient
37 services delivered through the ADATCs. To this end and notwithstanding any other provision
38 of law, on the effective date of this section all direct State appropriations for ADATCs are
39 terminated and the ADATCs shall be one hundred percent receipt-supported.

40 **SECTION 12F.12.(b)** From funds appropriated in this act to the Department of
41 Health and Human Services, Division of Mental Health, Developmental Disabilities and
42 Substance Abuse Services, to be allocated to LME/MCOs for the purchase of inpatient alcohol
43 and substance abuse treatment services, the LME/MCOs shall use their respective fund
44 allocations for individuals within their respective catchment areas as follows:

- 45 (1) During the 2015-2016 fiscal year, a minimum of one hundred percent
46 (100%) of the allocation shall be used exclusively to purchase inpatient
47 alcohol and substance abuse treatment services from the ADATCs.
- 48 (2) During the 2016-2017 fiscal year, a minimum of ninety percent (90%) of the
49 allocation shall be used exclusively to purchase inpatient alcohol and
50 substance abuse treatment services from the ADATCs. The LME/MCOs
51 shall use the remaining ten percent (10%) of their respective allocations to

1 purchase inpatient alcohol and substance abuse treatment services from any
2 qualified provider.

3 **SECTION 12F.12.(c)** By March 1, 2016, the Department of Health and Human
4 Services shall develop and report to the Joint Legislative Oversight Committee on Health and
5 Human Services and the Fiscal Research Division a plan to allow the ADATCs to remain one
6 hundred percent (100%) receipt-supported. The report shall include an evaluation of (i) other
7 community-based and residential services that could be provided by the ADATCs and (ii)
8 potential funding sources other than payments from the LME/MCOs, including funding
9 available from estimated receipts from Medicare, Medicaid, insurance, and self-pay.

10 11 **CLOSURE OF WRIGHT SCHOOL**

12 **SECTION 12F.13.(a)** The Department of Health and Human Services shall not
13 allow any new admissions or readmissions to the Wright School after June 30, 2015. The
14 Department shall, in consultation with local management entities/managed care organizations,
15 develop a plan to transition all students enrolled at the Wright School to other appropriate
16 educational and treatment settings.

17 **SECTION 12F.13.(b)** By September 30, 2015, the Department shall permanently
18 cease operations at the Wright School.

19 **SECTION 12F.13.(c)** G.S. 122C-181(a)(5)b. is repealed effective October 1, 2015.

20 21 **REPORT ON MULTIPLICATIVE AUDITING AND MONITORING OF CERTAIN** 22 **SERVICE PROVIDERS**

23 **SECTION 12F.14.** No later than December 1, 2015, the Department of Health and
24 Human Services shall report to the Joint Legislative Oversight Committee on Health and
25 Human Services and the Fiscal Research Division on the status of multiplicative auditing and
26 monitoring of all provider agencies under the Division of Mental Health, Developmental
27 Disabilities and Substance Abuse Services, that have been nationally accredited through a
28 recognized national accrediting body. The report shall include (i) all group home facilities
29 licensed under Chapter 122C of the General Statutes, (ii) a complete list of all auditing and
30 monitoring activities to which these service providers are subject, and (iii) recommendations on
31 the removal of all unnecessary regulatory duplication to enhance efficiency.

32 33 **FUNDS FOR DRUG OVERDOSE MEDICATIONS**

34 **SECTION 12F.15.** Funds appropriated in this act to the Department of Health and
35 Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse
36 Services, for the 2015-2016 fiscal year for the purchase of opioid antagonists as defined in
37 G.S. 90-106.2, shall be used as follows:

- 38 (1) Twenty-five thousand dollars (\$25,000) shall be used to purchase opioid
39 antagonists to be distributed at no charge to the North Carolina Harm
40 Reduction Coalition to serve individuals at risk of experiencing an
41 opioid-related drug overdose or to the friends and family members of an
42 at-risk individual.
- 43 (2) Twenty-five thousand dollars (\$25,000) shall be used to purchase opioid
44 antagonists to be distributed at no charge to North Carolina law enforcement
45 agencies.

46 47 **STRENGTHENING OF CONTROLLED SUBSTANCES MONITORING**

48 49 **STATEWIDE OPIOID PRESCRIBING GUIDELINES**

1 **SECTION 12F.16.(a)** By July 1, 2016, the following State health officials and
2 health care provider licensing boards shall adopt the North Carolina Medical Board's Policy for
3 the Use of Opiates for the Treatment of Pain:

- 4 (1) The Director of the Division of Public Health of the Department of Health
5 and Human Services (DHHS).
- 6 (2) The Director of the Division of Medical Assistance, DHHS.
- 7 (3) The Director of the Division of Mental Health, Developmental Disabilities,
8 and Substance Abuse Services, DHHS.
- 9 (4) The directors of medical, dental, and mental health services within the
10 Department of Public Safety.
- 11 (5) North Carolina State Board of Dental Examiners.
- 12 (6) North Carolina Board of Nursing.
- 13 (7) North Carolina Board of Podiatry Examiners.

14 15 **CONTINUING EDUCATION REQUIREMENTS**

16 **SECTION 12F.16.(b)** The following health care provider occupational licensing
17 boards shall require continuing education on the abuse of controlled substances as a condition
18 of license renewal for health care providers who prescribe controlled substances:

- 19 (1) North Carolina Board of Dental Examiners.
- 20 (2) North Carolina Board of Nursing.
- 21 (3) North Carolina Board of Podiatry Examiners.
- 22 (4) North Carolina Medical Board.

23 **SECTION 12F.16.(c)** In establishing the continuing education standards, the
24 boards listed in subsection (b) of this section shall require that at least one hour of the total
25 required continuing education hours consists of a course designed specifically to address
26 prescribing practices. The course shall include, but not be limited to, instruction on controlled
27 substance prescribing practices and controlled substance prescribing for chronic pain
28 management.

29 30 **IMPROVE CONTROLLED SUBSTANCES REPORTING SYSTEM ACCESS AND** 31 **UTILIZATION**

32 **SECTION 12F.16.(d)** G.S. 90-113.74 reads as rewritten:

33 **"§ 90-113.74. Confidentiality.**

34 (a) Prescription information submitted to the Department is privileged and confidential,
35 is not a public record pursuant to G.S. 132-1, is not subject to subpoena or discovery or any
36 other use in civil proceedings, and except as otherwise provided below may only be used (i) for
37 investigative or evidentiary purposes related to violations of State or federal ~~law and law~~, (ii)
38 for regulatory activities, activities, or (iii) to inform medical records or clinical care. Except as
39 otherwise provided by this section, prescription information shall not be disclosed or
40 disseminated to any person or entity by any person or entity authorized to review prescription
41 information.

42 ...

43 (c) The Department shall release data in the controlled substances reporting system to
44 the following persons only:

45 ...

- 46 (8) Any county medical examiner appointed by the Chief Medical Examiner
47 pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose
48 of investigating the death of an individual.
- 49 (9) The federal Drug Enforcement Administration's Office of Diversion Control.

1 (10) The North Carolina Health Information Exchange Authority (NC HIE
2 Authority), established under Article 29A of this Chapter, through
3 Web-service calls.

4 "

5 **SECTION 12F.16.(e)** The Department of Health and Human Services shall adopt
6 appropriate policies and procedures documenting and supporting the additional functionality
7 and expanded access added by subsection (d) of this section for the Controlled Substances
8 Reporting System (CSRS) for the entities added to G.S. 90-113.74(c) by subsection (d) of this
9 section and shall amend its contract with the vendor that operates the CSRS to support the
10 additional functionality and expanded access to the CSRS.

11 12 **IMPROVE CONTROLLED SUBSTANCES REPORTING SYSTEM CONTRACT**

13 **SECTION 12F.16.(f)** The Department of Health and Human Services (DHHS)
14 shall modify the contract for the Controlled Substances Reporting System (CSRS) to improve
15 performance, establish user access controls, establish data security protocols, and ensure
16 availability of data for advanced analytics. Specifically, the contract shall be modified to
17 include the following:

- 18 (1) A connection to the North Carolina Health Information Exchange Authority
19 (NC HIE Authority).
- 20 (2) The establishment of interstate connectivity.
- 21 (3) Data security protocols that meet or exceed the Federal Information
22 Processing Standards (FIPS) established by the National Institute of
23 Standards and Technology (NIST).

24 **SECTION 12F.16.(g)** DHHS shall complete the contract modifications required by
25 subsection (f) of this section by December 31, 2015. DHHS shall report by November 15,
26 2015, to the Joint Legislative Program Evaluation Oversight Committee and the Joint
27 Legislative Oversight Committee on Health and Human Services regarding the progress to
28 modify the contract.

29 **SECTION 12F.16.(h)** DHHS shall apply for grant funding from the National
30 Association of Boards of Pharmacy to establish the connection to PMP InterConnect. The
31 Department shall request forty thousand thirty-five dollars (\$40,035) to establish the initial
32 interface for PMP InterConnect and thirty thousand dollars (\$30,000) for two years of ongoing
33 service, maintenance, and support for PMP InterConnect in order to create interstate
34 connectivity for the drug monitoring program as required by subdivision (2) of subsection (f) of
35 this section.

36 **SECTION 12F.16.(i)** Funds appropriated in this act to the Department of Health
37 and Human Services, Division of Mental Health, Developmental Disabilities, and Substance
38 Abuse Services, for the CSRS shall be used as follows:

- 39 (1) For the 2015-2016 fiscal year, the sum of forty thousand thirty-five dollars
40 (\$40,035) shall be used to connect the CSRS and the NC HIE Authority, as
41 required by subdivision (1) of subsection (f) of this section.
- 42 (2) For the 2015-2016 fiscal year and for the 2016-2017 fiscal year, the sum of
43 fifteen thousand dollars (\$15,000) shall be used to maintain a connection
44 between the CSRS and the NC HIE Authority, as required by subdivision (1)
45 of subsection (f) of this section.
- 46 (3) For the 2015-2016 fiscal year, the sum of forty thousand thirty-five dollars
47 (\$40,035) shall be used to establish the initial interface for PMP
48 InterConnect, as required by subdivision (2) of subsection (f) of this section.
49 This amount shall be adjusted or eliminated if DHHS is successful in
50 obtaining grant awards or identifying other allowable receipts for this

1 purpose. If receipts are used for this purpose, this nonrecurring appropriation
2 shall revert to the General Fund.

- 3 (4) For the 2015-2016 fiscal year, the sum of fifteen thousand dollars (\$15,000)
4 shall be used for the cost of annual service fees for the interstate connection
5 for the drug monitoring program, as required by subdivision (2) of
6 subsection (f) of this section. This amount shall be adjusted or eliminated if
7 DHHS is successful in obtaining grant awards or identifying other allowable
8 receipts for this purpose. If receipts are used for this purpose, this
9 nonrecurring appropriation shall revert to the General Fund.

10 11 **EXPAND MONITORING CAPACITY**

12 **SECTION 12F.16.(j)** The North Carolina Controlled Substances Reporting System
13 shall expand its monitoring capacity by establishing data use agreements with the Prescription
14 Behavior Surveillance System. In order to participate, the CSRS shall establish a data use
15 agreement with the Center of Excellence at Brandeis University no later than January 1, 2016.

16 **SECTION 12F.16.(k)** Beginning September 1, 2016, and every two years
17 thereafter, the Division of Mental Health, Developmental Disabilities, and Substance Abuse
18 Services of the Department of Health and Human Services shall report on its participation with
19 the Prescription Behavior Surveillance System to the Joint Legislative Oversight Committee on
20 Health and Human Services and the Joint Legislative Oversight Committee on Justice and
21 Public Safety.

22 23 **MEDICAID LOCK-IN PROGRAM**

24 **SECTION 12F.16.(l)** The Division of Medical Assistance of the Department of
25 Health and Human Services (DMA) shall take the following steps to improve the effectiveness
26 and efficiency of the Medicaid lock-in program:

- 27 (1) Establish written procedures for the operation of the lock-in program,
28 including specifying the responsibilities of DMA and the program
29 contractor.
- 30 (2) Establish procedures for the sharing of bulk data with the Controlled
31 Substances Regulatory Branch.
- 32 (3) In consultation with the Physicians Advisory Group, extend lock-in duration
33 to two years and revise program eligibility criteria to align the program with
34 the statewide strategic goals for preventing prescription drug abuse. DMA
35 shall report an estimate of the cost-savings from the revisions to the
36 eligibility criteria to the Joint Legislative Program Evaluation Oversight
37 Committee and the Joint Legislative Oversight Committee on Health and
38 Human Services within one year of the lock-in program again becoming
39 operational.
- 40 (4) Develop a Web site and communication materials to inform lock-in
41 enrollees, prescribers, pharmacists, and emergency room health care
42 providers about the program.
- 43 (5) Increase program capacity to ensure that all individuals who meet program
44 criteria are locked in.
- 45 (6) Conduct an audit of the lock-in program within six months after the effective
46 date of this act in order to evaluate the effectiveness of program restrictions
47 in preventing overutilization of controlled substances, identify any program
48 vulnerabilities, and address whether there is evidence of any fraud or abuse
49 within the program.

50 DMA shall report to the Joint Legislative Program Evaluation Oversight Committee by
51 September 30, 2015, on its progress toward implementing all items included in this section.

STATEWIDE STRATEGIC PLAN

SECTION 12F.16.(m) There is hereby created the Prescription Drug Abuse Advisory Committee, to be housed in and staffed by the Department of Health and Human Services (DHHS). The Committee shall develop and, through its members, implement a statewide strategic plan to combat the problem of prescription drug abuse. The Committee shall include representatives from the following, as well as any other persons designated by the Secretary of Health and Human Services:

- (1) The Division of Medical Assistance, DHHS.
- (2) The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, DHHS.
- (3) The Division of Public Health, DHHS.
- (4) The Rural Health Section of the Division of Public Health, DHHS.
- (5) The State Bureau of Investigation.
- (6) The Attorney General's Office.
- (7) The following health care regulatory boards with oversight of prescribers and dispensers of prescription drugs:
 - a. North Carolina Board of Dental Examiners.
 - b. North Carolina Board of Nursing.
 - c. North Carolina Board of Podiatry Examiners.
 - d. North Carolina Medical Board.
 - e. North Carolina Board of Pharmacy.
- (8) The UNC Injury Prevention Research Center.
- (9) The substance abuse treatment community.
- (10) Governor's Institute on Substance Abuse, Inc.
- (11) The Department of Insurance's drug take-back program.

After developing the strategic plan, the Committee shall be the State's steering committee to monitor achievement of strategic objectives and receive regular reports on progress made toward reducing prescription drug abuse in North Carolina.

(b) In developing the statewide strategic plan to combat the problem of prescription drug abuse, the Prescription Drug Abuse Advisory Committee shall, at a minimum, complete the following steps:

- (1) Identify a mission and vision for North Carolina's system to reduce and prevent prescription drug abuse.
- (2) Scan the internal and external environment for the system's strengths, weaknesses, opportunities, and challenges (a SWOC analysis).
- (3) Compare threats and opportunities to the system's ability to meet challenges and seize opportunities (a GAP analysis).
- (4) Identify strategic issues based on SWOC and GAP analyses.
- (5) Formulate strategies and resources for addressing these issues.

(c) The strategic plan for reducing prescription drug abuse shall include three to five strategic goals that are outcome-oriented and measureable. Each goal must be connected with objectives supported by the following five mechanisms of the system:

- (1) Oversight and regulation of prescribers and dispensers by State health care regulatory boards.
- (2) Operation of the Controlled Substances Reporting System.
- (3) Operation of the Medicaid lock-in program to review behavior of patients with high use of prescribed controlled substances.
- (4) Enforcement of State laws for the misuse and diversion of controlled substances.
- (5) Any other appropriate mechanism identified by the Committee.

1 (d) DHHS, in consultation with the Prescription Drug Abuse Advisory
2 Committee, shall develop and implement a formalized performance management system that
3 connects the goals and objectives identified in the statewide strategic plan to operations of the
4 Controlled Substances Reporting System and Medicaid lock-in program, law enforcement
5 activities, and oversight of prescribers and dispensers. The performance management system
6 must be designed to monitor progress toward achieving goals and objectives and must
7 recommend actions to be taken when performance falls short.

8 (e) Beginning on December 1, 2016, and annually thereafter, DHHS shall
9 submit an annual report on the performance of North Carolina's system for monitoring
10 prescription drug abuse to the Joint Legislative Oversight Committee on Health and Human
11 Services and the Joint Legislative Oversight Committee on Justice and Public Safety.
12

13 **EFFECTIVE DATE**

14 **SECTION 12F.16.(n)** Subdivision (f)(1) of this section becomes effective upon the
15 establishment of the North Carolina Health Information Exchange Authority pursuant to
16 Section 12A.5 of this act. The remainder of this section is effective when it becomes law.
17

18 **ELIMINATE PUBLICATION/ACCESS NORTH CAROLINA TRAVEL GUIDE**

19 **SECTION 12F.17.** G.S. 168-2 is repealed.
20

21 **BROUGHTON HOSPITAL FACILITIES STUDY**

22 **SECTION 12F.18.** Of the funds appropriated in this act for the 2015-2016 fiscal
23 year for technology infrastructure, furniture, and equipment for the Broughton Hospital
24 replacement facility, the sum of two hundred thousand dollars (\$200,000) shall be used to
25 conduct the study of potential uses for vacated Broughton Hospital facilities authorized in S.L.
26 2014-100.
27

28 **SUBPART XII-G. DIVISION OF HEALTH SERVICE REGULATION**

29 **MORATORIUM ON SPECIAL CARE UNIT LICENSES**

30 **SECTION 12G.2.(a)** Section 12G.1(a) of S.L. 2013-360, as amended by Section
31 12G.5 of S.L. 2014-100, reads as rewritten:
32

33 "**SECTION 12G.1.(a)** For the period beginning July 31, 2013, and ending ~~June 30,~~
34 2016, June 30, 2017, the Department of Health and Human Services, Division of Health Service
35 Regulation (Department), shall not issue any licenses for special care units as defined in
36 G.S. 131D-4.6 and G.S. 131E-114. This prohibition shall not restrict the Department from
37 doing any of the following:

- 38 (1) Issuing a license to a facility that is acquiring an existing special care unit.
- 39 (2) Issuing a license for a special care unit in any area of the State upon a
40 determination by the Secretary of the Department of Health and Human
41 Services that increased access to this type of care is necessary in that area
42 during the moratorium imposed by this section.
- 43 (3) Processing all completed applications for special care unit licenses received
44 by the Division of Health Service Regulation along with the applicable
45 license fee prior to June 1, 2013.
- 46 (4) Issuing a license to a facility that was in possession of a certificate of need as
47 of July 31, 2013, that included authorization to operate special care unit
48 beds."

49 **SECTION 12G.2.(a1)** The Department shall submit a report to the Joint
50 Legislative Oversight Committee on Health and Human Services by March 1, 2016, containing
51 at least the following information:

- 1 (1) The number of licensed special care units in the State.
- 2 (2) The capacity of the currently licensed special care units to serve people in
3 need of their services.
- 4 (3) The anticipated growth in the number of people who will need the services
5 of a licensed special care unit.
- 6 (4) The number of applications received from special care units seeking
7 licensure as permitted by this section, and the number of those applications
8 that were not approved.

9 **SECTION 12G.2.(b)** This section is effective when this act becomes law.

10
11 **PHASED CERTIFICATE OF NEED REPEAL**

12 **SECTION 12G.5.(a)** It is the intent of the General Assembly to repeal the
13 certificate of need laws set forth in Article 9 of Chapter 131E of the General Statutes in three
14 phases as set forth in subsections (b) and (c) of this section.

15 **SECTION 12G.5.(b)** Phase 1. – Effective January 1, 2016, the certificate of need
16 laws will not apply to the following health service facilities and activities:

- 17 (1) The establishment of beds or a change in bed capacity at any of the
18 following health service facilities:
 - 19 a. Acute care hospitals.
 - 20 b. Inpatient psychiatric hospitals.
 - 21 c. Inpatient rehabilitation hospitals.
 - 22 d. Kidney disease treatment centers.
 - 23 e. ICFMRs.
 - 24 f. Chemical dependency treatment facilities.
- 25 (2) The offering of any of the following services:
 - 26 a. Bone marrow transplantation.
 - 27 b. Burn intensive care services.
 - 28 c. Open heart surgery services.
 - 29 d. Solid organ transplantation.
- 30 (3) The acquisition of any of the following equipment:
 - 31 a. Gamma knife equipment.
 - 32 b. Heart-lung bypass machine.
 - 33 c. Lithotripter.
- 34 (4) The construction, development, establishment, increase in the number, or
35 relocation of an operating room or gastrointestinal endoscopy room in a
36 licensed health service facility.

37 **SECTION 12G.5.(c)** Phase 2. – Effective August 1, 2017, the certificate of need
38 laws will not apply to the establishment of beds or a change in bed capacity at any of the
39 following health service facilities:

- 40 (1) Diagnostic centers.
- 41 (2) Ambulatory surgical facilities.

42 **SECTION 12G.5.(d)** Phase 3. – Effective January 1, 2019, the certificate of need
43 laws will not apply to the following health service facilities and activities:

- 44 (1) Nursing homes.
- 45 (2) Hospice programs.
- 46 (3) Hospice inpatient facilities.
- 47 (4) Hospice residential care facilities.
- 48 (5) Long-term care hospitals.
- 49 (6) The offering of cardiac catheterization services.
- 50 (7) The acquisition of any of the following equipment:
 - 51 a. Cardiac catheterization equipment.

- b. Linear accelerator.
- c. Magnetic resonance imaging scanner.
- d. Positron emission tomography scanner.
- e. Simulator.

REPEAL CERTIFICATE OF PUBLIC ADVANTAGE LAWS

SECTION 12G.6.(a) Article 1E of Chapter 90 and Article 9A of Chapter 131E of the General Statutes are repealed.

SECTION 12G.6.(b) All existing certificates of public advantage (COPAs) granted pursuant to Article 1E of Chapter 90 and Article 9A of Chapter 131E of the General Statutes, as defined in these Articles, are cancelled effective January 1, 2016. By delaying the effective date of the cancellation of COPAs to January 1, 2016, it is the intent of the General Assembly to provide parties to existing cooperative agreements, as defined in G.S. 90-21.25 and G.S. 131E-192.2, with sufficient time to review their cooperative agreements for compliance with State and federal laws and to take whatever action the parties deem necessary.

SECTION 12G.6.(c) This section is effective when it becomes law.

SUBPART XII-H. DIVISION OF MEDICAL ASSISTANCE (MEDICAID)

MEDICAID ELIGIBILITY

SECTION 12H.2.(a) Families and children who are categorically and medically needy are eligible for Medicaid, subject to the following annual income levels:

	Family Size	Categorically Needy Income Level	Medically Needy Income Level
	1	\$ 5,208	\$ 2,904
	2	6,828	3,804
	3	8,004	4,404
	4	8,928	4,800
	5	9,888	5,196
	6	10,812	5,604
	7	11,700	6,000
	8	12,432	6,300

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.

SECTION 12H.2.(b) 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 ninety-six percent (196%) 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.

- 1 (3) Infants under the age of one with family incomes equal to or less than two
 2 hundred ten percent (210%) of the federal poverty guidelines and without
 3 regard to resources.
- 4 (4) Children aged one through five with family incomes equal to or less than
 5 two hundred ten percent (210%) of the federal poverty guidelines and
 6 without regard to resources.
- 7 (5) Children aged six through 18 with family incomes equal to or less than one
 8 hundred thirty-three percent (133%) of the federal poverty guidelines and
 9 without regard to resources.
- 10 (6) Workers with disabilities described in G.S. 108A-66A with unearned income
 11 equal to or less than one hundred fifty percent (150%) of the federal poverty
 12 guidelines.

13 The Department of Health and Human Services, Division of Medical Assistance, shall also
 14 provide family planning services to men and women of childbearing age with family incomes
 15 equal to or less than one hundred ninety-five percent (195%) of the federal poverty guidelines
 16 and without regard to resources.

17 **SECTION 12H.2.(c)** The Department of Health and Human Services, Division of
 18 Medical Assistance, shall provide Medicaid coverage to adoptive children with special or
 19 rehabilitative needs, regardless of the adoptive family's income.

20 **SECTION 12H.2.(d)** The Department of Health and Human Services, Division of
 21 Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents,"
 22 ages 18, 19, and 20, as defined in section 1905(w)(1) of the Social Security Act (42 U.S.C. §
 23 1396d(w)(1)), without regard to the adolescent's assets, resources, or income levels.

24 **SECTION 12H.2.(e)** The Department of Health and Human Services, Division of
 25 Medical Assistance, shall provide Medicaid coverage to women who need treatment for breast
 26 or cervical cancer and who are defined in 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVIII).

27 **SECTION 12H.2.(f)** G.S. 108A-70.21 reads as rewritten:

28 "**§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing;**
 29 **coverage from private plans; purchase of extended coverage.**

30 (a) Eligibility. – The Department may enroll eligible children based on availability of
 31 funds. Following are eligibility and other requirements for participation in the Program:

32 (1) Children must:

- 33 a. Be between the ages of 6 through 18;
- 34 b. Be ineligible for Medicaid, Medicare, or other federal
 35 government-sponsored health insurance;
- 36 c. Be uninsured;
- 37 d. Be in a family whose family income is above one hundred
 38 thirty-three percent (133%) ~~through and less than or equal to two~~
 39 hundred eleven percent (~~200%~~)(211%) of the federal poverty level;
- 40 e. Be a resident of this State and eligible under federal law; and
- 41 f. Have paid the Program enrollment fee required under this Part.

42 ...

43 (b) Benefits. – All health benefits changes of the Program shall meet the coverage
 44 requirements set forth in this subsection. Except as otherwise provided for eligibility, fees,
 45 deductibles, copayments, and other cost sharing charges, health benefits coverage provided to
 46 children eligible under the Program shall be equivalent to coverage provided for dependents
 47 under North Carolina Medicaid Program except for the following:

- 48 (1) No services for long-term care.
- 49 (2) No nonemergency medical transportation.
- 50 (3) No EPSDT.

- 1 (4) Dental services shall be provided on a restricted basis in accordance with
2 criteria adopted by the Department to implement this subsection.

3 In addition to the benefits provided under the North Carolina Medicaid Program, the
4 following services and supplies are covered under the Health Insurance Program for Children
5 established under this Part:

- 6 (1), (1a) Repealed by Session Laws 2011-145, s. 10.41(b), effective July 1, 2011.
7 (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass
8 lenses or contact lenses once every 12 months, routine replacement of
9 eyeglass frames once every 24 months, and optical supplies and solutions
10 when needed. NCHC recipients must obtain optical services, supplies, and
11 solutions from NCHC enrolled, licensed or certified ophthalmologists,
12 optometrists, or opticians. In accordance with G.S. 148-134, NCHC
13 providers must order complete eyeglasses, eyeglass lenses, and ophthalmic
14 frames through Nash Optical Plant. Eyeglass lenses are limited to
15 NCHC-approved single vision, bifocal, trifocal, or other complex lenses
16 necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses
17 and frames, designer frames, photosensitive lenses, tinted contact lenses,
18 blended lenses, progressive multifocal lenses, coated lenses, and laminated
19 lenses is limited to the coverage for single vision, bifocal, trifocal, or other
20 complex lenses provided by this subsection. Eyeglass frames are limited to
21 NCHC-approved frames made of zylonite, metal, or a combination of
22 zylonite and metal. All visual aids covered by this subsection require prior
23 approval. Requests for medically necessary complete eyeglasses, eyeglass
24 lenses, and ophthalmic frames outside of the NCHC-approved selection
25 require prior approval. Requests for medically necessary fabrication of
26 complete eyeglasses or eyeglass lenses outside of Nash Optical Plant require
27 prior approval. Upon prior approval refractions may be covered more often
28 than once every 12 months.
29 (3) Under the North Carolina Health Choice Program for Children, the
30 co-payment for nonemergency visits to the emergency room for children
31 whose family income is ~~at or below~~ less than or equal to one hundred
32 fifty-nine percent (159%) ~~(150%)~~ of the federal poverty level is ten
33 dollars (\$10.00). The co-payment for children whose family income is
34 ~~between above~~ above one hundred fifty-one fifty-nine percent (159%) and
35 less than or equal to two hundred eleven percent (211%) ~~(200%)~~ of the
36 federal poverty level is twenty-five dollars (\$25.00).

37 ...

38 (c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage
39 for enrollees whose family income is ~~at or below~~ less than or equal to one hundred
40 fifty-nine percent (159%) ~~(150%)~~ of the federal poverty level. The enrollment fee for Program
41 coverage for enrollees whose family income is above one hundred ~~fifty~~ fifty-nine percent
42 (159%) ~~(150%)~~ through and less than or equal to two hundred eleven percent (211%) ~~(200%)~~
43 of the federal poverty level shall be fifty dollars (\$50.00) per year per child with a maximum
44 annual enrollment fee of one hundred dollars (\$100.00) for two or more children. The
45 enrollment fee shall be collected by the county department of social services and retained to
46 cover the cost of determining eligibility for services under the Program. County departments of
47 social services shall establish procedures for the collection of enrollment fees.

48 (d) Cost-Sharing. – There shall be no deductibles, copayments, or other cost-sharing
49 charges for families covered under the Program whose family income is ~~at or below~~ less than or
50 equal to one hundred fifty-nine percent (159%) ~~(150%)~~ of the federal poverty level, except
51 that fees for outpatient prescription drugs are applicable and shall be one dollar (\$1.00) for each

1 outpatient generic prescription drug, for each outpatient brand-name prescription drug for
2 which there is no generic substitution available, and for each covered over-the-counter
3 medication. The fee for each outpatient brand-name prescription drug for which there is a
4 generic substitution available is three dollars (\$3.00). Families covered under the Program
5 whose family income is above one hundred ~~forty-five~~fifty-nine percent (~~45%~~59%) of the
6 federal poverty level shall be responsible for copayments to providers as follows:

- 7 (1) Five dollars (\$5.00) per child for each visit to a provider, except that there
8 shall be no copayment required for well-baby, well-child, or age-appropriate
9 immunization services;
- 10 (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- 11 (3) A one dollar (\$1.00) fee for each outpatient generic prescription drug, for
12 each outpatient brand-name prescription drug for which there is no generic
13 substitution available, and for each covered over-the-counter medication.
14 The fee for each outpatient brand-name prescription drug for which there is a
15 generic substitution available is ten dollars (\$10.00).
- 16 (4) Twenty dollars (\$20.00) for each emergency room visit unless:
 - 17 a. The child is admitted to the hospital, or
 - 18 b. No other reasonable care was available as determined by the
19 Department.

20 ..."

21 LME/MCO OUT-OF-NETWORK AGREEMENTS

22 **SECTION 12H.3.(a)** The Department of Health and Human Services (Department)
23 shall ensure that local management entities/managed care organizations (LME/MCOs) utilize
24 an out-of-network agreement that contains standardized elements developed in consultation
25 with LME/MCOs. The out-of-network agreement shall be a streamlined agreement between a
26 single provider of behavioral health or intellectual/developmental disability (IDD) services and
27 an LME/MCO to ensure access to care in accordance with 42 C.F.R. 438.206(b)(4), reduce
28 administrative burden on the provider, and comply with all requirements of State and federal
29 laws and regulations. Beginning July 1, 2015, LME/MCOs shall use the out-of-network
30 agreement in lieu of a comprehensive provider contract when all of the following conditions are
31 met:

- 32 (1) The services requested are medically necessary and cannot be provided by
33 an in-network provider.
- 34 (2) The behavioral health or IDD provider's site of service delivery is located
35 outside of the geographical catchment area of the LME/MCO, and the
36 LME/MCO is not accepting applications or the provider does not wish to
37 apply for membership in the LME/MCO closed network.
- 38 (3) The behavioral health or IDD provider is not excluded from participation in
39 the Medicaid program, the NC Health Choice program or other State or
40 federal health care program.
- 41 (4) The behavioral health or IDD provider is serving no more than two enrollees
42 of the LME/MCO, unless the agreement is for inpatient hospitalization, in
43 which case the LME/MCO may, but shall not be required to, enter into more
44 than five such out-of-network agreements with a single hospital or health
45 system in any 12-month period.

46 **SECTION 12H.3.(b)** Medicaid providers providing services pursuant to an
47 out-of-network agreement shall be considered a network provider for purposes of Chapter
48 108D of the General Statutes only as it relates to enrollee grievances and appeals.

49 PROVIDER APPLICATION AND RECREDENTIALING FEE

1 **SECTION 12H.4.** The Department of Health and Human Services, Division of
2 Medical Assistance, shall charge an application fee of one hundred dollars (\$100.00), and the
3 amount federally required, to each provider enrolling in the Medicaid Program for the first
4 time. The fee shall be charged to all providers at recredentialing every three years.

5
6 **REIMBURSEMENT FOR IMMUNIZING PHARMACIST SERVICES**

7 **SECTION 12H.5.(a)** Effective January 1, 2016, the Department of Health and
8 Human Services, Division of Medical Assistance (Department), shall provide Medicaid and NC
9 Health Choice reimbursement for the administration of covered vaccinations or immunizations
10 provided by immunizing pharmacists in accordance with G.S. 90-85.15B.

11 **SECTION 12H.5.(b)** In order to implement the requirements of subsection (a) of
12 this section, the Department shall enroll immunizing pharmacists as providers.

13 **SECTION 12H.5.(c)** The Department shall submit any State plan amendments
14 necessary to accomplish the requirements of this section.

15
16 **TRAUMATIC BRAIN INJURY MEDICAID WAIVER**

17 **SECTION 12H.6.(a)** The Department of Health and Human Services, Division of
18 Medical Assistance and Division of Mental Health, Developmental Disabilities, and Substance
19 Abuse Services (Department), shall submit to the Centers for Medicare and Medicaid Services
20 a request for approval of the 1915(c) waiver for individuals with traumatic brain injury (TBI)
21 that the Department designed pursuant to Section 12H.6 of S.L. 2014-100, which the Joint
22 Legislative Oversight Committee on Health and Human Services recommended as part of its
23 December 2014 report to the General Assembly, and which is further described in the
24 Department's February 1, 2015, report to the General Assembly.

25 **SECTION 12H.6.(b)** The Department shall report to the Joint Legislative
26 Oversight Committee on Health and Human Services on the status of the Medicaid TBI waiver
27 request and the plan for implementation no later than December 1, 2015. The Department shall
28 submit an updated report by March 1, 2016. Each report shall include the following:

- 29 (1) The number of individuals who are being served under the waiver and the
30 total number of individuals expected to be served.
31 (2) The expenditures to date and a forecast of future expenditures.
32 (3) Any recommendations regarding expansion of the waiver.

33 **SECTION 12H.6.(c)** Of the funds appropriated to the Department of Health and
34 Human Services, Division of Medical Assistance, two million dollars (\$2,000,000) for fiscal
35 year 2015-2016 and two million dollars (\$2,000,000) for fiscal year 2016-2017 shall be used to
36 fund the Medicaid TBI waiver.

37
38 **STUDY MEDICAID COVERAGE FOR VISUAL AIDS**

39 **SECTION 12H.6A.** The Department of Health and Human Services, Division of
40 Medical Assistance, in consultation with the Department of Public Safety, shall submit a report
41 to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal
42 Research Division by October 1, 2015, containing an analysis of the fiscal impact to the State
43 of reinstating Medicaid coverage for visual aids for adults utilizing a contract with the
44 Department of Public Safety for fabrication of the eyeglasses at Nash Optical Plant Optical
45 Laboratory. The report shall also analyze the cost of reinstating Medicaid coverage for routine
46 eye examinations for adults in addition to the coverage for visual aids.

47
48 **ASSESSMENTS**

49 **SECTION 12H.7.** G.S. 108A-122(b) reads as rewritten:

50 "(b) Allowable Cost. – An assessment paid under this Article may be included as
51 allowable costs of a hospital for purposes of any applicable Medicaid reimbursement formula.

1 formula; assessments paid under this Article shall be excluded from cost settlement. An
2 assessment imposed under this Article may not be added as a surtax or assessment on a patient's
3 bill."
4

5 **LME/MCO TRANSFER OF FUNDS TO RISK RESERVE**

6 **SECTION 12H.8.(a)** After the local management entities/managed care
7 organizations (LME/MCOs) have allocated funds to cover the reduction in single stream
8 funding required by Section 12F.2 of this act, the Department of Health and Human Services,
9 Division of Medical Assistance, shall require LME/MCOs to transfer funds from their
10 operating cash reserves to their contractually-required risk reserve account in an amount
11 sufficient so that the funds in the risk reserve account equal fifteen percent (15%) of annual
12 premiums. The Department shall not require LME/MCOs to transfer from their operating cash
13 reserves the amount needed to make up the difference between the current month's claims
14 payments and the capitation payment received for the month.

15 **SECTION 12H.8.(b)** The Department shall discontinue paying the two percent
16 (2%) added to the administrative payment of an LME/MCO when the amount in the
17 LME/MCO's risk reserve account reaches fifteen percent (15%) of annual premiums.

18 **SECTION 12H.8.(c)** The Department shall work with LME/MCOs to consolidate
19 their multiple existing reserve accounts so that each LME/MCO has only one reserve account.
20

21 **ADMINISTRATIVE HEARINGS FUNDING**

22 **SECTION 12H.9.** Of the funds appropriated to the Department of Health and
23 Human Services, Division of Medical Assistance, for administrative contracts and interagency
24 transfers, the Department of Health and Human Services (Department) shall transfer the sum of
25 one million dollars (\$1,000,000) for the 2015-2016 fiscal year and the sum of one million
26 dollars (\$1,000,000) for the 2016-2017 fiscal year to the Office of Administrative Hearings
27 (OAH). These funds shall be allocated by the OAH for mediation services provided for
28 Medicaid applicant and recipient appeals and to contract for other services necessary to conduct
29 the appeals process. OAH shall continue the Memorandum of Agreement (MOA) with the
30 Department for mediation services provided for Medicaid recipient appeals and contracted
31 services necessary to conduct the appeals process. The MOA will facilitate the Department's
32 ability to draw down federal Medicaid funds to support this administrative function. Upon
33 receipt of invoices from OAH for covered services rendered in accordance with the MOA, the
34 Department shall transfer the federal share of Medicaid funds drawn down for this purpose.
35

36 **ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

37 **SECTION 12H.10.(a)** Receivables reserved at the end of the 2015-2016 and
38 2016-2017 fiscal years shall, when received, be accounted for as nontax revenue for each of
39 those fiscal years.

40 **SECTION 12H.10.(b)** For the 2015-2016 fiscal year, the Department of Health
41 and Human Services shall deposit from its revenues one hundred thirty-nine million dollars
42 (\$139,000,000) with the Department of State Treasurer to be accounted for as nontax revenue.
43 For the 2016-2017 fiscal year, the Department of Health and Human Services shall deposit
44 from its revenues one hundred thirty-nine million dollars (\$139,000,000) with the Department
45 of State Treasurer to be accounted for as nontax revenue. These deposits shall represent the
46 return of General Fund appropriations, nonfederal revenue, fund balances, or other resources
47 from State-owned and State-operated hospitals which are used to provide indigent and
48 nonindigent care services. The return from State-owned and State-operated hospitals to DHHS
49 will be made from nonfederal resources in an amount equal to the amount of the payments from
50 the Division of Medical Assistance for uncompensated care. The treatment of any revenue

1 derived from federal programs shall be in accordance with the requirements specified in the
2 Code of Federal Regulations, Title 2, Part 225.

3 4 **MEDICAID SPECIAL FUND TRANSFER**

5 **SECTION 12H.11.** Of the funds transferred to the Department of Health and
6 Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from
7 the Medicaid Special Fund to the Department of Health and Human Services the sum of
8 forty-three million dollars (\$43,000,000) for the 2015-2016 fiscal year and the sum of
9 forty-three million dollars (\$43,000,000) for the 2016-2017 fiscal year. These funds shall be
10 allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the
11 prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding,
12 these funds shall replace the reduction in general revenue funding effected in this act.

13 14 **MISCELLANEOUS MEDICAID PROVISIONS**

15 **SECTION 12H.12.(a)** Volume Purchase Plans and Single Source Procurement. –
16 The Department of Health and Human Services, Division of Medical Assistance, may, subject
17 to the approval of a change in the State Medicaid Plan, contract for services, medical
18 equipment, supplies, and appliances by implementation of volume purchase plans, single
19 source procurement, or other contracting processes in order to improve cost containment.

20 **SECTION 12H.12.(b)** Cost Containment Programs. – The Department of Health
21 and Human Services, Division of Medical Assistance, may undertake cost containment
22 programs, including contracting for services, preadmissions to hospitals, and prior approval for
23 certain outpatient surgeries before they may be performed in an inpatient setting.

24 **SECTION 12H.12.(c)** Medicaid Identification Cards. – The Department shall issue
25 Medicaid identification cards to recipients on an annual basis with updates as needed.

26 27 **MISCELLANEOUS HEALTH CHOICE PROVISIONS**

28 **SECTION 12H.14.(a)** G.S. 108A-70.18(4a) is repealed.

29 **SECTION 12H.14.(b)** G.S. 108A-70.20 reads as rewritten:

30 **"§ 108A-70.20. Program established.**

31 The Health Insurance Program for Children is established. The Program shall be known as
32 North Carolina Health Choice for Children, and it shall be administered by the Department of
33 Health and Human Services in accordance with this Part and as required under Title XXI and
34 related federal rules and regulations. Administration of ~~Program benefits and claims processing~~
35 shall be as ~~provided under Part 5 of Article 3 of Chapter 135 of the General Statutes, described~~
36 in 42 C.F.R. § 447.45(d)(1)."

37 **SECTION 12H.14.(c)** Subsections (g) and (h) of G.S. 108A-70.21 are repealed.

38 **SECTION 12H.14.(d)** G.S. 108A-70.21(i) reads as rewritten:

39 "(i) ~~No Lifetime Maximum Benefit Limit.~~—Benefits provided to an enrollee in the
40 Program ~~shall not be subject to a maximum lifetime limit, may be subject to lifetime maximum~~
41 limits set forth in Medicaid and NC Health Choice medical coverage policies adopted pursuant
42 to G.S. 108A-54.2."

43 **SECTION 12H.14.(e)** G.S. 108A-70.27(c) is repealed.

44 45 **REINSTATE COST SETTLEMENT PURSUANT TO 1993 STATE AGREEMENT**

46 **SECTION 12H.17.** Effective July 1, 2015, the cost settlement for outpatient
47 Medicaid services performed by Vidant Medical Center, which was previously known as Pitt
48 County Memorial Hospital, shall be at one hundred percent (100%) of allowable costs.

49 50 **COVERED SERVICES AND PAYMENT FOR SERVICES**

1 **SECTION 12H.18.** Except as otherwise specifically provided in this act or another
2 act passed during the 2015 Regular Session, the authorized State plan services, co-pays,
3 reimbursement rates, and fees shall remain the same as those authorized as of June 30, 2015.
4

5 **DRUG REIMBURSEMENT USING AVERAGE ACQUISITION COST**

6 **SECTION 12H.19.(a)** The Department of Health and Human Services, Division of
7 Medical Assistance, (Department) shall adopt an average acquisition cost methodology for
8 brand and generic drug ingredient pricing to be effective beginning on January 1, 2016. The
9 drug ingredient pricing methodology shall be consistent with new federal requirements or, if
10 the new federal requirements have not yet been finalized by July 1, 2015, consistent with the
11 most recent draft federal requirements. In adopting a new drug ingredient pricing methodology,
12 the Department shall also do all of the following:

- 13 (1) Raise the average dispensing fee to a weighted average amount that does not
14 exceed twelve dollars (\$12.00).
- 15 (2) Set actual dispensing fees that maintain a higher dispensing fee for preferred
16 and generic drugs and a lower dispensing fee for brand and nonpreferred
17 drugs.
- 18 (3) Ensure that ingredient prices are updated at least monthly.

19 **SECTION 12H.19.(b)** In addition to the requirements in subsection (a) of this
20 section, the Department may also set tiered dispensing fees that establish a higher dispensing
21 fee for providers who dispense a lower volume of prescriptions and a lower dispensing fee for
22 providers who dispense a higher volume of prescriptions, as long as the weighted average
23 amount of all the tiered dispensing fees does not exceed twelve dollars (\$12.00).

24 **SECTION 12H.19.(c)** In order to implement this section, the Department shall
25 either amend the State plan amendment request submitted to the Centers for Medicare and
26 Medicaid Services (CMS) pursuant to Section 12H.8 of S.L. 2014-100 so that it conforms with
27 the requirements of this section or shall withdraw that State plan amendment and submit a new
28 State plan amendment request to CMS that conforms with the requirements of this section, in
29 accordance with the procedures set forth in G.S. 108A-54.1A.
30

31 **MEDICAID DENTAL SERVICE COST SETTLEMENT**

32 **SECTION 12H.20.** The Department of Health and Human Services, Division of
33 Medical Assistance, shall submit a State Plan Amendment request to the Centers for Medicare
34 and Medicaid Services to assure that all State-operated dental schools receive the same
35 reimbursement for dental services provided to North Carolina Medicaid beneficiaries.
36

37 **MOBILE DENTAL PROVIDER ENROLLMENT**

38 **SECTION 12H.21.** For mobile dental providers seeking enrollment as a Medicaid
39 provider, and upon reenrollment of current Medicaid mobile dental providers, the Department
40 of Health and Human Services, Division of Medicaid Assistance, shall require as a condition of
41 enrollment or reenrollment that the mobile dental provider show proof of a contractual
42 affiliation with dental practice that is not mobile, and the Department shall require the mobile
43 dental provider to use the National Provider Identifier (NPI) of the non-mobile dental practice
44 for purposes of filing claims.
45

46 **INCREASE RATES FOR PRIVATE DUTY NURSING**

47 **SECTION 12H.22.** Effective January 1, 2016, the Department of Health and
48 Human Services, Division of Medical Assistance, shall increase by ten percent (10%) the rate
49 paid for private duty nursing services provided pursuant to Clinical Coverage Policy 3G.
50

51 **RESTRICTING GRADUATE MEDICAL PAYMENTS**

1 **SECTION 12H.23.(a)** The Department of Health and Human Services shall submit
2 a State Plan Amendment to modify Section 4.19-A of the Medicaid State Plan, such that,
3 effective October 1, 2015, no Medicaid provider may receive reimbursement for Graduate
4 Medical Education (GME) in addition to their DRG Unit Value (Base) rate under the
5 methodology as defined in the current Medicaid State Plan.

6 **SECTION 12H.23.(b)** This modification shall be implemented upon approval by
7 the Centers for Medicare and Medicaid Services (CMS).

8 **SECTION 12H.23.(c)** The Department of Health and Human Services, Division of
9 Medical Assistance, shall be exempt from the 90-day prior submission requirement in
10 G.S. 108A-54.1A in order to submit the State Plan amendment required to implement this
11 section.

12 **MEDICAID TRANSFORMATION AND REORGANIZATION**

13 **SECTION 12H.24.(a)** Intent and Goals. – It is the intent of the General Assembly
14 to transform the State's current Medicaid program to a program that provides budget
15 predictability for the taxpayers of this State while ensuring quality care to those in need. The
16 new Medicaid program shall be designed to achieve the following goals:

- 17 (1) Ensure budget predictability through shared risk and accountability.
- 18 (2) Ensure balanced quality, patient satisfaction, and financial measures.
- 19 (3) Ensure efficient and cost-effective administrative systems and structures.
- 20 (4) Ensure a sustainable delivery system.

21 **SECTION 12H.24.(b)** Structure of Delivery System. – The transformed Medicaid
22 program described in subsection (a) of this section shall be organized according to the
23 following principles and parameters:

- 24 (1) The Health Benefits Authority (Authority), created in subsection (h1) of this
25 section, shall have full budget and regulatory authority to manage the State's
26 Medicaid and NC Health Choice programs, except the General Assembly
27 shall determine eligibility categories and income thresholds.
- 28 (2) Among its initial tasks, the Authority shall:
 - 29 a. Determine the structural and financial qualifications required for
30 managed care organizations (MCOs) and provider-led entities
31 (PLEs). The majority of the members of a PLE's governing board
32 shall be composed of providers as defined in G.S. 108C-2 or entities
33 composed of providers.
 - 34 b. Designate six regions within the State. Regions must be composed of
35 whole counties. Regions do not have to be contiguous, and it is not
36 the intent of the General Assembly to require that every county be
37 included in at least one of the six regions.
- 38 (3) The Authority shall enter into contractual relationships with MCOs and
39 PLEs for the delivery of all Medicaid health care items and services. All
40 contracts shall be the result of a request for proposals (RFP) issued by the
41 Authority and the submission of competitive bids by MCOs and PLEs. The
42 governing principles and minimum terms and conditions of the RFPs, bids,
43 and contracts are described in subsection (d) of this section.
- 44 (4) The number and nature of the contracts required under subdivision (3) of this
45 subsection shall be as follows:
 - 46 a. Three contracts between the Authority and any combination of
47 individual MCOs and individual PLEs. Each of these contracts shall
48 provide statewide coverage for all Medicaid health care items and
49 services (statewide contracts).
 - 50

1 b. Up to 12 contracts between the Authority and individual PLEs for
2 coverage of specified regions (regional contracts). Regional contracts
3 shall be in addition to the three statewide contracts required under
4 sub-subdivision a. of this subdivision. Each regional contract shall
5 provide coverage throughout the entire region for all Medicaid health
6 care items and services. A PLE may bid on more than one region.
7 The Authority shall have full discretion to enter into one, two, or no
8 regional contracts in any region.

9 (5) As a result of the contracts entered into by the Authority under subdivision
10 (3) of this subsection, a recipient shall have at least three, but no more than
11 five enrollment choices for the provision of all Medicaid health care items
12 and services. The Authority shall provide for annual open enrollment periods
13 and shall determine the process for assigning recipients who do not select a
14 MCO or PLE during the enrollment period.

15 **SECTION 12H.24.(c)** Time Line. – The following milestones for Medicaid
16 transformation shall occur no later than the following dates:

17 (1) When this act becomes law. -

18 a. The Health Benefits Authority is created pursuant to subsection (h1)
19 of this section and appointments to the Authority's Board shall be
20 made pursuant to G.S. 143B-1405.

21 b. The Joint Legislative Oversight Committee on the Health Benefits
22 Authority (LOC-HBA) is created pursuant to subsection (l) of this
23 section to oversee the Medicaid and NC Health Choice programs.

24 (2) September 1, 2015. – The Department of Health and Human Services
25 (Department) shall establish the Medicaid stabilization team pursuant to
26 subsection (g) of this section.

27 (3) October 1, 2015. -

28 a. The Authority is designated as the single state agency for the
29 administration of Medicaid and NC Health Choice.

30 b. The Department and the Authority shall enter into agreements
31 necessary for the Authority to supervise the Department's
32 administration of the Medicaid and NC Health Choice programs.

33 (4) February 1, 2016. – The Authority shall submit requests for waivers and
34 State Plan amendments to the Centers for Medicare and Medicaid Services
35 necessary to implement Medicaid transformation.

36 (5) March 1, 2016. – The Authority shall report recommended statutory changes
37 to the North Carolina General Statutes to the LOC-HBA.

38 (6) April 1, 2017. – The initial recipient enrollment period begins.

39 (7) August 1, 2017. – Capitated full-risk contracts begin.

40 **SECTION 12H.24.(d)** Requests for Proposals; Bids; Terms & Conditions of
41 Contracts. – The following shall be components of the initial RFPs, responsive bids to the
42 initial RFPs, and the initial contracts that are required under subsection (b) of this section.

43 (1) An RFP may solicit bids for a statewide contract, a regional contract, or
44 both, and may propose variable contract durations.

45 (2) RFPs must require at least all of the following:

46 a. Full-risk capitation for all Medicaid health care items and services.

47 b. Coverage for all program aid categories except the dual eligible
48 categories for which Medicaid only pays Medicare premiums.

49 c. All bidders meet solvency requirements established by the
50 Department of Insurance pursuant to subsection (k1) of this section.

- 1 d. All bidders meet the same standards and metrics for risk, outcomes,
2 and quality.
- 3 e. All bidders establish appropriate networks or providers to deliver
4 services.
- 5 f. All bidders subcontract with existing LME/MCOs for behavioral
6 health services for up to three years at a capitation rate that is no less
7 than the most recently negotiated rate for the then current scope of
8 benefits paid to LME/MCOs.
- 9 g. All bidders agree not to limit providers' ability to contract with other
10 MCOs and PLEs.
- 11 h. All bidders must connect to the Health Information Exchange
12 Network or any successor information technology entity or
13 architecture specified by the Authority in order to ensure effective
14 systems and connectivity to support clinical coordination of care,
15 exchange of information, and the availability of data to the Authority
16 to manage the Medicaid and NC Health Choice program for the
17 State.
- 18 i. All bidders ensure that their contracts with providers include
19 value-based payment systems that support the achievement of overall
20 performance, quality, and outcome measures.
- 21 (3) All bids must respond to the requirements of subdivision (2) of this
22 subsection and must also include at least all of the following:
- 23 a. For statewide contracts, a description of how the MCO or PLE will
24 ensure access to appropriate care throughout the State.
- 25 b. For regional contracts, a description of how the PLE will ensure
26 access to appropriate care throughout the region.
- 27 c. Proposed competitive medical loss ratios.
- 28 d. Proposed full-risk capitated rates based on Centers for Medicare and
29 Medicaid Services (CMS) actuarial soundness and industry standards
30 as well as risk adjusted rate ranges using claims data from fiscal year
31 2014-2015. Actuarial calculations must include utilization
32 assumptions consistent with industry and local standards.
- 33 e. Methods to ensure program integrity against provider fraud, waste,
34 and abuse at all levels.
- 35 (4) In addition to the requirements of subdivisions (1) through (3) of this
36 subsection, each contract must provide for all of the following:
- 37 a. Negotiated full-risk capitated rates, including a portion that is at risk
38 for achievement of quality and outcome measures.
- 39 b. Negotiated competitive medical loss ratios.
- 40 c. Compliance by the MCO or PLE with all CMS requirements for the
41 Medicaid and NC Health Choice programs.
- 42 d. Defined measures and goals for risk adjusted health outcomes,
43 quality of care, patient satisfaction, and cost. Each component must
44 be measured and monitored continually and reported at set intervals
45 as determined by the Authority. Each component shall be subject to
46 specific accountability measures, including penalties. The Authority
47 may use organizations such as National Committee for Quality
48 Assurance (NCQA), Physician Consortium for Performance
49 Improvement (PCPI), Healthcare Effectiveness Data and Information
50 Set (HEDIS), or any others necessary to develop effective measures
51 for outcomes and quality.

- e. Acceptance of full responsibility by the MCO or PLE for all grievance and appeals.
- f. Ability of the MCO or PLE to exclude providers from networks based on economic or quality standards.
- g. Ability of the MCO or PLE to terminate the capitation rate required under sub-subdivision f. of subdivision (2) of this subsection if termination of the rate is mutually agreed to by the LME/MCO.
- h. Agreement that covered benefits will not be reduced from the covered services in effect on the date the contract is awarded except in instances where the Authority reduces a covered service for all recipients and for all contracts.

SECTION 12H.24.(e) Monthly Progress Report. – Beginning November 1, 2015, and monthly thereafter until October 1, 2018, the Health Benefits Authority shall report to the LOC-HBA and the Fiscal Research Division on the State's progress toward completing Medicaid transformation. The March 1, 2016, report shall contain proposed changes to the North Carolina General Statutes that are necessary to implement Medicaid transformation.

SECTION 12H.24.(f) Maintain Funding Mechanisms. – In developing the waivers and State Plan amendments necessary to implement this section, the Authority shall work with the Centers for Medicare & Medicaid Services (CMS) to attempt to preserve existing levels of funding generated from Medicaid-specific funding streams, such as assessments, to the extent that the levels of funding may be preserved. If such Medicaid-specific funding cannot be maintained as currently implemented, then the Authority shall advise the LOC-HBA created in subsection (h1) of this section of any modifications necessary to maintain as much revenue as possible within the context of Medicaid transformation. If such Medicaid-specific funding streams cannot be preserved through the transformation process or if revenue would decrease, it is the intent of the General Assembly to modify such funding streams so that any supplemental payments to providers are more closely aligned to improving health outcomes and achieving overall Medicaid goals.

SECTION 12H.24.(g) DHHS Role in Medicaid Transformation. – During Medicaid transformation, the Department of Health and Human Services, Division of Medical Assistance (Division), shall cooperate with the Authority to ensure a smooth transition of the Medicaid and NC Health Choice programs and shall perform all of the following functions:

- (1) The Department and the Authority shall enter into agreements necessary for the Authority to supervise the Department's administration of the Medicaid and NC Health Choice programs until the transformed Medicaid program is completed.
- (2) The Department of Health and Human Services, Office of the Secretary, (Office of the Secretary) shall organize a Medicaid stabilization team to do the following:
 - a. Maintain the Medicaid and NC Health Choice programs until Medicaid transformation has been completed.
 - b. Work with the Authority during the transition.
 - c. Develop strategies to successfully complete the requirements of sub-subdivisions a. and b. of this subdivision.
 - d. Make recommendations to the LOC-HBA on any additional authorization or funding necessary to successfully complete the requirements of sub-subdivisions a. and b. of this subdivision.
 - e. With assistance from the Office of State Human Resources, conduct interviews and meetings with designated essential employees of the Division to explain the transition process, including options for the

- 1 employees and the bonus payment system established under this
2 subsection.
- 3 f. No later than September 1, 2015, report to the LOC-HBA on the plan
4 to communicate to employees, as required by sub-subdivision e. of
5 this subdivision.
- 6 (3) The Office of the Secretary shall identify the key managers, leaders, and
7 decision makers to be part of the stabilization team and, no later than
8 September 1, 2015, shall submit a list of these people and their roles to the
9 Authority and the LOC-HBA.
- 10 (4) No later than September 1, 2015, the Secretary of Health and Human
11 Services (Secretary) shall identify and designate "essential positions"
12 throughout the Department without which the Medicaid and NC Health
13 Choice programs could not operate on a day-to-day basis. Such positions
14 designated by the Secretary may include any position, whether subject to or
15 exempt from the State Personnel Act or whether supervisory or
16 nonsupervisory, as long as the position is essential to the operation of
17 Medicaid or NC Health Choice. Because the designation is based on the
18 functions to be performed and because of the nature of the bonuses provided
19 under this subsection, the designation of a position as essential may not be
20 revoked, and the Secretary may designate both open and filled positions.
- 21 (5) In order to encourage employees to remain in their positions working on
22 Medicaid and NC Health Choice within the Department, employees serving
23 in positions designated as essential positions under this subsection shall be
24 eligible for the following benefits:
- 25 a. Effective August 1, 2015, any employee working in a designated
26 essential position within the Division shall receive a bonus at each
27 pay period that is equal to five percent (5%) of the employee's
28 earnings for that period.
- 29 b. Effective August 1, 2015, any employee working in a designated
30 essential position within the Department, but outside of the Division,
31 whose salary is paid with federal Medicaid funds shall also receive a
32 five percent (5%) bonus, paid in the same manner as bonuses are
33 paid under sub-subdivision a. of this subdivision. If such an
34 employee working outside of the Division does not work full-time on
35 Medicaid issues, then the amount of the bonus shall be calculated by
36 first multiplying the employee's earnings for that period by the
37 percentage of the employee's time spent on Medicaid issues and then
38 multiplying that product by five percent (5%).
- 39 c. Any employee who received bonus payments under sub-subdivisions
40 a. or b. of this subdivision who is still employed within the Division
41 or within the Department as of July 31, 2017, or who is employed
42 within the Authority, shall receive a final bonus payment equal to the
43 sum of all the bonus payments that the employee had received since
44 July 1, 2015, under sub-subdivision a. of this subdivision. No
45 employee departing before July 31, 2017, shall be eligible to receive
46 any portion of such a final bonus payment, and no property right is
47 created by this subsection for employees that depart before July 31,
48 2017.
- 49 d. The bonus payments paid under this subsection are made
50 notwithstanding G.S. 126-4(2) or any other provision of law.
51 Notwithstanding G.S. 135-1(7a), bonus payments paid under this

1 subsection shall not count as "compensation" for purposes of the
 2 Retirement System for Teachers and State Employees, nor shall the
 3 Department of Health and Human Services be required to make
 4 payments to the Retirement System based on the amounts paid as
 5 bonuses. Additionally, bonus payments paid under this subsection
 6 shall not count as "compensation" or "salary" for calculating
 7 severance payments under G.S. 126-8.5 or calculating unemployment
 8 benefits.

- 9 (6) The Department shall not enter into any new contracts, or renew or extend
 10 any contracts that existed prior to the effective date of this subsection,
 11 related to the Medicaid or NC Health Choice programs without the express
 12 prior approval of the Board of the Authority. The Department and the
 13 Division shall ensure that any Medicaid-related or NC Health Choice-related
 14 State contract entered into after the effective date of this act contains a
 15 clause that allows the Department or the Division to terminate the contract
 16 without cause upon 30 days' notice. Any contract signed by the Department
 17 or the Division after the effective date of this act that lacks such a
 18 termination clause shall, nonetheless, be deemed to include such a clause
 19 and shall be cancellable without cause upon 30 days' notice.

20 **SECTION 12H.24.(h1)** Creation of Health Benefits Authority. – Effective when
 21 this act becomes law, the Health Benefits Authority as established in this section shall be a
 22 single, unified cabinet-level department. In accordance with the time line set out in subsection
 23 (c) of this section, the Health Benefits Authority shall administer and operate all functions,
 24 powers, duties, obligations, and services related to the Medicaid and NC Health Choice
 25 programs. In accordance with the time line set out in subsection (c) of this section, all
 26 functions, powers, duties, obligations, and services vested in the Department of Health and
 27 Human Services, Division of Medical Assistance, are vested in the Health Benefits Authority.

28 **SECTION 12H.24.(h2)** G.S. 143B-6 reads as rewritten:

29 **"§ 143B-6. Principal departments.**

30 In addition to the principal departments enumerated in the Executive Organization Act of
 31 1971, all executive and administrative powers, duties, and functions not including those of the
 32 General Assembly and its agencies, the General Court of Justice and the administrative
 33 agencies created pursuant to Article IV of the Constitution of North Carolina, and higher
 34 education previously vested by law in the several State agencies, are vested in the following
 35 principal departments:

36 ...

37 (12) Health Benefits Authority."

38 **SECTION 12H.24.(h3)** Chapter 143B of the General Statutes is amended by
 39 adding a new Article to read:

40 "Article 14.

41 "Health Benefits Authority.

42 **"§ 143B-1400. Creation and organization.**

43 There is hereby established the Health Benefits Authority (Authority) to administer and
 44 operate the Medicaid and NC Health Choice programs. The Authority shall be governed by a
 45 board, which shall be responsible for ensuring quality health outcomes to eligible recipients at a
 46 predictable cost to the taxpayers of this State. The Authority shall be the designated single State
 47 agency for the administration and operation of the Medicaid and NC Health Choice programs.

48 **"§ 143B-1405. Board of the Health Benefits Authority.**

49 (a) The Board of the Health Benefits Authority shall consist of the following:

50 (1) Three members appointed by the Governor.

- 1 (2) Two members appointed by the General Assembly, on the recommendation
2 of the President Pro Tempore of the Senate.
3 (3) Two members appointed by the General Assembly, on the recommendation
4 of the Speaker of the House of Representatives.
5 (4) The Secretary of Health and Human Services or the Secretary's designee,
6 who shall serve as an ex officio nonvoting member of the Board.

7 (b) Each appointed member of the board shall have expertise from at least one of the
8 following areas:

- 9 (1) The administration of large health delivery systems.
10 (2) Health insurance.
11 (3) Health actuarial science.
12 (4) Health economics.
13 (5) Health law and policy.

14 In making appointments to the Board under this section, each appointing authority shall consult
15 with the other appointing authorities to ensure adequate representation from all of the areas of
16 expertise listed in this subsection.

17 (c) The following individuals may not serve on the Board:

- 18 (1) An individual who receives or has received Medicaid payments during the
19 six months prior to serving on the Board for providing health care or
20 services to enrollees of the North Carolina Medicaid or NC Health Choice
21 programs.
22 (2) An individual who is or has been during the six months prior to serving on
23 the Board a registered lobbyist for a provider, or association of providers,
24 receiving payments from the North Carolina Medicaid or NC Health Choice
25 programs, or an employee of such a lobbyist.
26 (3) An individual who has, within six months of appointment, been an officer or
27 employee of the State.

28 As used in this subsection, the term "provider" includes any parent, subsidiary, or affiliated
29 legal entity, and the term "provider" has the same meaning as defined under G.S. 108C-2.

30 (d) Board members appointed under subdivision (1) through (3) of subsection (a) of this
31 section shall serve for a term of four years. The Governor shall have the power to remove any
32 member of the Board from office for misfeasance, malfeasance, or nonfeasance in accordance
33 with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973. Appointing
34 authorities shall fill any vacancies that arise to complete the term of the vacating Board
35 member.

36 (e) In making the initial appointments, the appointing authorities shall, in order to
37 stagger terms, designate one person appointed under subdivision (1) of subsection (a) of this
38 section, one person appointed under subdivision (2) of subsection (a) of this section, and one
39 person appointed under subdivision (3) of subsection (a) of this section to serve until June 30,
40 2017. The remaining four appointees shall serve until June 30, 2019. Future appointees shall
41 serve terms of four years, with staggered terms based on this section. Board members may
42 serve up to two consecutive terms, not including the abbreviated two-year terms that establish
43 staggered terms or terms of less than two years that result from the filling of a vacancy.

44 (f) The Governor shall designate a chair of the Board from among the appointed voting
45 members of the Board. The Board member designated as the chair shall serve as a chair at the
46 pleasure of the Governor. The chair shall serve on the Governor's Cabinet. If the Governor does
47 not appoint a chair, the Board may select a chair from among its voting members. The
48 Board-selected chair shall serve in that capacity until such time as the Governor appoints a
49 chair.

50 (g) The Board shall meet at least monthly until August 1, 2017, and at least quarterly
51 thereafter. The Board may also meet at the call of the chair or at the request of a majority of the

1 voting Board members. A majority of the voting Board members constitutes a quorum for
2 conducting business.

3 (h) The voting members of the Board are State officers and not State employees. No
4 voting member may serve on the Board while employed as a State employee.

5 (i) The voting members of the Board shall be compensated in an amount sufficient to
6 obtain quality professionals with experience managing large businesses, insurance programs,
7 and health systems. The initial compensation for voting Board members shall be established by
8 the Office of State Human Resources no later than October 1, 2015. Thereafter, the
9 compensation of voting Board members shall be set by the Board under G.S. 143B-1410(3) and
10 shall be comparable to compensation paid to the members of boards operating large health
11 insurance plans but shall not exceed the highest compensation paid to a member of the Council
12 of State. When adjusting members' compensation, the Board shall provide a justification to the
13 Office of State Human Resources based upon a survey of comparable health insurance plans.

14 **"§ 143B-1410. Powers and duties of the Board of the Health Benefits Authority.**

15 (a) The Board of the Health Benefits Authority shall have the following powers and
16 duties:

- 17 (1) Administer and operate the Medicaid and NC Health Choice programs.
18 None of the powers and duties enumerated in the other subdivisions of this
19 subsection shall be construed to limit the broad grant of authority to
20 administer and operate the Medicaid and NC Health Choice programs.
- 21 (2) Employ the Medicaid Director, who shall be responsible for the daily
22 operation of the Authority, and other staff, including legal staff. In hiring
23 staff, the Board may offer employment contracts for a term.
- 24 (3) Set compensation for the employees, including performance-based bonuses
25 based on meeting budget or other targets, and for the voting Board members.
- 26 (4) Procure office space for the Authority.
- 27 (5) Notwithstanding G.S. 143-64.20, enter into contracts for the administration
28 of the Medicaid and NC Health Choice programs, as well as manage such
29 contracts, including contracts of a consulting or advisory nature.
- 30 (6) Employ or contract for independent internal auditing staff that report directly
31 to the Board rather than to the Medicaid Director. Notwithstanding
32 subsection (b) of this section, this function may not be delegated.
- 33 (7) Pursuant to G.S. 108A-1, supervise the county departments of social services
34 in their administration of eligibility determinations. Pursuant to subdivision
35 (5) of this subsection, the Board may contract with the Department of Health
36 and Human Services or any other appropriate party to perform this task or a
37 portion of this task.
- 38 (8) Define and approve the following for the Authority and the programs
39 managed by the Authority:
 - 40 a. Business policy.
 - 41 b. Strategic plans, including desired health outcomes for the covered
42 populations, which shall do the following:
 - 43 1. Be developed at a frequency of no less than every five years
44 with the input of stakeholders.
 - 45 2. Identify key opportunities and challenges facing the
46 organization.
 - 47 3. Identify the Authority's strengths and weaknesses to address
48 these opportunities and challenges.
 - 49 4. Identify key goals for the Authority for this time period,
50 consistent with the reform goals identified by the General
51 Assembly.

- 1 5. Identify output and outcome performance measures to
- 2 quantify the Authority's progress toward these goals.
- 3 6. Identify strategies to reach these goals.
- 4 7. Be used as a guide for units within the Authority to establish
- 5 unit-specific operational plans at the same frequency.
- 6 c. Performance management system, including quantitative indicators
- 7 for goals and objectives, which shall do the following:
- 8 1. Be developed and implemented within the first year of the
- 9 creation of the Authority, and updated no less than annually
- 10 thereafter with available data.
- 11 2. Establish quantitative performance measures focusing on the
- 12 quality and efficiency of service delivery and administration,
- 13 using a nationally recognized quality improvement effort
- 14 allowing comparison of North Carolina to other states as
- 15 those developed by, but not limited to, the federal Medicaid
- 16 Quality Measurement Program and the Baldrige Quality
- 17 Program.
- 18 3. Establish measurable objectives for each goal identified in the
- 19 strategic plan, and performance updated annually.
- 20 4. Establish, for each objective, benchmark activities, including
- 21 an estimated date of completion, the area for which efforts are
- 22 attempting a change, a quantitative indicator of success for
- 23 the area, and quarterly milestones allowing Authority
- 24 managers and employees to monitor progress throughout the
- 25 year.
- 26 5. Establish mechanisms for obtaining data necessary for the
- 27 collection and public distribution of performance information.
- 28 d. Program and policy changes.
- 29 e. Operational budget and assumptions.
- 30 (9) Establish and adjust all program components, except for eligibility, of the
- 31 Medicaid and NC Health Choice programs within the appropriated and
- 32 allocated budget.
- 33 (10) Adopt rules related to the Medicaid and NC Health Choice programs.
- 34 (11) Develop midyear budget correction plans and strategies and then take
- 35 midyear budget corrective actions necessary to keep the Medicaid and NC
- 36 Health Choice programs within budget.
- 37 (12) Approve or disapprove and oversee all expenditures to be charged to or
- 38 allocated to the Medicaid and NC Health Choice programs by other State
- 39 departments or agencies.
- 40 (13) Develop and present to the Joint Legislative Oversight Committee on the
- 41 Health Benefits Authority and the Office of State Budget and Management
- 42 by January 1 of each year, beginning in 2016, the following information for
- 43 the Medicaid and NC Health Choice programs:
- 44 a. A detailed four-year forecast of expected changes to enrollment
- 45 growth and enrollment mix.
- 46 b. What program changes will be made by the Authority in order to stay
- 47 within the existing budget for the programs based on the next fiscal
- 48 year's forecasted enrollment growth and enrollment mix.
- 49 c. The cost to maintain the current level of services based on the next
- 50 fiscal year's forecasted enrollment growth and enrollment mix.

- 1 (14) Secure and pay for the services of the State Auditor's Office to conduct
2 annual audits of the financial accounts of the Authority.
- 3 (15) Publish the Annual Medicaid Report, which shall contain, at a minimum, the
4 following:
- 5 a. Details on the Authority's performance over the prior four years on
6 the following:
- 7 1. The identified quantitative measures from its strategic plan
8 and performance management system.
- 9 2. A comparison of the identified quantitative measures from its
10 strategic plan and performance management system and other
11 states participating in the quality improvement effort.
- 12 b. Annual audited financial statements.
- 13 (16) Publish in an electronic format, and update on at least a monthly basis, at
14 least the following information about the Medicaid and NC Health Choice
15 programs:
- 16 a. Enrollment by program aid category by county.
- 17 b. Per member per month spending by category of service.
- 18 c. Spending and receipts by fund along with a detailed variance
19 analysis.
- 20 d. A comparison of the above figures to the amounts forecasted and
21 budgeted for the corresponding time period.

22 (b) The Board may delegate any of its powers and duties to the Medicaid Director and
23 other staff of the Authority and, upon adoption of an annual budget, shall delegate to the
24 Medicaid Director its powers and duties pursuant to sub-subdivisions d. and e. of subdivision
25 (8) of subsection (a) of this section. In delegating powers or duties, however, the Board
26 maintains the responsibility for the performance of those powers or duties.

27 (c) Pursuant to G.S. 108E-2-1, the General Assembly retains the authority to determine
28 the eligibility categories and income thresholds for the Medicaid and NC Health Choice
29 programs.

30 **"§ 143B-1415. Variations from certain State laws.**

31 Although generally subject to the laws of this State, the following exemptions, limitations,
32 and modifications apply to the Health Benefits Authority, notwithstanding any other provision
33 of law:

- 34 (1) Employees of the Authority shall not be subject to the North Carolina
35 Human Resources Act, except as provided in G.S. 126-5(c1)(31).
- 36 (2) The Authority may retain private legal counsel and is not subject to
37 G.S. 114-2.3 or G.S. 147-17(a) through (c).
- 38 (3) The Authority's employment contracts offered pursuant to
39 G.S. 143B-1410(a)(2) are not subject to review and approval by the Office
40 of State Human Resources. The Authority's employment of supplementary
41 staff for temporary work is not subject to review and approval by the Office
42 of State Human Resources including the requirements of G.S. 126-6.3.
- 43 (4) If the Authority establishes alternative procedures for the review and
44 approval of contracts, then the Authority is exempt from State contract
45 review and approval requirements, but may still choose to utilize the State
46 contract review and approval procedures for particular contracts.
- 47 (5) The Board of the Authority may move into a closed session for any of the
48 reasons listed in G.S. 143-318.11, as well as for discussions on the
49 following:

- a. Rates, contract amounts, or any other amounts to be paid to any entity, including the amount of any transfers to any other State agency or Division.
 - b. Audits and investigations.
 - c. Development of the annual budget forecast report for the General Assembly, as required by G.S. 143B-1410(a)(14).
 - d. Development of a strategic plan.
 - e. Any report to be submitted to the General Assembly.
- (6) Documents created for, or developed during, a closed session of the Board for one of the reasons specifically listed in the sub-subdivisions of subdivision (5) of this section, as well as any minutes from such a closed session of the Board, that would otherwise become public record by operation of Chapter 132 of the General Statutes, shall not become public record until the item under discussion has been made public through the publishing of the relevant rate or amount, findings from an audit or investigation, the annual budget forecast report, the strategic plan, or a report to the General Assembly.

§ 143B-216.1420. Cooling off period for certain Health Benefits Authority employees.

(a) Ineligible Vendors. – The Board shall not contract for goods or services with a vendor that employs or contracts with a person who is a former State Medicaid or NC Health Choice employee and uses that person in the administration of a contract with the Authority.

(b) Vendor Certification. – The Medicaid Director shall require each vendor submitting a bid or contract to certify that the vendor will not use a former Medicaid or NC Health Choice employee in the administration of a contract with the Authority in violation of the provisions of subsection (a) of this section. Any person who submits a certification required by this subsection knowing the certification to be false shall be guilty of a Class I felony.

(c) A violation of the provisions of this section shall void the contract.

(d) Definitions. – As used in this section, the following terms mean:

(1) Administration of a contract. – Oversight of the performance of a contract, authority to make decisions regarding a contract, interpretation of a contract, or participation in the development of specifications or terms of a contract or in the preparation or award of a contract.

(2) Former Medicaid or NC Health Choice employee. – A person who, for any period within the preceding six months, was employed as an employee or contract employee of the Authority, who in the six months immediately preceding termination of State employment, participated personally in either the award or management of an Authority contract with the vendor, or made regulatory or licensing decisions that directly applied to the vendor.

§ 143B-216.1425. Medicaid Reserve Account.

(a) The Medicaid Reserve Account is established as a nonreverting reserve in the General Fund. The purpose of the Medicaid Reserve Account is to provide for unexpected budgetary shortfalls within the Medicaid and NC Health Choice programs that result from program expenditures in excess of the amount appropriated for the Medicaid and NC Health Choice programs by the General Assembly and which continue to exist after the Health Benefits Authority makes its best efforts to control costs through midyear budget corrections under G.S. 143B-1410(a)(12).

(b) The Medicaid Reserve Account shall have the following minimum and maximum target balances:

(1) Minimum target. – Five percent (5%) of a given fiscal year's General Fund appropriations for capitation payments for both the Medicaid and NC Health Choice programs.

1 (2) Maximum target. – Twelve percent (12%) of a given fiscal year's General
2 Fund appropriations for capitation payments for both the Medicaid and NC
3 Health Choice programs.

4 (c) Notwithstanding G.S. 143C-1-2(b), any funds appropriated to the Health Benefits
5 Authority for the Medicaid or NC Health Choice programs and that remain unencumbered at
6 the end of a fiscal year shall, rather than revert to the General Fund, be credited to the Medicaid
7 Reserve Account. Any funds to be deposited in the Medicaid Reserve Account that would
8 cause the fund balance to exceed the maximum target balance for the Medicaid Reserve
9 Account shall instead be credited to the General Fund.

10 (d) Medicaid Reserve Account funds may be disbursed by the Health Benefits
11 Authority to manage budgetary shortfalls in the Medicaid and NC Health Choice programs
12 only after all of the following occur:

13 (1) The Board of the Health Benefits Authority certifies that there is a projected
14 Medicaid shortfall in the current fiscal year.

15 (2) The Health Benefits Authority has already made midyear budget corrections
16 under G.S. 143B-1410(a)(12), but those midyear budget corrections have not
17 achieved the projected budget savings.

18 (3) The Health Benefits Authority reports to the Joint Legislative Commission
19 on Governmental Operations on its intent to disburse Medicaid Reserve
20 Account funds. The report shall include a detailed analysis of receipts,
21 payments, claims, and transfers, including an identification of and
22 explanation of the recurring and nonrecurring components of the shortfall.

23 Medicaid Reserve Account funds may be disbursed in accordance with this subsection even if it
24 results in the fund balance falling below the minimum target balance for the Medicaid Reserve
25 Account."

26 **SECTION 12H.24.(i) Board Start-Up.** – The following activities shall facilitate the
27 timely commencement of the Health Benefits Authority:

28 (1) The Board of the Health Benefits Authority may meet prior to October 1,
29 2015, in order to begin organizing and preparing to govern the Medicaid and
30 NC Health Choice programs. The Board may begin meeting as soon as a
31 majority of the appointments have been made and upon the call of the chair;
32 however, the initial meeting shall be no later than September 1, 2015. The
33 Division of Medical Assistance shall provide administrative support and
34 meeting space to the Board prior to November 1, 2015.

35 (2) If the Governor does not make initial appointments to the Board by
36 September 1, 2015, the Board members who have been appointed may select
37 a chair from among the appointed members and may conduct the business of
38 the Authority. Actions taken by the Board under this subdivision shall be
39 official actions of the Board, provided a majority of the appointed Board
40 members are present and approve the action.

41 (3) In order to set the initial compensation for the voting Board members, the
42 Office of State Human Resources shall survey the compensation paid to the
43 members of comparable large health insurance plans. The Office shall
44 complete the survey no later than September 1, 2015, and set the initial
45 compensation for voting Board members no later than October 1, 2015. A
46 voting Board member shall be eligible to receive compensation beginning on
47 the first business day following the effective date of the member's
48 appointment.

49 **SECTION 12H.24.(j) Transfer of Rules.** – Effective October 1, 2015, all rules and
50 policies exempted from rule making related to the Medicaid and NC Health Choice programs
51 shall transfer to the Health Benefits Authority. In its March 1, 2016, report to the Joint

1 Legislative Oversight Committee on the Health Benefits Authority, the Health Benefits
2 Authority shall include recommendations for additional exemptions from the rule-making
3 requirements and contested case provisions in Chapter 150B of the General Statutes.

4 **SECTION 12H.24.(k)** Legal Actions. – For any legal action involving the
5 Medicaid or NC Health Choice programs in which the Division of Medical Assistance or the
6 Department of Health and Human Services is named as a party, the Health Benefits Authority
7 may be joined as a party by reason of transfer of interest upon motion of any party pursuant to
8 Rule 25(d) of the North Carolina Rules of Civil Procedure. This subsection shall not be
9 construed to limit any other opportunities for joinder or intervention that are otherwise allowed
10 under the North Carolina Rules of Civil Procedure or elsewhere under law.

11 **SECTION 12H.24.(k1)** The Commissioner of Insurance shall establish solvency
12 requirements for MCOs and PLEs that contract with the Health Benefits Authority pursuant to
13 this section. The same requirements shall apply to and may be based on existing requirements
14 for similarly situated regulated entities. The Commissioner shall consult with the Authority in
15 developing the requirements. The Commissioner shall make recommendations, including any
16 statutory changes, to the Joint Legislative Oversight Committee on the Health Benefits
17 Authority by March 1, 2016.

18 **SECTION 12H.24.(l)** Legislative Oversight of Medicaid. – Chapter 120 of the
19 General Statutes is amended by adding the following new Article:

20 "Article 23B.

21 "Joint Legislative Oversight Committee on the Health Benefits Authority.

22 **"§ 120-209. Creation and membership of Joint Legislative Oversight Committee on the**
23 **Health Benefits Authority.**

24 (a) The Joint Legislative Oversight Committee on the Health Benefits Authority is
25 established. The Committee consists of 14 members as follows:

26 (1) Seven members of the Senate appointed by the President Pro Tempore of the
27 Senate, at least two of whom are members of the minority party.

28 (2) Seven members of the House of Representatives appointed by the Speaker of
29 the House of Representatives, at least two of whom are members of the
30 minority party.

31 (b) Terms on the Committee are for two years and begin on the convening of the
32 General Assembly in each odd-numbered year except initial appointments begin on the date of
33 appointment. Members may complete a term of service on the Committee even if they do not
34 seek reelection or are not reelected to the General Assembly, but resignation or removal from
35 service in the General Assembly constitutes resignation or removal from service on the
36 Committee.

37 (c) A member continues to serve until a successor is appointed. A vacancy shall be
38 filled within 30 days by the officer who made the original appointment.

39 **"§ 120-209.1. Purpose and powers of Committee.**

40 (a) The Joint Legislative Oversight Committee on the Health Benefits Authority shall
41 examine budgeting, financing, administrative, and operational issues related to the Medicaid
42 and NC Health Choice programs and to the Health Benefits Authority.

43 (b) The Committee may make periodic reports to the General Assembly on matters for
44 which it may report to a regular session of the General Assembly.

45 **"§ 120-209.2. Organization of Committee.**

46 (a) The President Pro Tempore of the Senate and the Speaker of the House of
47 Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on
48 the Health Benefits Authority. The Committee shall meet upon the joint call of the cochairs.

49 (b) A quorum of the Committee is eight members. No action may be taken except by a
50 majority vote at a meeting at which a quorum is present.

1 (c) Members of the Committee receive subsistence and travel expenses, as provided in
2 G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance
3 with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services
4 Officer, shall assign professional staff to assist the Committee in its work. Upon the direction
5 of the Legislative Services Commission, the Directors of Legislative Assistants of the Senate
6 and of the House of Representatives shall assign clerical staff to the Committee. The expenses
7 for clerical employees shall be borne by the Committee.

8 (d) The Committee cochairs may establish subcommittees for the purpose of examining
9 issues relating to its Committee charge.

10 **"§ 120-209.3. Additional powers.**

11 The Joint Legislative Oversight Committee on the Health Benefits Authority, while in
12 discharge of official duties, shall have access to any paper or document, and may compel the
13 attendance of any State official or employee before the Committee or secure any evidence
14 under G.S. 120-19. In addition, G.S. 120-19.1 through G.S. 120-19.4 shall apply to the
15 proceedings of the Committee as if it were a joint committee of the General Assembly.

16 **"§ 120-209.4. Reports to Committee.**

17 Whenever the Health Benefits Authority is required by law to report to the General
18 Assembly or to any of its permanent, study, or oversight committees or subcommittees, the
19 Health Benefits Authority shall transmit a copy of the report to the cochairs of the Joint
20 Legislative Oversight Committee on the Health Benefits Authority."

21 **SECTION 12H.24.(m)** G.S. 120-208.1(a)(2)b. is repealed.

22 **SECTION 12H.24.(n)** Recodification; Technical and Conforming Changes. – The
23 Revisor of Statutes shall recodify existing law related to Medicaid and NC Health Choice,
24 including Parts 6, 6A, 7, and 8 of Article 2, Article 5, and Article 7 of Chapter 108A of the
25 General Statutes, as well as Chapters 108C and 108D of the General Statutes, into a new
26 Chapter 108E of the General Statutes to be entitled "Medicaid and NC Health Choice Health
27 Benefit Programs" and to have the following structure:

28 Article 1. Administration of the Medicaid and NC Health Choice Programs

29 Part 1. Establishment of the Medicaid Program

30 Part 2. Establishment of the NC Health Choice Program

31 Part 3. Administration by County Departments of Social Services

32 Article 2. Medicaid and NC Health Choice Eligibility

33 Part 1. In General

34 Part 2. Eligibility for Medicaid

35 Part 3. Eligibility for NC Health Choice

36 Article 3. Medicaid and NC Health Choice Benefits and Cost-Sharing

37 Part 1. In General

38 Part 2. Medicaid Benefits and Cost-Sharing

39 Part 3. NC Health Choice Benefits and Cost-Sharing

40 Article 4. Medicaid and NC Health Choice Provider Requirements

41 Part 1. Provider Enrollment

42 Part 2. Provider Reimbursement and Recovery

43 Part 3. Hospital Assessment Act

44 Part 4. Other

45 Article 5. Third-Party Liability

46 Part 1. In General

47 Part 2. Subrogation

48 Part 3. Insurance

49 Part 4. Estate Recovery

50 Article 6. Fraud and Criminal Activity

51 Article 7. Appeals

1 Part 1. Eligibility Appeals for Medicaid and NC Health Choice

2 Part 2. Benefit Appeals for Medicaid

3 Subpart 1. Generally

4 Subpart 2. Medicaid Managed Care for Behavioral Health Services
5 Appeals

6 Part 3. Benefit Reviews for NC Health Choice

7 Part 4. Provider Appeals

8 When recodifying, the Revisor is authorized to change all references to the North Carolina
9 Department of Health and Human Services or to the Division of Medical Assistance to instead
10 be references to the Health Benefits Authority. The Revisor may separate subsections of
11 existing statutory sections into new sections and, when necessary to organize relevant law into
12 its proper place in the above structure, may rearrange sentences that currently appear within
13 subsections. The Revisor may modify statutory citations throughout the General Statutes, as
14 appropriate, and may modify any references to statutory Divisions, such as "Chapter,"
15 "Article," "Part," "section," or "subsection." Within Articles 4 and 5 of Chapter 108A of the
16 General Statutes, the Revisor of Statutes shall append to each reference to the North Carolina
17 Department of Health and Human Services or to the Secretary of the Department the language
18 "and, with respect to Medicaid and NC Health Choice, the Health Benefits Authority." The
19 Revisor of Statutes may conform names and titles changed by this subsection, and may correct
20 statutory references as required by this subsection, throughout the General Statutes. In making
21 the changes authorized by this subsection, the Revisor may also adjust subject and verb
22 agreement and the placement of conjunctions. The Revisor shall consult with the Department of
23 Health and Human Services and the new Health Benefits Authority on this recodification.

24 **SECTION 12H.24.(o)** G.S. 108A-1 reads as rewritten:

25 **"§ 108A-1. Creation.**

26 Every county shall have a board of social services or a consolidated human services board
27 created pursuant to G.S. 153A-77(b) which shall establish county policies for the programs
28 established by this Chapter in conformity with the rules and regulations of the Social Services
29 Commission and under the supervision of the Department of Health and Human Services.
30 Provided, however, county policies for the program of medical assistance shall be established
31 in conformity with the rules and regulations of the ~~Department of Health and Human Services~~
32 Health Benefits Authority."

33 **SECTION 12H.24.(p)** G.S. 108A-54.1A reads as rewritten:

34 **"§ 108A-54.1A. Amendments to Medicaid State Plan and Medicaid Waivers.**

35 (a) ~~No provision in the Medicaid State Plan or in a Medicaid Waiver may expand or~~
36 ~~otherwise alter the scope or purpose of the Medicaid program from that authorized by law~~
37 ~~enacted by the General Assembly. For purposes of this section, the term "amendments to the~~
38 ~~State Plan" includes State Plan amendments, Waivers, and Waiver amendments.~~The Authority
39 is expressly authorized and required to take any and all necessary action to amend the State
40 Plan and waivers in order to keep the program within the certified budget.

41 (b) ~~The Department may submit amendments to the State Plan only as required under~~
42 ~~any of the following circumstances:~~

43 (1) ~~A law enacted by the General Assembly directs the Department to submit an~~
44 ~~amendment to the State Plan.~~

45 (2) ~~A law enacted by the General Assembly makes a change to the Medicaid~~
46 ~~Program that requires approval by the federal government.~~

47 (3) ~~A change in federal law, including regulatory law, or a change in the~~
48 ~~interpretation of federal law by the federal government requires an~~
49 ~~amendment to the State Plan.~~

1 (4) ~~A change made by the Department to the Medicaid Program requires an~~
2 ~~amendment to the State Plan, if the change was within the authority granted~~
3 ~~to the Department by State law.~~

4 (5) ~~An amendment to the State Plan is required in response to an order of a court~~
5 ~~of competent jurisdiction.~~

6 (6) ~~An amendment to the State Plan is required to ensure continued federal~~
7 ~~financial participation.~~

8 (e) ~~Amendments to the State Plan submitted to the federal government for approval~~
9 ~~shall contain only those changes that are allowed by the authority for submitting an amendment~~
10 ~~to the State Plan in subsection (b) of this section.~~

11 (d) ~~No fewer than 10 days prior to submitting an amendment to the State Plan to the~~
12 ~~federal government, the Department shall post the amendment on its Web site and notify the~~
13 ~~members of the Joint Legislative Oversight Committee on the Health Benefits Authority and~~
14 ~~the Fiscal Research Division that the amendment has been posted. This requirement shall not~~
15 ~~apply to draft or proposed amendments submitted to the federal government for comments but~~
16 ~~not submitted for approval. The amendment shall remain posted on the Department's Web site~~
17 ~~at least until the plan has been approved, rejected, or withdrawn. If the authority for submitting~~
18 ~~the amendment to the State Plan is pursuant to subdivision (3), (4), (5), or (6) of subsection (b)~~
19 ~~of this section, then, prior to submitting an amendment to the federal government, the~~
20 ~~Department shall submit to the General Assembly members receiving notice under this~~
21 ~~subsection and to the Fiscal Research Division an explanation of the amendment, the need for~~
22 ~~the amendment, and the federal time limits required for implementation of the amendment.~~

23 (e) ~~The Department shall submit an amendment to the State Plan to the federal~~
24 ~~government by a date sufficient to provide the federal government adequate time to review and~~
25 ~~approve the amendment so the amendment may be effective by the date required by the~~
26 ~~directing authority in subsection (b) of this section. Additionally, if a change is made to the~~
27 ~~Medicaid program by the General Assembly and that change requires an amendment to the~~
28 ~~State Plan, then the amendment shall be submitted at least 90 days prior to the effective date of~~
29 ~~the change as provided in the legislation.~~

30 (f) ~~Any public notice required under 42 C.F.R. 447.205 shall, in addition to any other~~
31 ~~posting requirements under federal law, be posted on the Department's Web site. Upon posting~~
32 ~~such a public notice, the Department shall notify the members of the Joint Legislative~~
33 ~~Oversight Committee on the Health Benefits Authority and the Fiscal Research Division that~~
34 ~~the public notice has been posted. Public notices shall remain posted on the Department's Web~~
35 ~~site."~~

36 **SECTION 12H.24.(q)** G.S. 108A-54.2(d) is repealed.

37 **SECTION 12H.24.(r)** Part 1 of Article 2 of Chapter 108E of the General Statutes,
38 created by the recodification process described in subsection (n) of this section, shall include
39 the following two new sections:

40 "**§ 108E-2-1. General Assembly sets eligibility categories.**

41 ~~Eligibility categories and income thresholds are set by the General Assembly, and the~~
42 ~~Authority shall not alter the eligibility categories and income thresholds from those authorized~~
43 ~~by the General Assembly. The Authority is expressly authorized to adopt temporary and~~
44 ~~permanent rules regarding eligibility requirements and determinations, to the extent that they~~
45 ~~do not conflict with parameters set by the General Assembly.~~

46 "**§ 108E-2-2. Counties determine eligibility.**

47 ~~Counties determine eligibility in accordance with Chapter 108A of the General Statutes."~~

48 **SECTION 12H.24.(s)** G.S. 126-5 is amended by adding a new subdivision to read:

49 "**§ 126-5. Employees subject to Chapter; exemptions.**

50 ...

1 (c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this
2 Chapter shall not apply to:

3 ...

4 (31) Employees of the Health Benefits Authority."

5 **SECTION 12H.24.(t)** G.S. 143B-153 reads as rewritten:

6 **"§ 143B-153. Social Services Commission – creation, powers and duties.**

7 There is hereby created the Social Services Commission of the Department of Health and
8 Human Services with the power and duty to adopt rules and regulations to be followed in the
9 conduct of the State's social service programs with the power and duty to adopt, amend, and
10 rescind rules and regulations under and not inconsistent with the laws of the State necessary to
11 carry out the provisions and purposes of this Article. Provided, however, the ~~Department of~~
12 ~~Health and Human Services~~Health Benefits Authority shall have the power and duty to adopt
13 rules and regulations to be followed in the conduct of the State's medical assistance program.

14"

15 **SECTION 12H.24.(u)** G.S. 150B-1 reads as rewritten:

16 **"§ 150B-1. Policy and scope.**

17 ...

18 (d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
19 following:

20 ...

21 (9) ~~The Department of Health and Human Services~~Health Benefits Authority in
22 adopting new or amending existing medical coverage policies for the State
23 Medicaid and NC Health Choice programs pursuant to G.S. 108A-54.2.

24 ...

25 (20) ~~The Department of Health and Human Services~~Health Benefits Authority in
26 implementing, operating, or overseeing new 1915(b)/(c) Medicaid Waiver
27 programs or amendments to existing 1915(b)/(c) Medicaid Waiver
28 programs.

29 ...

30 (22) ~~The Department of Health and Human Services~~Health Benefits Authority
31 with respect to the content of State Plans, State Plan Amendments, and
32 Waivers approved by the Centers for Medicare and Medicaid Services
33 (CMS) for the North Carolina Medicaid Program and the NC Health Choice
34 program.

35 ...

36 (e) Exemptions From Contested Case Provisions. – The contested case provisions of
37 this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter.
38 The contested case provisions of this Chapter do not apply to the following:

39 ...

40 (17) ~~The Department of Health and Human Services~~Health Benefits Authority
41 with respect to the review of North Carolina Health Choice Program
42 determinations regarding delay, denial, reduction, suspension, or termination
43 of health services, in whole or in part, including a determination about the
44 type or level of services.

45"

46 **SECTION 12H.24.(v)** Appropriation. – Of the funds appropriated from the
47 General Fund to the Department of Health and Human Services, Division of Medical
48 Assistance, the sum of five million dollars (\$5,000,000) in recurring funds for the 2015-2016
49 and the 2016-2017 fiscal years shall be used to accomplish the Medicaid transformation
50 required by this section. These funds shall provide a State match for an estimated five million
51 dollars (\$5,000,000) in federal funds beginning in the 2015-2016 fiscal year. Upon request of

1 the Board, but no later than October 1, 2015, the Department shall transfer these funds to the
2 Health Benefits Authority to be used for Medicaid transformation.

3 **SECTION 12H.24.(w)** Medicaid Transformation Reserve Fund. – The Medicaid
4 Transformation Reserve Fund is established in the Office of State Budget and Management as a
5 nonreverting reserve in the General Fund. The purpose of the Medicaid Transformation
6 Reserve Fund is to provide funds for converting from a fee-for-services payment system to a
7 capitated payment system. Funds reserved in the Medicaid Transformation Reserve Fund shall
8 be available only upon an appropriation by act of the General Assembly and do not constitute
9 an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North
10 Carolina Constitution. The sum of one hundred eighty-five million six hundred four thousand
11 six hundred fifty-three dollars (\$185,604,653) in nonrecurring funds for fiscal year 2015-2016
12 and the sum of one hundred eighty-five million six hundred four thousand six hundred
13 fifty-three dollars (\$185,604,653) in nonrecurring funds for fiscal year 2016-2017 are hereby
14 reserved in the Medicaid Transformation Reserve Fund.

15 **SECTION 12H.24.(x)** Effective Date. – Subsections (n) through (u) of this section
16 become effective October 1, 2015. The remainder of this section is effective when this act
17 becomes law.

18 19 **INCREASE RATES TO PRIMARY CARE PHYSICIANS AND DISCONTINUE** 20 **PRIMARY CARE CASE MANAGEMENT**

21 **SECTION 12H.25.(a)** Effective January 1, 2016, the current Medicaid and Health
22 Choice primary care case management (PCCM) program is discontinued. The Department of
23 Health and Human Services shall not renew or extend the contract for PCCM services with
24 North Carolina Community Care Networks, Inc. (NCCCN), beyond December 31, 2015.

25 **SECTION 12H.25.(b)** The Department of Health and Human Services shall take
26 all actions necessary to discontinue the current Medicaid and Health Choice PCCM program as
27 implemented by NCCCN. As soon as reasonably possible, but no later than October 1, 2015,
28 the Department shall submit to the Centers for Medicare and Medicaid Services (CMS) a
29 Medicaid State plan amendment eliminating the PCCM program. If CMS has not approved the
30 State plan amendment by January 1, 2016, the Department of Health and Human Services
31 nevertheless shall discontinue all payments related to the PCCM program beginning January 1,
32 2016, unless and until CMS denies the State plan amendment.

33 **SECTION 12H.25.(c)** This section shall not be construed to prohibit the
34 Department of Health and Human Services from developing or utilizing contracts for managed
35 care other than PCCM after January 1, 2016.

36 **SECTION 12H.25.(d)** Effective January 1, 2016, G.S. 108A-70.21(b) reads as
37 rewritten:

38 "(b) Benefits. – All health benefits changes of the Program shall meet the coverage
39 requirements set forth in this subsection. Except as otherwise provided for eligibility, fees,
40 deductibles, copayments, and other cost sharing charges, health benefits coverage provided to
41 children eligible under the Program shall be equivalent to coverage provided for dependents
42 under North Carolina Medicaid Program except for the following:

43 ...

44 No benefits are to be provided for services and materials under this subsection that do not
45 meet the standards accepted by the American Dental Association.

46 ~~The Department shall provide services to children enrolled in the NC Health Choice~~
47 ~~Program through Community Care of North Carolina (CCNC) and shall pay Community Care~~
48 ~~of North Carolina providers the per member, per month fees as allowed under Medicaid."~~

49 **SECTION 12H.25.(e)** Effective January 1, 2016, the rates paid to primary care
50 physicians shall be one hundred percent (100%) of Medicare rates. For purposes of this section,
51 the term primary care physicians refers to those physicians for whom the Affordable Care Act

1 required payment at one hundred percent (100%) of the Medicare rate until January 1, 2015,
2 and all OB/GYN physicians.

3 **SECTION 12H.25.(f)** Upon the discontinuation of the PCCM program, of the
4 funds previously used for the NCCCN contract, the Department shall use six million four
5 hundred seventy-five thousand dollars (\$6,475,000) in fiscal year 2015-2016 and twelve
6 million nine hundred fifty thousand dollars (\$12,950,000) in fiscal year 2016-2017 to directly
7 fund local health departments' continued services related to the Care Coordination for Children
8 (CC4C) program, which was previously funded through the contract with NCCCN.

9 10 **NC HEALTH CHOICE COST SETTLEMENT**

11 **SECTION 12H.26.** Effective July 1, 2015, hospital outpatient services covered by
12 NC Health Choice shall be cost settled at seventy percent (70%) of allowable costs, using the
13 same methodology that is used for Medicaid.

14 15 **BLOOD GLUCOSE TESTING EQUIPMENT AND SUPPLIES**

16 **SECTION 12H.27.(a)** Notwithstanding any other provision of law, the Department
17 of Health and Human Services, Division of Medical Assistance, (Department) is authorized to
18 use any reimbursement methodology or arrangement to provide Medicaid coverage for blood
19 glucose testing equipment and supplies, provided that the Department's total requirements, net
20 of rebates, for providing blood glucose testing equipment and supplies does not exceed one
21 million nine hundred thirty-three thousand three hundred fifty-seven dollars (\$1,933,357) in
22 fiscal year 2015-2016 and two million twenty thousand nine hundred seventy-four dollars
23 (\$2,020,974) in fiscal year 2016-2017.

24 **SECTION 12H.27.(b)** Any state plan amendment submitted to implement this
25 section shall not be subject to the 90-day prior submission requirement of G.S. 108A-54.1A(e).

26 27 **MEDICAID CONTINGENCY RESERVE**

28 **SECTION 12H.28.(a)** Funds in the Medicaid Contingency Reserve established by
29 Section 12H.38 of S.L. 2014-100 shall be used only for budget shortfalls in the Medicaid
30 Program that occur during the 2015-2016 fiscal year. These funds shall be available for
31 expenditure only upon an appropriation by act of the General Assembly.

32 **SECTION 12H.28.(b)** It is the intent of the General Assembly to appropriate funds
33 from the Medicaid Contingency Reserve only if:

- 34 (1) The Director of the Budget, after the State Controller has verified that
35 receipts are being used appropriately, has found that additional funds are
36 needed to cover a shortfall in the Medicaid budget for the State fiscal year.
- 37 (2) The Department of Health and Human Services or the Health Benefits
38 Authority created in Section 12H.24 of this act has submitted a State plan
39 amendment to the Centers for Medicare and Medicaid Services to delink
40 eligibility for Medicaid from eligibility for State-County Special Assistance,
41 to be effective 90 days after the date of submission of the State plan
42 amendment. At least 45 days prior to submitting that State plan amendment,
43 the Department of Health and Human Services or the Health Benefits
44 Authority must have submitted a draft of that plan to the Joint Legislative
45 Oversight Committee on the Health Benefits Authority and, if the General
46 Assembly was not in session, must have consulted with the Committee on
47 that draft.
- 48 (3) The Director of the Budget has reported immediately to the Fiscal Research
49 Division on the amount of the shortfall found in accordance with subdivision
50 (1) of this subsection. This report shall include an analysis of the causes of
51 the shortfall, such as (i) unanticipated enrollment and mix of enrollment, (ii)

1 unanticipated growth or utilization within particular service areas, (iii) errors
 2 in the data or analysis used to project the Medicaid budget, (iv) the failure of
 3 the program to achieve budgeted savings, (v) other factors and market trends
 4 that have impacted the price of or spending for services, (vi) variations in
 5 receipts from prior years or from assumptions used to prepare the Medicaid
 6 budget for the current fiscal year, or (vii) other factors. The report shall also
 7 include data in an electronic format that is adequate for the Fiscal Research
 8 Division to confirm the amount of the shortfall and its causes.

9 **SECTION 12H.28.(c)** Effective 90 days after the State plan amendment is
 10 submitted to the Centers for Medicare and Medicaid Services (CMS) or when CMS approves
 11 the State plan amendment, whichever occurs later, eligibility for Medicaid coverage is delinked
 12 from eligibility for State-County Special Assistance and recipients of State-County Special
 13 Assistance no longer automatically qualify for Medicaid coverage solely because of their
 14 receipt of State-County Special Assistance.

15 **SECTION 12H.28.(d)** Nothing in this section shall be construed to limit the
 16 authority of the Governor to carry out his duties under the Constitution.

17
 18 **SUBPART XII-I. DHHS BLOCK GRANTS**

19
 20 **DHHS BLOCK GRANTS**

21 **SECTION 12L.1.(a)** Except as otherwise provided, appropriations from federal
 22 block grant funds are made for each year of the fiscal biennium ending June 30, 2017,
 23 according to the following schedule:

24	25	26	27
TEMPORARY ASSISTANCE FOR NEEDY	FY 2015-2016	FY 2016-2017	
FAMILIES (TANF) FUNDS			
28 Local Program Expenditures			
29			
30 Division of Social Services			
31			
32 01. Work First Family Assistance	\$57,167,454	\$57,167,454	
33			
34 02. Work First County Block Grants	80,093,566	78,073,437	
35			
36 03. Work First Electing Counties	2,378,213	2,378,213	
37			
38 04. Adoption Services – Special Children			
39 Adoption Fund	2,026,877	2,026,877	
40			
41 05. Child Protective Services – Child Welfare			
42 Workers for Local DSS	9,412,391	9,412,391	
43			
44 06. Child Welfare Collaborative	632,416	632,416	
45			
46 Division of Child Development and Early Education			
47			
48 07. Subsidized Child Care Program	35,248,910	37,419,801	
49			
50 08. Swap Child Care Subsidy	6,352,644	6,352,644	
51			

1	09. Pre-K Swap Out	16,829,306	12,333,981
2			
3	Division of Public Health		
4			
5	10. Teen Pregnancy Prevention Initiatives	2,950,000	2,950,000
6			
7	DHHS Administration		
8			
9	11. Division of Social Services	2,482,260	2,482,260
10			
11	12. Office of the Secretary	34,042	34,042
12			
13	13. Eligibility Systems – Operations and		
14	Maintenance	2,738,926	4,206,640
15			
16	14. NC FAST Implementation	1,313,384	1,865,799
17			
18	Transfers to Other Block Grants		
19			
20	Division of Child Development and Early Education		
21			
22	15. Transfer to the Child Care and		
23	Development Fund	71,773,001	71,773,001
24			
25	Division of Social Services		
26			
27	16. Transfer to Social Services Block		
28	Grant for Child Protective Services –		
29	Training	1,300,000	1,300,000
30			
31	17. Transfer to Social Services Block		
32	Grant for Child Protective Services	5,040,000	5,040,000
33			
34	18. Transfer to Social Services Block		
35	Grant for County Departments of		
36	Social Services for Children's Services	4,148,001	4,148,001
37			
38	19. Transfer to Social Services Block		
39	Grant – Foster Care Services	1,385,152	1,385,152
40			
41	TOTAL TEMPORARY ASSISTANCE FOR		
42	NEEDY FAMILIES (TANF) FUNDS	\$303,306,543	\$300,982,109
43			
44	TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)		
45	EMERGENCY CONTINGENCY FUNDS		
46			
47	Local Program Expenditures		
48			
49	Division of Child Development and Early Education		
50			
51	01. Subsidized Child Care	29,033,340	28,600,000

1			
2	02. Subsidized Child Care Swap Out	4,547,023	0
3			
4	TOTAL TEMPORARY ASSISTANCE FOR		
5	NEEDY FAMILIES (TANF) EMERGENCY		
6	CONTINGENCY FUNDS	\$33,580,363	\$28,600,000
7			
8	SOCIAL SERVICES BLOCK GRANT		
9			
10	Local Program Expenditures		
11			
12	Divisions of Social Services and Aging and Adult Services		
13			
14	01. County Departments of Social Services		
15	(Transfer From TANF \$4,148,001)	\$27,427,015	\$27,165,668
16			
17	02. Child Protective Services		
18	(Transfer From TANF)	5,040,000	5,040,000
19			
20	03. State In-Home Services Fund	2,382,970	1,943,950
21			
22	04. Adult Protective Services	1,245,363	1,245,363
23			
24	05. State Adult Day Care Fund	1,994,084	1,994,084
25			
26	06. Child Protective Services/CPS		
27	Investigative Services – Child Medical		
28	Evaluation Program	563,868	563,868
29			
30	07. Special Children Adoption Incentive Fund	462,600	462,600
31			
32	08. Child Protective Services – Child		
33	Welfare Training for Counties		
34	(Transfer From TANF)	1,300,000	1,300,000
35			
36	09. Home and Community Care Block		
37	Grant (HCCBG)	1,696,888	1,696,888
38			
39	10. Child Advocacy Centers	375,000	375,000
40			
41	11. Guardianship	3,978,360	3,978,360
42			
43	12. Foster Care Services		
44	(Transfer From TANF)	1,385,152	1,385,152
45			
46	Division of Central Management and Support		
47			
48	13. DHHS Competitive Block Grants		
49	for Nonprofits	3,852,500	3,852,500
50			
51	14. NC FAST – Operations and		

1	Maintenance	712,324	939,315
2			
3	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
4			
5	15. Mental Health Services – Adult and		
6	Child/Developmental Disabilities Program/		
7	Substance Abuse Services – Adult	4,030,730	4,030,730
8			
9	DHHS Program Expenditures		
10			
11	Division of Services for the Blind		
12			
13	16. Independent Living Program	3,361,323	3,361,323
14			
15	Division of Health Service Regulation		
16			
17	17. Adult Care Licensure Program	381,087	381,087
18			
19	18. Mental Health Licensure and		
20	Certification Program	190,284	190,284
21			
22	DHHS Administration		
23			
24	19. Division of Aging and Adult Services	577,745	577,745
25			
26	20. Division of Social Services	559,109	559,109
27			
28	21. Office of the Secretary/Controller's Office	127,731	127,731
29			
30	22. Division of Child Development and		
31	Early Education	13,878	13,878
32			
33	23. Division of Mental Health, Developmental		
34	Disabilities, and Substance Abuse Services	27,446	27,446
35			
36	24. Division of Health Service Regulation	118,946	118,946
37			
38	TOTAL SOCIAL SERVICES BLOCK GRANT	\$61,804,403	\$61,331,027
39			
40	LOW-INCOME ENERGY ASSISTANCE BLOCK GRANT		
41			
42	Local Program Expenditures		
43			
44	Division of Social Services		
45			
46	01. Low-Income Energy Assistance		
47	Program (LIEAP)	\$40,244,534	\$39,303,674
48			
49	02. Crisis Intervention Program (CIP)	40,244,534	39,303,674
50			
51	Local Administration		

1			
2	Division of Social Services		
3			
4	03. County DSS Administration	6,454,961	6,454,961
5			
6	DHHS Administration		
7			
8	04. Office of the Secretary/DIRM	412,488	412,488
9			
10	05. Office of the Secretary/Controller's Office	18,378	18,378
11			
12	06. NC FAST Development	1,075,319	3,381,373
13			
14	Transfers to Other State Agencies		
15			
16	Department of Environment and Natural		
17	Resources (DENR)		
18			
19	07. Weatherization Program	11,847,017	11,570,050
20			
21	08. Heating Air Repair and Replacement		
22	Program (HARRP)	6,303,514	6,156,147
23			
24	09. Local Residential Energy Efficiency Service		
25	Providers – Weatherization	475,046	475,046
26			
27	10. Local Residential Energy Efficiency Service		
28	Providers – HARRP	252,761	252,761
29			
30	11. DENR – Weatherization Administration	475,046	475,046
31			
32	12. DENR – HARRP Administration	252,760	252,760
33			
34	Department of Administration		
35			
36	13. N.C. Commission on Indian Affairs	87,736	87,736
37			
38	TOTAL LOW-INCOME ENERGY		
39	ASSISTANCE BLOCK GRANT	\$108,144,094	\$108,144,094
40			
41	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
42			
43	Local Program Expenditures		
44			
45	Division of Child Development and Early Education		
46			
47	01. Child Care Services		
48	(Smart Start \$7,000,000)	\$154,678,008	\$152,370,856
49			
50	02. Electronic Tracking System	801,240	401,492
51			

1	03. Transfer from TANF Block Grant		
2	for Child Care Subsidies	71,773,001	71,773,001
3			
4	04. Quality and Availability Initiatives		
5	(TEACH Program \$3,800,000)	26,514,964	26,019,987
6			
7	DHHS Administration		
8			
9	Division of Child Development and Early Education		
10			
11	05. DCDEE Administrative Expenses	9,049,505	9,049,505
12			
13	Division of Social Services		
14			
15	06. Local Subsidized Child Care		
16	Services Support	15,930,279	15,930,279
17			
18	07. NC FAST Development	186,404	586,152
19			
20	Division of Central Administration		
21			
22	08. DHHS Central Administration – DIRM		
23	Technical Services	775,000	775,000
24			
25	09. Central Regional Maintenance	202,000	202,000
26			
27	10. Child Care Health Consultation Contracts	62,205	62,205
28			
29	TOTAL CHILD CARE AND DEVELOPMENT		
30	FUND BLOCK GRANT	\$279,972,606	\$277,170,477
31			
32	MENTAL HEALTH SERVICES BLOCK GRANT		
33			
34	Local Program Expenditures		
35			
36	01. Mental Health Services – Child	\$3,619,833	\$3,619,833
37			
38	02. Administration	200,000	200,000
39			
40	03. Mental Health Services – Adult/Child	11,755,152	11,755,152
41			
42	04. Crisis Solutions Initiative – Critical		
43	Time Intervention	750,000	750,000
44			
45	05. Mental Health Services – First		
46	Psychotic Symptom Treatment	643,491	643,491
47			
48	TOTAL MENTAL HEALTH SERVICES		
49	BLOCK GRANT	\$16,968,476	\$16,968,476
50			
51	SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		

1			
2	Local Program Expenditures		
3			
4	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
5			
6	01. Substance Abuse – HIV and IV Drug	\$3,919,723	\$3,919,723
7			
8	02. Substance Abuse Prevention	8,669,284	8,669,284
9			
10	03. Substance Abuse Services – Treatment for		
11	Children/Adults	29,519,883	29,519,883
12			
13	04. Crisis Solutions Initiatives – Walk-In		
14	Crisis Centers	420,000	420,000
15			
16	05. Crisis Solutions Initiatives – Collegiate		
17	Wellness/Addiction Recovery	1,085,000	1,085,000
18			
19	06. Crisis Solutions Initiatives – Community		
20	Paramedic Mobile Crisis Management	60,000	60,000
21			
22	07. Crisis Solutions Initiatives – Innovative		
23	Technologies	41,000	41,000
24			
25	08. Crisis Solutions Initiatives – Veteran's Crisis	250,000	250,000
26			
27	09. Administration	454,000	454,000
28			
29	Division of Public Health		
30			
31	10. HIV Testing for Individuals in Substance		
32	Abuse Treatment	765,949	765,949
33			
34	TOTAL SUBSTANCE ABUSE PREVENTION		
35	AND TREATMENT BLOCK GRANT	\$45,184,839	\$45,184,839
36			
37	MATERNAL AND CHILD HEALTH BLOCK GRANT		
38			
39	Local Program Expenditures		
40			
41	Division of Public Health		
42			
43	01. Children's Health Services		
44	(Safe Sleep Campaign		
45	\$45,000; Prevent Blindness \$560,837;		
46	Community-Based		
47	Sickle Cell Centers \$100,000)	\$7,574,703	\$7,574,703
48			
49	02. Women's Health		
50	(March of Dimes \$350,000; Teen Pregnancy		
51	Prevention Initiatives \$650,000;		

1	17P Project \$52,000; Nurse-Family		
2	Partnership \$509,018; Carolina Pregnancy		
3	Care Fellowship \$300,000)	6,520,148	6,520,148
4			
5	03. Oral Health	44,901	44,901
6			
7	04. Evidence-Based Programs in Counties		
8	With Highest Infant Mortality Rates	1,575,000	1,575,000
9			
10	DHHS Program Expenditures		
11			
12	Division of Public Health		
13			
14	05. Children's Health Services	1,342,928	1,342,928
15			
16	06. Women's Health – Maternal Health	107,714	107,714
17			
18	07. State Center for Health Statistics	158,583	158,583
19			
20	08. Health Promotion – Injury and		
21	Violence Prevention	87,271	87,271
22			
23	DHHS Administration		
24			
25	Division of Public Health		
26			
27	09. Division of Public Health Administration	552,571	552,571
28			
29	TOTAL MATERNAL AND CHILD		
30	HEALTH BLOCK GRANT	\$17,963,819	\$17,963,819
31			
32	PREVENTIVE HEALTH SERVICES BLOCK GRANT		
33			
34	Local Program Expenditures		
35			
36	01. Physical Activity and Prevention	\$2,034,060	\$2,034,060
37			
38	02. Injury and Violence Prevention		
39	(Services to Rape Victims – Set-Aside)	173,476	173,476
40			
41	03. Community-Focused Eliminating Health		
42	Disparities Initiative Grants	2,756,855	0
43			
44	DHHS Program Expenditures		
45			
46	Division of Public Health		
47			
48	04. HIV/STD Prevention and		
49	Community Planning	145,819	145,819
50			
51	05. Oral Health Preventive Services	320,074	451,809

1			
2	06. Laboratory Services – Testing,		
3	Training, and Consultation	21,012	21,012
4			
5	07. Injury and Violence Prevention		
6	(Services to Rape Victims – Set-Aside)	192,315	192,315
7			
8	08. State Laboratory Services – Testing,		
9	Training, and Consultation	199,634	199,634
10			
11	09. Heart Disease and Stroke Prevention	273,772	405,507
12			
13	10. Performance Improvement and		
14	Accountability	839,736	971,471
15			
16	11. Physical Activity and Nutrition	68,073	68,073
17			
18	12. State Center for Health Statistics	107,291	107,291
19			
20	DHHS Administration		
21			
22	Division of Public Health		
23			
24	13. Division of Public Health	172,820	172,820
25			
26	14. Division of Public Health –		
27	Physical Activity and Nutrition Branch	1,243,899	0
28			
29	TOTAL PREVENTIVE HEALTH		
30	SERVICES BLOCK GRANT	\$8,548,836	\$4,943,288
31			
32	COMMUNITY SERVICES BLOCK GRANT		
33			
34	Local Program Expenditures		
35			
36	Office of Economic Opportunity		
37			
38	01. Community Action Agencies	\$24,047,065	\$24,047,065
39			
40	02. Limited Purpose Agencies	1,335,948	1,335,948
41			
42	DHHS Administration		
43			
44	03. Office of Economic Opportunity	1,335,948	1,335,948
45			
46	TOTAL COMMUNITY SERVICES		
47	BLOCK GRANT	\$26,718,961	\$26,718,961
48			
49	GENERAL PROVISIONS		

1 **SECTION 12I.1.(b)** Information to Be Included in Block Grant Plans. – The
2 Department of Health and Human Services shall submit a separate plan for each Block Grant
3 received and administered by the Department, and each plan shall include the following:

- 4 (1) A delineation of the proposed allocations by program or activity, including
5 State and federal match requirements.
- 6 (2) A delineation of the proposed State and local administrative expenditures.
- 7 (3) An identification of all new positions to be established through the Block
8 Grant, including permanent, temporary, and time-limited positions.
- 9 (4) A comparison of the proposed allocations by program or activity with two
10 prior years' program and activity budgets and two prior years' actual program
11 or activity expenditures.
- 12 (5) A projection of current year expenditures by program or activity.
- 13 (6) A projection of federal Block Grant funds available, including unspent
14 federal funds from the current and prior fiscal years.

15 **SECTION 12I.1.(c)** Changes in Federal Fund Availability. – If the Congress of the
16 United States increases the federal fund availability for any of the Block Grants or contingency
17 funds and other grants related to existing Block Grants administered by the Department of
18 Health and Human Services from the amounts appropriated in this section, the Department
19 shall allocate the increase proportionally across the program and activity appropriations
20 identified for that Block Grant in this section. In allocating an increase in federal fund
21 availability, the Office of State Budget and Management shall not approve funding for new
22 programs or activities not appropriated in this section.

23 If the Congress of the United States decreases the federal fund availability for any of
24 the Block Grants or contingency funds and other grants related to existing Block Grants
25 administered by the Department of Health and Human Services from the amounts appropriated
26 in this section, the Department shall develop a plan to adjust the Block Grants based on reduced
27 federal funding.

28 Notwithstanding the provisions of this subsection, for fiscal years 2015-2016 and
29 2016-2017, increases in the federal fund availability for the Temporary Assistance to Needy
30 Families (TANF) Block Grant shall be used only for the North Carolina Child Care Subsidy
31 program to pay for child care in four- or five-star-rated facilities for four-year-old children and
32 shall not be used to supplant State funds.

33 Prior to allocating the change in federal fund availability, the proposed allocation
34 must be approved by the Office of State Budget and Management. If the Department adjusts the
35 allocation of any Block Grant due to changes in federal fund availability, then a report shall be
36 made to the Joint Legislative Oversight Committee on Health and Human Services and the
37 Fiscal Research Division.

38 **SECTION 12I.1.(d)** Except as otherwise provided, appropriations from federal
39 Block Grant funds are made for each year of the fiscal biennium ending June 30, 2017,
40 according to the schedule enacted for State fiscal years 2015-2016 and 2016-2017 or until a
41 new schedule is enacted by the General Assembly.

42 **SECTION 12I.1.(e)** All changes to the budgeted allocations to the Block Grants or
43 contingency funds and other grants related to existing Block Grants administered by the
44 Department of Health and Human Services that are not specifically addressed in this section
45 shall be approved by the Office of State Budget and Management, and the Office of State
46 Budget and Management shall consult with the Joint Legislative Oversight Committee on
47 Health and Human Services for review prior to implementing the changes. The report shall
48 include an itemized listing of affected programs, including associated changes in budgeted
49 allocations. All changes to the budgeted allocations to the Block Grants shall be reported
50 immediately to the Joint Legislative Oversight Committee on Health and Human Services and

1 the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by
2 legislative salary increases and benefit adjustments.

3 **SECTION 12L.1.(f)** Except as otherwise provided, the Department of Health and
4 Human Services shall have flexibility to transfer funding between the Temporary Assistance
5 for Needy Families (TANF) Block Grant and the TANF Emergency Contingency Funds Block
6 Grant so long as the total allocation for the line items within those block grants remains the
7 same.

9 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

10 **SECTION 12L.1.(g)** The sum of eighty million ninety-three thousand five hundred
11 sixty-six dollars (\$80,093,566) for the 2015-2016 fiscal year and the sum of seventy-eight
12 million seventy-three thousand four hundred thirty-seven dollars (\$78,073,437) for the
13 2016-2017 fiscal year appropriated in this section in TANF funds to the Department of Health
14 and Human Services, Division of Social Services, shall be used for Work First County Block
15 Grants. The Division shall certify these funds in the appropriate State-level services based on
16 prior year actual expenditures. The Division has the authority to realign the authorized budget
17 for these funds among the State-level services based on current year actual expenditures.

18 **SECTION 12L.1.(h)** The sum of nine million four hundred twelve thousand three
19 hundred ninety-one dollars (\$9,412,391) appropriated in this section to the Department of
20 Health and Human Services, Division of Social Services, in TANF funds for each year of the
21 2015-2017 fiscal biennium for child welfare improvements shall be allocated to the county
22 departments of social services for hiring or contracting staff to investigate and provide services
23 in Child Protective Services cases; to provide foster care and support services; to recruit, train,
24 license, and support prospective foster and adoptive families; and to provide interstate and
25 post-adoption services for eligible families.

26 Counties shall maintain their level of expenditures in local funds for Child
27 Protective Services workers. Of the Block Grant funds appropriated for Child Protective
28 Services workers, the total expenditures from State and local funds for fiscal years 2015-2016
29 and 2016-2017 shall not be less than the total expended from State and local funds for the
30 2012-2013 fiscal year.

31 **SECTION 12L.1.(i)** The sum of two million twenty-six thousand eight hundred
32 seventy-seven dollars (\$2,026,877) appropriated in this section in TANF funds to the
33 Department of Health and Human Services, Special Children Adoption Fund, for each year of
34 the 2015-2017 fiscal biennium shall be used in accordance with G.S. 108A-50.2. The Division
35 of Social Services, in consultation with the North Carolina Association of County Directors of
36 Social Services and representatives of licensed private adoption agencies, shall develop
37 guidelines for the awarding of funds to licensed public and private adoption agencies upon the
38 adoption of children described in G.S. 108A-50 and in foster care. Payments received from the
39 Special Children Adoption Fund by participating agencies shall be used exclusively to enhance
40 the adoption services program. No local match shall be required as a condition for receipt of
41 these funds.

43 **SOCIAL SERVICES BLOCK GRANT**

44 **SECTION 12L.1.(j)** The sum of twenty-seven million four hundred twenty-seven
45 thousand fifteen dollars (\$27,427,015) for the 2015-2016 fiscal year and the sum of
46 twenty-seven million one hundred sixty-five thousand six hundred sixty-eight dollars
47 (\$27,165,668) for the 2016-2017 fiscal year appropriated in this section in the Social Services
48 Block Grant to the Department of Health and Human Services, Division of Social Services,
49 shall be used for county block grants. The Division shall certify these funds in the appropriate
50 State-level services based on prior year actual expenditures. The Division has the authority to

1 realign the authorized budget for these funds among the State-level services based on current
2 year actual expenditures.

3 **SECTION 12I.1.(k)** The sum of one million three hundred thousand dollars
4 (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department
5 of Health and Human Services, Division of Social Services, for each year of the 2015-2017
6 fiscal biennium shall be used to support various child welfare training projects as follows:

7 (1) Provide a regional training center in southeastern North Carolina.

8 (2) Provide training for residential child caring facilities.

9 (3) Provide for various other child welfare training initiatives.

10 **SECTION 12I.1.(l)** The Department of Health and Human Services is authorized,
11 subject to the approval of the Office of State Budget and Management, to transfer Social
12 Services Block Grant funding allocated for departmental administration between divisions that
13 have received administrative allocations from the Social Services Block Grant.

14 **SECTION 12I.1.(m)** Social Services Block Grant funds appropriated for the
15 Special Children Adoption Incentive Fund will require a fifty-percent (50%) local match.

16 **SECTION 12I.1.(n)** The sum of five million forty thousand dollars (\$5,040,000)
17 appropriated in this section in the Social Services Block Grant for each year of the 2015-2017
18 fiscal biennium shall be allocated to the Department of Health and Human Services, Division
19 of Social Services. The Division shall allocate these funds to local departments of social
20 services to replace the loss of Child Protective Services State funds that are currently used by
21 county governments to pay for Child Protective Services staff at the local level. These funds
22 shall be used to maintain the number of Child Protective Services workers throughout the State.
23 These Social Services Block Grant funds shall be used to pay for salaries and related expenses
24 only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five
25 percent (25%).

26 **SECTION 12I.1.(o)** The sum of three million eight hundred fifty-two thousand
27 five hundred dollars (\$3,852,500) appropriated in this section in the Social Services Block
28 Grant to the Department of Health and Human Services, Division of Central Management and
29 Support, shall be used for DHHS competitive block grants pursuant to Section 12A.8 of this act
30 for each year of the 2015-2017 fiscal biennium. These funds are exempt from the provisions of
31 10A NCAC 71R .0201(3).

32 **SECTION 12I.1.(p)** The sum of three hundred seventy-five thousand dollars
33 (\$375,000) appropriated in this section in the Social Services Block Grant for each year of the
34 2015-2017 fiscal biennium to the Department of Health and Human Services, Division of
35 Social Services, shall be used to continue support for the Child Advocacy Centers, and the
36 funds are exempt from the provisions of 10A NCAC 71R .0201(3).

37 **SECTION 12I.1.(q)** The sum of three million nine hundred seventy-eight thousand
38 three hundred sixty dollars (\$3,978,360) for each year of the 2015-2017 fiscal biennium
39 appropriated in this section in the Social Services Block Grant to the Department of Health and
40 Human Services, Divisions of Social Services and Aging and Adult Services, shall be used for
41 guardianship services pursuant to Chapter 35A of the General Statutes. The Department may
42 expend funds appropriated in this section to support (i) existing corporate guardianship
43 contracts during the 2015-2016 and 2016-2017 fiscal years and (ii) guardianship contracts
44 transferred to the State from local management entities or managed care organizations during
45 the 2015-2016 and 2016-2017 fiscal years.

46 **LOW-INCOME ENERGY ASSISTANCE BLOCK GRANT**

47 **SECTION 12I.1.(r)** Additional emergency contingency funds received may be
48 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior
49 consultation with the Joint Legislative Oversight Committee on Health and Human Services.
50 Additional funds received shall be reported to the Joint Legislative Oversight Committee on
51

1 Health and Human Services and the Fiscal Research Division upon notification of the award.
2 The Department of Health and Human Services shall not allocate funds for any activities,
3 including increasing administration, other than assistance payments, without prior consultation
4 with the Joint Legislative Oversight Committee on Health and Human Services.

5 **SECTION 12I.1.(s)** The sum of forty million two hundred forty-four thousand five
6 hundred thirty-four dollars (\$40,244,534) for the 2015-2016 fiscal year and the sum of
7 thirty-nine million three hundred three thousand six hundred seventy-four dollars (\$39,303,674)
8 for the 2016-2017 fiscal year appropriated in this section in the Low-Income Energy Assistance
9 Block Grant to the Department of Health and Human Services, Division of Social Services,
10 shall be used for Energy Assistance Payments for the households of (i) elderly persons age 60
11 and above with income up to one hundred thirty percent (130%) of the federal poverty level
12 and (ii) disabled persons eligible for services funded through the Division of Aging and Adult
13 Services.

14 County departments of social services shall submit to the Division of Social
15 Services an outreach plan for targeting households with 60-year-old household members no
16 later than August 1 of each year. The outreach plan shall comply with the following:

- 17 (1) Ensure that eligible households are made aware of the available assistance,
18 with particular attention paid to the elderly population age 60 and above and
19 disabled persons receiving services through the Division of Aging and Adult
20 Services.
- 21 (2) Include efforts by the county department of social services to contact other
22 State and local governmental entities and community-based organizations to
23 (i) offer the opportunity to provide outreach and (ii) receive applications for
24 energy assistance.
- 25 (3) Be approved by the local board of social services or human services board
26 prior to submission.

27 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

28 **SECTION 12I.1.(t)** Payment for subsidized child care services provided with
29 federal TANF funds shall comply with all regulations and policies issued by the Division of
30 Child Development for the subsidized child care program.

31 **SECTION 12I.1.(u)** If funds appropriated through the Child Care and
32 Development Fund Block Grant for any program cannot be obligated or spent in that program
33 within the obligation or liquidation periods allowed by the federal grants, the Department may
34 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the
35 grant, in order to use the federal funds fully.
36
37

38 **MENTAL HEALTH SERVICES BLOCK GRANT**

39 **SECTION 12I.1.(v)** The sum of six hundred forty-three thousand four hundred
40 ninety-one dollars (\$643,491) appropriated in this section in the Mental Health Services Block
41 Grant to the Department of Health and Human Services, Division of Mental Health,
42 Developmental Disabilities, and Substance Abuse Services, for each year of the 2015-2017
43 fiscal biennium is allocated for Mental Health Services – First Psychotic Symptom Treatment.
44 The Division shall report on (i) the specific evidence-based treatment and services provided,
45 (ii) the number of persons treated, and (iii) the measured outcomes or impact on the participants
46 served. The Division shall report to the House of Representatives Appropriations Committee on
47 Health and Human Services, the Senate Appropriations Committee on Health and Human
48 Services, and the Fiscal Research Division no later than December 31, 2016.
49

50 **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

1 **SECTION 12L.1.(w)** The sum of two hundred fifty thousand dollars (\$250,000)
2 appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to
3 the Department of Health and Human Services, Division of Mental Health, Developmental
4 Disabilities, and Substance Abuse Services, for each year of the 2015-2017 fiscal biennium
5 shall be allocated to the Department of Administration, Division of Veterans Affairs, to
6 establish a call-in center to assist veterans in locating service benefits and crisis services. The
7 call-in center shall be staffed by certified veteran peers within the Division of Veterans Affairs
8 and trained by the Division of Mental Health, Developmental Disabilities, and Substance
9 Abuse Services.

10 11 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

12 **SECTION 12L.1.(x)** If federal funds are received under the Maternal and Child
13 Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193
14 (42 U.S.C. § 710), for the 2015-2016 fiscal year or the 2016-2017 fiscal year, then those funds
15 shall be transferred to the State Board of Education to be administered by the Department of
16 Public Instruction. The Department of Public Instruction shall use the funds to establish an
17 abstinence until marriage education program and shall delegate to one or more persons the
18 responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department
19 of Public Instruction shall carefully and strictly follow federal guidelines in implementing and
20 administering the abstinence education grant funds.

21 **SECTION 12L.1.(y)** The Department of Health and Human Services shall ensure
22 that there will be follow-up testing in the Newborn Screening Program.

23 **SECTION 12L.1.(z)** The sum of one million five hundred seventy-five thousand
24 dollars (\$1,575,000) appropriated in this section in the Maternal and Child Health Block Grant
25 to the Department of Health and Human Services, Division of Public Health, for each year of
26 the 2015-2017 fiscal biennium shall be used for evidence-based programs in counties with
27 highest infant mortality rates. The Division shall report on (i) the counties selected to receive
28 the allocation, (ii) the specific evidenced-based services provided, (iii) the number of women
29 served, and (iv) any impact on the counties' infant mortality rate. The Division shall report its
30 findings to the House of Representatives Appropriations Committee on Health and Human
31 Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal
32 Research Division no later than December 31, 2016.

33 **SECTION 12L.1.(aa)** The sum of one hundred thousand dollars (\$100,000)
34 allocated in this section in the Maternal and Child Health Block Grant to the Department of
35 Health and Human Services, Division of Public Health, for each year of the 2015-2017 fiscal
36 biennium for community-based sickle cell centers shall not be used to supplant existing State or
37 federal funds.

38 **SECTION 12L.1.(bb)** No more than fifteen percent (15%) of the funds provided in
39 this section in the Maternal and Child Health Block Grant to Carolina Pregnancy Care
40 Fellowship shall be used for administrative purposes. The balance of those funds shall be used
41 for direct services.

42 43 **PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

44 45 **TVA SETTLEMENT FUNDS**

46 **SECTION 13.2.** In fiscal year 2015-2016, The Department of Agriculture and
47 Consumer Services shall apply for two million two hundred forty thousand dollars (\$2,240,000)
48 from the Tennessee Valley Authority Settlement Agreement in compliance with the
49 requirements of paragraphs 122 through 128 of the Consent Decree entered into by the State in
50 *State of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in the United
51 States District Court for the Eastern District of Tennessee, and Appendix C to the Compliance

1 Agreement. The funds received by the State shall be allocated to the following programs for
2 projects, with priority given to projects in the counties of Avery, Buncombe, Burke, Cherokee,
3 Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain,
4 Transylvania, Watauga, and Yancey:

- 5 (1) One million dollars (\$1,000,000) to the Agriculture Cost Share Program for
6 Nonpoint Source Pollution Control.
- 7 (2) Five hundred thousand dollars (\$500,000) to the Department's Bioenergy
8 Development Program.
- 9 (3) Five hundred thousand dollars (\$500,000) to the North Carolina Agricultural
10 Development and Farmland Preservation Trust Fund to be used,
11 notwithstanding G.S. 106-744, in the areas specified in this section.
- 12 (4) Two hundred forty thousand dollars (\$240,000) to the North Carolina
13 Agricultural Water Resources Assistance Program.
- 14

15 **DISPOSITION OF ROSE HILL LABORATORY PROPERTY**

16 **SECTION 13.3.** The Department of Administration shall sell the building and
17 associated real property formerly used to house the Veterinary Diagnostic Laboratory located in
18 the Town of Rose Hill in Duplin County.

20 **DRUG MANUFACTURING LICENSING AND REGISTRATION FEES**

21 **SECTION 13.4.(a)** G.S. 106-140.1(h) reads as rewritten:

22 "(h) The Commissioner shall adopt rules to implement the registration requirements of
23 this section. These rules ~~may shall~~ provide for an annual registration fee of ~~up to five hundred~~
24 ~~dollars (\$500.00)~~ one thousand dollars (\$1,000) for companies operating as ~~manufacturers,~~
25 ~~wholesalers, or repackagers.~~ manufacturers or repackagers and seven hundred dollars (\$700.00)
26 for companies operating as wholesalers. The Department of Agriculture and Consumer
27 Services shall use these funds for the implementation of the North Carolina Food, Drug and
28 Cosmetic Act."

29 **SECTION 13.4.(b)** G.S. 106-145.4(b) reads as rewritten:

30 **"§ 106-145.4. Application and fee for license.**

31 "(b) Fee. – An application for an initial license or a renewed license as a wholesale
32 distributor shall be accompanied by a nonrefundable fee of ~~five hundred dollars (\$500.00)~~ one
33 thousand dollars (\$1,000) for a manufacturer or ~~three hundred fifty dollars (\$350.00)~~ seven
34 hundred dollars (\$700.00) for any other person."

36 **FOOD MANUFACTURER AND RETAILER INSPECTION FEES**

37 **SECTION 13.5.** G.S. 106-254 reads as rewritten:

38 **"§ 106-254. Inspection fees; wholesalers; retailers and cheese factories.**

39 For the purpose of defraying the expenses incurred in the enforcement of this Article, the
40 owner, proprietor or operator of each ice cream factory where ice cream, milk shakes, milk
41 sherbet, sherbet, water ices, mixes for frozen or semifrozen desserts and other similar frozen or
42 semifrozen food products are made or stored, or any cheese factory or butter-processing plant
43 that disposes of its products at wholesale to retail dealers for resale in this State shall pay to the
44 Commissioner of Agriculture each year an inspection fee of ~~forty dollars (\$40.00)~~ one hundred
45 dollars (\$100.00). Each maker of ice cream, milk shakes, milk sherbet, sherbet, water ices
46 and/or other similar frozen or semifrozen food products who disposes of his product at retail
47 only, and cheese factories, shall pay to the Commissioner of Agriculture an inspection fee of
48 ~~ten dollars (\$10.00)~~ fifty dollars (\$50.00) each year. The inspection fee of ~~ten dollars (\$10.00)~~
49 fifty dollars (\$50.00) shall not apply to conventional spindle-type milk-shake mixers, but shall
50 apply to milk-shake dispensing and vending machines, which operate on a continuous or
51 automatic basis."

SPAY/NEUTER PROGRAM REVISIONS**SECTION 13.7.** G.S. 19A-63 reads as rewritten:**"§ 19A-63. Eligibility for distributions from Spay/Neuter Account.**

(a) A county or city is eligible for reimbursement from the Spay/Neuter Account if it meets the following condition:

(1) The county or city offers one or more of the following programs to low-income persons on a year-round basis for the purpose of reducing the cost of spaying and neutering procedures for dogs and cats:

a. A spay/neuter clinic operated by the county or city.

~~b. A spay/neuter clinic operated by a private organization under contract or other arrangement with the county or city.~~

c. A contract or contracts with one or more veterinarians, whether or not located within the county, to provide reduced-cost spaying and neutering procedures.

d. Subvention of the spaying and neutering costs incurred by low-income pet owners through the use of vouchers or other procedure that provides a discount of the cost of the spaying or neutering procedure fixed by a participating veterinarian or other provider.

e. Subvention of the spaying and neutering costs incurred by persons who adopt a pet from an animal shelter operated by or under contract with the county or city.

(2) Reserved for future codification purposes.

(b) For purposes of this Article, the term "low-income person" shall mean an individual ~~who qualifies for one or more of the programs of public assistance administered by the Department of Health and Human Services pursuant to Chapter 108A of the General Statutes or~~ whose annual household income is under three hundred percent (300%) lower than one hundred percent (100%) of the federal poverty level guidelines published by the United States Department of Health and Human Services.

(c) Each county shall make rules or publish guidelines that designate what proof a low-income person must submit to establish that the person ~~qualifies for public assistance under subsection (b) of this section or~~ has an annual household income lower than ~~three hundred percent (300%)~~ one hundred percent (100%) of the federal poverty level guidelines published by the United States Department of Health and Human Services."

CONSERVATION RESERVE ENHANCEMENT PROGRAM REPORT

SECTION 13.8.(a) The Department of Agriculture and Consumer Services shall study and report on the activities of the Conservation Reserve Enhancement Program. The report shall include, at a minimum, the following components:

(1) A listing of contracts currently in effect and contracts entered into in each of the last five fiscal years, including the acreage and location of the land under contract and the distribution of contracts by duration.

(2) A five-year projection of future funding requirements.

(3) A detailed listing of the conservation practices used at project sites over the last five fiscal years and an assessment of the effectiveness of those practices for preventing or reducing nonpoint source pollution.

(4) An assessment of the effectiveness and impact of the program in both protection of waterways from nonpoint source pollution and the leveraging of additional programs and efforts to reduce nonpoint source pollution.

1 **SECTION 13.8.(b)** The Department shall submit its findings and report to the
2 chairs of the Senate Appropriations Committee on Natural and Economic Resources and the
3 House Appropriations Committee on Agriculture and Natural and Economic Resources and to
4 the Fiscal Research Division no later than April 1, 2016.

5
6 **BEER MARKETING**

7 **SECTION 13.9.** The additional funds allocated by this act to the Marketing
8 Division of the Department of Agriculture and Consumer Services shall be used for the
9 promotion of beer produced in the State.

10
11 **REPEAL MINE SAFETY AND HEALTH ACT**

12 **SECTION 13.10.(a)** Article 2A of Chapter 74 of the General Statutes is repealed.

13 **SECTION 13.10.(b)** G.S. 130A-460 reads as rewritten:

14 "**§ 130A-460. Report to Department of Labor.**

15 ...

16 (c) Subsection (b) shall not apply to inspections conducted for the Industrial
17 Commission pursuant to ~~G.S. 97-76~~ and shall not affect the allocation of responsibilities set
18 forth in ~~G.S. 74-24.4(e)-G.S. 97-76.~~"

19
20 **LABOR CONSULTATIVE SERVICES BUREAU INSPECT MINES & QUARRIES**

21 **SECTION 13.11.(a)** The Department of Labor, Consultative Services Bureau, shall
22 inspect mines and quarries in the State in a manner consistent with inspections conducted by
23 the Mine and Quarry Bureau prior to the date this section becomes effective.

24 **SECTION 13.11.(b)** This section is effective when it becomes law.

25
26 **PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

27
28 **PROSPERITY ZONE DENR LIAISONS**

29 **SECTION 14.1.** Section 4.1 of S.L. 2014-18 reads as rewritten:

30 "**SECTION 4.1.** No later than January 1, 2015, the Departments of Commerce,
31 Environment and Natural Resources, and Transportation shall have at least one employee
32 physically located in the same office in each of the Collaboration for Prosperity Zones set out
33 in G.S. 143B-28.1 to serve as that department's liaison with the other departments and with
34 local governments, schools and colleges, planning and development bodies, and businesses in
35 that zone. The departments shall jointly select the office. For purposes of this Part, the
36 Department of Commerce may contract with a North Carolina nonprofit corporation pursuant
37 to G.S. 143B-431A, as enacted by this act, to fulfill the departmental liaison requirements for
38 each office in each of the Collaboration for Prosperity ~~Zones-Zones~~, and the Department of
39 Environment and Natural Resources shall fulfill the departmental liaison requirements from
40 existing positions.

41 No later than January 1, 2015, the Community Colleges System Office shall designate at
42 least one representative from a community college or from the Community Colleges System
43 Office to serve as a liaison in each Collaboration for Prosperity Zone for the community
44 college system, the community colleges in the zone, and other educational agencies and schools
45 within the zone. A liaison may be from a business center located in a community college. These
46 liaisons are not required to be collocated with the liaisons from the Departments of Commerce,
47 Environment and Natural Resources, and Transportation.

48 No later than January 1, 2015, the State Board of Education shall designate at least one
49 representative from a local school administrative unit or from the Department of Public
50 Instruction to serve as a liaison in each Collaboration for Prosperity Zone for the local school
51 administrative units and other public schools within the zone. These liaisons are not required to

1 be collocated with the liaisons from the Departments of Commerce, Environment and Natural
2 Resources, and Transportation."
3

4 **IMPROVE FINANCIAL MANAGEMENT OF ENVIRONMENTAL STEWARDSHIP**
5 **FUNDS THROUGH CONSERVATION GRANT FUND**

6 **SECTION 14.2.** G.S. 147-69.2(d) reads as rewritten:

7 "(d) The State Treasurer may invest funds deposited pursuant to ~~subdivision~~
8 ~~(a)(17i)~~ subdivisions (a)(17i) or (a)(17j) of this section in any of the investments authorized
9 under subdivisions (1) through (6) and subdivision (8) of subsection (b) of this section. The
10 State Treasurer may require a minimum deposit, up to one hundred thousand dollars
11 (\$100,000), and may assess a reasonable fee, not to exceed 15 basis points, as a condition of
12 participation pursuant to this subsection. Funds deposited pursuant to this subsection shall
13 remain the funds of the North Carolina Conservation Easement Endowment ~~Fund, Fund or the~~
14 Conservation Grant Fund, as applicable, and interest or other investment income earned thereon
15 shall be prorated and credited to the North Carolina Conservation Easement Endowment ~~Fund~~
16 Fund or the Conservation Grant Fund on the basis of the amounts ~~thereof~~
17 contributed, contributed to the respective Funds, figured according to sound accounting
18 principles."
19

20 **ALLOW REVENUE GENERATED FROM TIMBER SALE TO BE RETAINED IN A**
21 **NONREVERTING ACCOUNT FOR A PERIOD OF FOUR YEARS**

22 **SECTION 14.3.** The Department of Environment and Natural Resources'
23 Stewardship Program may retain revenue generated from timber harvesting on the Great
24 Coharie property in the Conservation Grant Endowment Interest Fund (6705) for the purpose of
25 restoration and stewardship of that property and these funds are hereby appropriated for that
26 purpose. Any unused portion of this revenue remaining in the Fund on June 30, 2019, shall
27 revert to the General Fund.
28

29 **SEPARATE NATURAL HERITAGE PROGRAM FROM CLEAN WATER**
30 **MANAGEMENT TRUST FUND**

31 **SECTION 14.4.** Subdivisions (8e) and (9) of subsection (c) and subsection (d) of
32 G.S. 113A-253 are repealed.
33

34 **ENVIRONMENTAL MANAGEMENT OF IMPAIRED WATER BODIES**

35 **SECTION 14.5.(a)** Of the funds appropriated in this act to the Clean Water
36 Management Trust Fund, the sum of four million five hundred thousand dollars (\$4,500,000) in
37 the 2015-2017 fiscal biennium shall be used by the Department of Environment and Natural
38 Resources to research, implement, and monitor in situ strategies beyond traditional watershed
39 controls that have the potential to mitigate water quality impairments resulting from aquatic
40 flora, sediment, nutrients, or other water quality variables that impair or have the potential to
41 impair water bodies of the State.

42 **SECTION 14.5.(b)** The Department shall extend existing contracts related to in
43 situ water quality remediation strategies for two years at a price less than current terms and may
44 enter into new purchase or lease agreements for equipment, goods, or contractor services prior
45 to June 30, 2017. The Department, in consultation with the Environmental Management
46 Commission, shall have the authority to determine the size, scope, and location of a new project
47 or expansion of the scope of an existing project as well as the methods to be deployed;
48 provided, however, that the Department shall issue a Request for Proposal for any new leases
49 or purchases authorized by this subsection and shall evaluate and select contractors or
50 equipment based on likelihood of success in addition to price.

1 **SECTION 14.5.(c)** The General Assembly finds that there is a need for timely
2 initiation of projects authorized by this section during the biennium to expedite mitigation of
3 impaired waters of the State and federal review and approval of these projects prior to
4 deployment. Therefore, any contract, lease, purchase, or other agreement entered into under
5 this section shall not be subject to the requirements of Article 3, 3D, or 8 of Chapter 143 of the
6 General Statutes in order to expedite deployment.

7 **SECTION 14.5.(d)** The General Assembly further finds that existing rules or
8 proposed rules intended to address water quality of impaired water bodies may need to be
9 modified based on the completion and analysis of projects authorized or extended by this
10 section and that there is a need to better understand the impact of in situ mitigation on overall
11 water quality of impaired water bodies. Therefore, any rules issued by the Commission or
12 directed by the General Assembly that pertain to basinwide nutrient management and
13 mitigation of water quality for impaired water bodies, as defined by the federal government,
14 and that have been temporarily delayed by a prior act of the General Assembly or Commission,
15 shall have an effective date of two additional years or one year after the completion of the
16 projects described in this subsection, whichever is later.

17 **SECTION 14.5.(e)** The Department and Commission shall consider and include in
18 situ strategies, as described in subsection (a) of this section, in their development, review, and
19 modifications of basinwide water quality management plans or related water quality mitigation
20 modeling.

21 **INLET AND PORT ACCESS MANAGEMENT**

22 **SECTION 14.6.(a)** G.S. 143-215.73F reads as rewritten:

23 "**§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake Maintenance**
24 **Fund.**

25 (a) Fund Established. – The Shallow Draft Navigation Channel Dredging and Lake
26 Maintenance Fund is established as a special revenue fund. The Fund consists of fees credited
27 to it under ~~G.S. 75A-3, 75A-38, G.S. 75A-3 and G.S. 75A-38~~ and ~~105-449.126~~. taxes credited
28 under G.S. 105-449.126.

29 (b) Uses of Fund. – Revenue in the Fund may only be used ~~to~~ for the following
30 purposes:

31 (1) To provide the State's share of the costs associated with any dredging project
32 designed to keep shallow draft navigation channels located in State waters or
33 waters of the state located within lakes navigable and ~~safe, or for safe.~~

34 (2) For aquatic weed control projects in waters of the State located within lakes
35 under Article 15 of Chapter 113A of the General Statutes. Funding for
36 aquatic weed control projects is limited to five hundred thousand dollars
37 (\$500,000) in each fiscal year.

38 (c) Cost-Share. – Any project funded by revenue from the Fund must be cost-shared
39 with non-State dollars on a one-to-one basis, provided that the cost-share for a lake located
40 within a component of the State Parks System shall be provided by the Division of Parks and
41 Recreation of the Department of Environment and Natural Resources. The Division of Parks and
42 Recreation may use funds allocated to the State Parks System for capital projects under
43 G.S. 113-44.15 for the cost-share.

44 (d) Waiver of Cost-Share. – The Secretary may waive or modify the non-State
45 cost-share requirement for dredging projects that (i) alleviate a navigational emergency or (ii)
46 represent an opportunity to supplement or leverage Corps funding that would be lost if a
47 cost-share was required. The Secretary may only waive or modify the non-State cost-share
48 requirement up to an amount not to exceed five hundred thousand dollars (\$500,000) per
49 project.
50

1 (e) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund
2 for a particular project or group of projects may make a written request to the Secretary that the
3 contribution be returned if the contribution has not been spent or encumbered within two years
4 of receipt of the contribution by the Fund. If the written request is made prior to the funds being
5 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the
6 later of (i) receiving the request or (ii) the expiration of the two-year period described by this
7 subsection.

8 (f) Reporting. – The Secretary shall report any waivers or modifications of the
9 cost-share requirement made under subsection (d) of this section within 30 days of issuing the
10 waiver or modification to the Joint Legislative Commission on Governmental Operations and
11 the Fiscal Research Division of the General Assembly. The report shall include an explanation
12 of the factors in subsection (d) of this section that are the basis for the waiver or modification
13 decision.

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

15 (1) Corps. – The United States Army Corps of Engineers.

16 (2) Costs associated with a dredging project. – Includes the cost of the dredging
17 operation, surveys or studies directly attributable to the project, and the costs
18 of disposal of dredged material.

19 (3) Navigational emergency. – With respect to a shallow draft navigation
20 channel, the removal of or statement of intent to remove one or more
21 navigational buoys by the United States Coast Guard from the channel due
22 to shoaling.

23 (4) Shallow draft navigation channel. – (i) ~~a~~–A waterway connection with a
24 maximum depth of 16 feet between the Atlantic Ocean and a bay or the
25 Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean
26 through which tidal and other currents flow, or (iii) other interior coastal
27 waterways. ~~"Shallow draft navigation channel"~~–The term includes the
28 Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor,
29 Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout
30 Back, channels connected to federal navigation channels, Lockwoods Folly
31 River, Manteo/Shallowbag Bay, including Oregon Inlet, Masonboro Inlet,
32 New River, New Topsail Inlet, Rodanthe, Hatteras Inlet, Rollinson, Shallotte
33 River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and
34 Beaufort Harbor."

35 **SECTION 14.6.(b)** Notwithstanding G.S. 143-215.73F, the funds available in the
36 Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund shall be reserved for
37 all of the following purposes:

38 (1) The sum of four million dollars (\$4,000,000) shall be reserved for Oregon
39 Inlet dredging needs.

40 (2) The sum of one hundred fifty thousand dollars (\$150,000) shall be reserved
41 to reimburse the Department of Administration for its costs associated with
42 exploring options for acquiring Oregon Inlet and the adjacent real property,
43 including, but not limited to, surveys and appraisals, legal research, and
44 studies related to sand management, engineering proposals, and larval
45 transport.

46 (3) The sum of seven hundred fifty thousand dollars (\$750,000) shall be
47 reserved to reimburse the Department of Administration for its costs
48 associated with the implementation of Section 14.7(g) of S.L. 2014-100.
49 Upon completion of the actions defined in Sections 14.7(a) through (f) of
50 S.L. 2014-100 by the Secretary of Administration and the federal
51 government, Section 14.7(g) of S.L. 2014-100 is repealed. The Department

1 of Administration shall use the report submitted by the Department of
2 Transportation pursuant to Section 14.7(h) of S.L. 2014-100 and consult
3 with the Department of Transportation when prioritizing condemnation of all
4 existing and future transportation corridors on the Outer Banks, a right
5 retained by the State and recorded in a deed executed on August 7, 1958,
6 when these lands were conveyed to the federal government.

- 7 (4) The sum of two hundred fifty thousand dollars (\$250,000) shall be reserved
8 for use by the Department of Environment and Natural Resources to update
9 the Beach and Inlet Management Plan. The Department may enter into a
10 sole-source contract of up to two hundred fifty thousand dollars (\$250,000)
11 with the firm that developed the initial Plan to have the firm update the Plan.
12 The updated Plan shall include a recommended schedule for ongoing inlet
13 maintenance. No later than December 1, 2016, the Department shall report to
14 the Environmental Review Commission on the updated Plan.

15 The conditions on funding set out in G.S. 143-215.73F(c) may not be waived
16 pursuant to G.S. 143-215.73F(d) for funds reserved for the Oregon Inlet dredging needs set out
17 in subdivision (1) of this subsection. If State funds reserved for the purposes listed above are
18 not spent or encumbered by June 30, 2016, the State funds shall be unreserved and made
19 available for any of the uses set out in G.S. 143-215.73F.

20 **SECTION 14.6.(c)** Article 21 of Chapter 143 of the General Statutes is amended
21 by adding a new Part to read:

22 "Part 8C. Deep Draft Navigation Channel Dredging and Maintenance Fund.

23 **"§ 143-215.73G. Deep Draft Navigation Channel Dredging and Maintenance Fund.**

24 (a) Fund Established. – The Deep Draft Navigation Channel Dredging and Maintenance
25 Fund is established as a special revenue fund. The Fund consists of General Fund
26 appropriations, gifts, or grants, including monies contributed by a non-State entity for a
27 particular dredging project or group of projects and any other revenues specifically allocated to
28 the Fund by an act of the General Assembly.

29 (b) Uses of the Fund. – Revenue credited to the Fund may only be used for costs
30 associated with projects providing safe and efficient navigational access to a State Port,
31 including the design, construction, expansion, modification, or maintenance of deep draft
32 navigation channels, turning basins, berths, and related structures, as well as surveys or studies
33 related to any of the foregoing and the costs of disposal of dredged material.

34 (c) Conditions on Funding. – State funds credited to the Fund from the sources
35 described in subsection (a) of this section must be cost-shared on a one-to-one basis with funds
36 provided by the State Ports Authority, provided that:

37 (1) Funds contributed to the Fund by a non-State entity are not considered State
38 funds and may be used to provide the cost-share required by this subsection.

39 (2) The Secretary may waive or modify the cost-share requirement for any
40 project that supplements Corps funding for a study authorized by the Corps
41 related to navigational access to a State Port, based on availability of
42 alternate funding sources.

43 (d) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund
44 for a particular project or group of projects may make a written request to the Secretary that the
45 contribution be returned if the contribution has not been spent or encumbered within two years
46 of receipt of the contribution by the Fund. If the written request is made prior to the funds being
47 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the
48 later of (i) receiving the request or (ii) the expiration of the two-year period described by this
49 subsection.

50 (e) Definitions. – The following definitions apply in this Part:

51 (1) Corps. – The United States Army Corps of Engineers.

1 (2) State Port. – Facilities at Wilmington or Morehead City managed or operated
2 by the State Ports Authority."

3 **SECTION 14.6.(d)** SPA Memorandum of Agreement. – The State Ports Authority
4 shall negotiate with the United States Army Corps of Engineers (hereafter, "Corps") a
5 memorandum of agreement allowing for nonfederal funding of dredging and related studies or
6 maintenance at the State Ports located at Wilmington and Morehead City. The memorandum
7 required by this subsection shall be for as long a term as possible.

8 **SECTION 14.6.(e)** DENR Memorandum of Agreement. – The Division of Water
9 Resources of the Department of Environment and Natural Resources shall negotiate with the
10 Corps a memorandum of agreement allowing for nonfederal funding of dredging of Oregon
11 Inlet. The memorandum required by this subsection shall be for as long a term as possible.

12 **SECTION 14.6.(f)** Port Access Lands Acquisition Agreement. – Notwithstanding
13 Chapter 146 of the General Statutes or any other provision of law, the Department of
14 Administration, on behalf of the State, shall seek to initiate negotiations with the appropriate
15 agency of the federal government for an agreement to acquire the federally owned property
16 necessary for management of deep draft navigation channels providing access to State Port
17 facilities at Morehead City from the federal government in exchange for State-owned real
18 property.

19 (1) Interagency cooperation. – The North Carolina Ports Authority and the
20 Department of Transportation shall be included in the planning and carrying
21 out of these negotiations, but the ultimate approval authority remains solely
22 with the Secretary of the Department of Administration.

23 (2) Terms of agreement. – The Secretary of the Department of Administration
24 shall have the authority to negotiate the terms of the acquisition agreement.
25 The agreement (i) shall provide for the acquisition of interests in real
26 property described in this subsection and no other; (ii) shall provide that the
27 conveyances described in the agreement become effective as soon as
28 practicable; and (iii) shall incorporate the relevant terms of this subsection.

29 (3) Execution of deeds. – Within 30 days of the acquisition becoming effective,
30 the Attorney General shall execute any documents or deeds necessary to
31 effectuate the acquisition under the exact terms set forth in the acquisition
32 agreement. All State agencies and officials shall cooperate to the fullest
33 extent possible in effectuating the acquisition agreement.

34 (4) Reporting. – Within 30 days after an agreement is entered into pursuant to
35 this section, the Secretary of the Department of Administration shall report
36 to the Joint Legislative Commission on Governmental Operations on the
37 terms of the agreement.

38 **SECTION 14.6.(g)** Contested Case Exemption. – G.S. 150B-1(e) is amended by
39 adding a new subdivision to read:

40 "(e) Exemptions From Contested Case Provisions. – The contested case provisions of
41 this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter.
42 The contested case provisions of this Chapter do not apply to the following:

43 ...

44 (22) The Secretary of Environment and Natural Resources for the waiver or
45 modification of non-State cost-share requirements under G.S. 143-215.73F
46 and G.S. 143-215.73G."

47 **SECTION 14.6.(h)** The General Assembly finds that the New Inlet Dam or "The
48 Rocks" is a breakwater established by the United States Army Corps of Engineers in the late
49 1800s. The New Inlet Dam is composed of two components, a Northern Component that
50 extends from Federal Point to Zeke's Island and a Southern Component that extends
51 southwestward from Zeke's Island and separates the New Inlet from the main channel of the

1 Cape Fear River. The General Assembly further finds that the Southern Component of the New
2 Inlet Dam impedes the natural flow of water between the Cape Fear River and the Atlantic
3 Ocean that occurred prior to emplacement of the dam. The General Assembly further finds that
4 it is necessary to remove the Southern Component of the New Inlet Dam in order to reestablish
5 the natural hydrodynamic flow between the Cape Fear River and the Atlantic Ocean. To this
6 end, the Department of Environment and Natural Resources shall do all of the following:

- 7 (1) Notify the United States Army Corps of Engineers of the State's intent to
8 remove the Southern Component of the New Inlet Dam.
- 9 (2) Issue a Request for Proposals for a firm capable of conducting all aspects of
10 removal of the Southern Component of the New Inlet Dam, including
11 securing all necessary State and federal permits and developing and
12 implementing a removal plan. Identification of a capable firm pursuant to
13 this section shall be done in accordance with Article 8 of Chapter 143 of the
14 General Statutes.
- 15 (3) Execute a contract with the firm chosen to implement subdivision (2) of this
16 subsection and exercise oversight of the fulfillment of the contract.
17 Execution of a contract pursuant to this section shall be done in accordance
18 with Article 8 of Chapter 143 of the General Statutes.
- 19 (4) Request approval from the National Oceanic and Atmospheric
20 Administration to adjust the boundary established for Zeke's Island for both
21 of the following changes:
 - 22 a. Moving the current western boundary 200 feet seaward and
23 removing the area that lies between the current boundary and the new
24 boundary from the North Carolina National Estuarine Research
25 Reserve.
 - 26 b. Compensating for any loss of acreage pursuant to sub-subdivision a.
27 of this subdivision by adding a corresponding amount of acreage to
28 the northern boundary of Zeke's Island from adjacent acreage at Fort
29 Fisher State Recreation Area.
- 30 (5) If the Department obtains approval from the National Oceanic and
31 Atmospheric Administration to adjust the boundary established for Zeke's
32 Island as described in subdivision (4) of this subsection, the Coastal
33 Resources Commission shall amend 15A NCAC 070 .0105 (North Carolina
34 Coastal Reserve: Reserve Components) as follows:
 - 35 a. Definitions. – "Reserve Components Rule" means 15A NCAC 070
36 .0105 (North Carolina Coastal Reserve: Reserve Components) for
37 purposes of this section and its implementation.
 - 38 b. Reserve Components Rule. – Until the effective date of the revised
39 permanent rule that the Coastal Resources Commission is required to
40 adopt pursuant to sub-subdivision d. of this subdivision, the
41 Commission and the Department of Environment and Natural
42 Resources shall implement the Reserve Components Rule, as
43 provided in sub-subdivision c. of this subdivision.
 - 44 c. Implementation. – Notwithstanding the Reserve Components Rule,
45 the Commission shall adjust the boundary established for Zeke's
46 Island in conformance with any boundary change that is approved by
47 the National Oceanic and Atmospheric Administration pursuant to
48 subdivision (4) of this subsection.
 - 49 d. Additional rule-making authority. – The Commission shall adopt a
50 rule to replace the Reserve Components Rule. Notwithstanding
51 G.S. 150B-19(4), the rule adopted by the Commission pursuant to

1 this subdivision shall be substantively identical to the provisions of
2 sub-subdivision c. of this subdivision. Rules adopted pursuant to this
3 subdivision are not subject to Part 3 of Article 2A of Chapter 150B
4 of the General Statutes. Rules adopted pursuant to this subdivision
5 shall become effective as provided in G.S. 150B-21.3(b1) as though
6 10 or more written objections had been received as provided by
7 G.S. 150B-21.3(b2).

- 8 e. Effective date. – Sub-subdivision c. of this subdivision expires when
9 permanent rules to replace sub-subdivision c. of this subdivision have
10 become effective, as provided by sub-subdivision d. of this
11 subdivision.

12 Notwithstanding any other provision of law, the Department of Environment and
13 Natural Resources may use funds from the Deep Draft Navigation Channel Dredging and
14 Maintenance Fund, established pursuant to G.S. 143-215.73G, as enacted by subsection (c) of
15 this section, to implement this subsection.

16 **SECTION 14.6.(i)** Coastal Waterways User Identification Number and Fee. –
17 Article 1 of Chapter 75A of the General Statutes is amended by adding a new section to read:

18 **"§ 75A-5.3. Coastal Waterways User Identification Number required.**

19 (a) Definitions. – As used in this section, "coastal fishing waters" has the same meaning
20 as in G.S. 113-129.

21 (b) Coastal Waterways User Identification Number Required. – All of the following
22 vessels are required to be numbered with a Coastal Waterways User Identification Number
23 issued by the Wildlife Resources Commission:

24 (1) A vessel required to be numbered pursuant to G.S. 75A-4 that is 24 feet or
25 more in length and that is operated in the coastal fishing waters of the State.

26 (2) A vessel that (i) is numbered in accordance with applicable federal law or in
27 accordance with a federally approved numbering system of another state, (ii)
28 is 24 feet or more in length, and (iii) is used to engage in commercial or
29 recreational fishing in the coastal fishing waters of the State under any of the
30 following fishing licenses:

31 a. A Standard Commercial Fishing License issued pursuant to
32 G.S. 113-168.2.

33 b. A Retired Standard Commercial Fishing License issued pursuant to
34 G.S. 113-168.3.

35 c. A Shellfish License issued pursuant to G.S. 113-169.2.

36 d. A Recreational Commercial Gear License issued pursuant to
37 G.S. 113-173.

38 e. A Coastal Recreational Fishing License issued pursuant to
39 G.S. 113-174.2 or G.S. 113-351.

40 f. A For-Hire License issued pursuant to G.S. 113-174.3.

41 (c) Fees. – The annual fee for a Coastal Waterways User Identification Number shall be
42 calculated by rounding down the length of the vessel to the nearest foot, dividing this length by
43 eight, and multiplying the result by the length of the vessel rounded down to the nearest foot.
44 The result of this calculation shall be rounded down to the nearest cent, and this result shall be
45 the dollar amount of the annual fee for each vessel. Notwithstanding this subsection, an annual
46 fee for a Coastal Waterways User Identification Number shall not be greater than the fee for a
47 100-foot vessel. The funds collected pursuant to this section shall be credited on a quarterly
48 basis to the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund
49 established by G.S. 143-215.73F.

50 (d) Renewal of Number. – An owner of a vessel issued a Coastal Waterways User
51 Identification Number pursuant to this section shall renew the number on or before the number

1 expires. If the number is not renewed before it expires, it shall lapse and be void until such time
2 as it may thereafter be renewed. Application for renewal shall be submitted on a form approved
3 by the Commission and shall be accompanied by a fee in the amount set forth in subsection (c)
4 of this section.

5 (e) Duplicate Number. – The Commission shall issue a duplicate number for a Coastal
6 Waterways User Identification Number upon application by the person entitled to hold the
7 number if the Commission is satisfied the original number has been lost, stolen, mutilated,
8 destroyed, or has become illegible.

9 (f) Vessel Change of Ownership. – Should the ownership of a vessel with a valid
10 Coastal Waterways User Identification Number change, a new application form with the fee set
11 forth in subsection (c) of this section shall be filed with the Commission by the new owner
12 upon expiration if the new owner intends to use the vessel as described in subsection (b) of this
13 section. Coastal Waterways User Identification Numbers are not transferable from one vessel to
14 another.

15 (g) Duration. – Coastal Waterways User Identification Numbers are valid for a period
16 of 12 months from the date of issuance. Subsequent renewals made before the expiration date
17 of the number are valid the first day after the expiration of the currently valid number.
18 Renewals made after the number expires are valid for a period of 12 months from the date of
19 issuance.

20 (h) Display. – Notwithstanding G.S. 75A-5(k), the Coastal Waterways User
21 Identification Number shall be displayed on each side of the bow of the vessel.

22 (i) Penalty. – A person who fails to obtain and display the Coastal Waterways User
23 Identification Number required by this section is responsible for an infraction as provided in
24 G.S. 14-3.1 and shall pay a fine equal to the amount of the fee for the applicable Coastal
25 Waterways User Identification Number.

26 (j) Rule Making. – The Wildlife Resources Commission shall adopt rules to implement
27 this section."

28 **SECTION 14.6.(j)** G.S. 75A-5.2(c) reads as rewritten:

29 "(c) As compensation for services rendered to the Commission and to the general public,
30 vessel agents shall receive the surcharge listed below. The surcharge shall be added to the fee
31 for each certificate issued.

32 (1) Renewal of certificate of number – \$3.00.

33 (2) Transfer of ownership and certificate of number – \$5.00.

34 (3) Issuance of new certificate of number – \$5.00.

35 (4) Issuance of duplicate certificate of number – \$3.00.

36 (5) Issuance or transfer of certificate of title – \$5.00.

37 (6) Issuance of new, duplicate, or renewal Coastal Waterways User
38 Identification Number – \$3.50."

39 **SECTION 14.6.(k)** The Wildlife Resources Commission shall disseminate
40 information regarding the Coastal Waterways User Identification Number to the public in order
41 to inform affected vessel owners of the Coastal Waterways User Identification Number
42 requirements.

43 **SECTION 14.6.(l)** Coastal Waterways User Fee Administrative Costs. –
44 Notwithstanding G.S. 75A-3, of the funds to be transferred to the Shallow Draft Navigation
45 Channel and Lake Dredging Fund pursuant to G.S. 75A-3, the Wildlife Resources Commission
46 may retain up to two hundred fifty thousand dollars (\$250,000) in each fiscal year of the
47 2015-2017 fiscal biennium to implement subsections (i), (j), and (k) of this section.

48 **SECTION 14.6.(m)** Amend Dare County Occupancy Tax. – Effective July 1,
49 2015, for net proceeds collected on or after that date, Chapter 449 of the 1985 Session Laws, as
50 amended by Chapters 177 and 906 of the 1991 Session Laws, Part VII of S.L. 2001-439, and
51 Section 7 of S.L. 2010-78, is amended by adding a new section to read:

1 "Sec. 3.3. Waterway Maintenance. – Notwithstanding any provision restricting the use of
2 taxes authorized in this act, the county may use up to three million dollars (\$3,000,000) of the
3 net proceeds of the taxes authorized by Sections 3.1 and 3.2 of this act per fiscal year for
4 maintenance of waterways located wholly or partially in the county. This section is repealed for
5 fiscal years beginning on or after July 1, 2020."

6 **SECTION 14.6.(n)** Section 1 of S.L. 2013-182 is repealed.

7 **SECTION 14.6.(o)** G.S. 153A-132(i), as rewritten by S.L. 2013-182, reads as
8 rewritten:

9 "(i) A county may by ordinance prohibit the abandonment of vessels in navigable waters
10 within the county's ordinance-making jurisdiction, subject to the provisions of this subsection.
11 The provisions of this section shall apply to abandoned vessels in the same manner that they
12 apply to abandoned or junked motor vehicles to the extent that the provisions may apply to
13 abandoned vessels. For purposes of this subsection, an "abandoned vessel" is one that meets
14 any of the following:

15 (1) A vessel that is moored, anchored, or otherwise located for more than 30
16 consecutive days in any 180 consecutive-day period without permission of
17 the dock owner.

18 (2) A vessel that is in danger of sinking, has sunk, is resting on the bottom, or is
19 located such that it is a hazard to navigation or is an immediate danger to
20 other vessels.

21 Shipwrecks, vessels, cargoes, tackle, and other underwater archeological remains that have
22 been in place for more than 10 years shall not be considered abandoned vessels and shall not be
23 removed under the provisions of this section without the approval of the Department of
24 Cultural Resources, which is the legal custodian of these properties pursuant to G.S. 121-22
25 and G.S. 121-23. This subsection applies only to the counties set out in G.S. 113A-103(2)."

26 **SECTION 14.6.(p)** The Coastal Resources Commission shall amend its rules for
27 the use of temporary erosion control structures to provide for all of the following:

28 (1) Allow the placement of temporary erosion control structures on a property
29 that is experiencing coastal erosion even if there are no imminently
30 threatened structures on the property if the property is adjacent to a property
31 where temporary erosion control structures have been placed.

32 (2) Allow the placement of contiguous temporary erosion control structures
33 from one shoreline boundary of a property to the other shoreline boundary,
34 regardless of proximity to an imminently threatened structure.

35 (3) The termination date of all permits for contiguous temporary erosion control
36 structures on the same property shall be the same and shall be the latest
37 termination date for any of the permits.

38 (4) The replacement, repair, or modification of damaged temporary erosion
39 control structures that are either legally placed with a current permit or
40 legally placed with an expired permit, but the status of the permit is being
41 litigated by the property owner.

42 **SECTION 14.6.(q)** The Coastal Resources Commission shall adopt temporary
43 rules to implement subsection (p) of this section no later than December 31, 2015. The
44 Commission shall also adopt permanent rules to implement this section.

45 **SECTION 14.6.(r)** Subsections (a) through (i) of G.S. 75A-5.3, as enacted by
46 subsection (i) of this section, become effective January 1, 2016.

47 **USE OF OYSTER SHELLS PROHIBITED IN COMMERCIAL LANDSCAPING**

48 **SECTION 14.7.(a)** Article 20 of Chapter 113 of the General Statutes is amended
49 by adding a new section to read:

50 "§ 113-270. Use of oyster shells by landscape contractors prohibited.
51

1 (a) No landscape contractor shall use oyster shells as a ground cover.

2 (b) Enforcement of the prohibition set forth in this section shall be under the
3 jurisdiction of the Marine Fisheries Commission.

4 (c) For purposes of this section, landscape contractor shall have the definition set forth
5 in G.S. 89D-11."

6 **SECTION 14.7.(b)** This section is effective October 1, 2015.

7 8 **CORE SOUND OYSTER LEASING**

9 **SECTION 14.8.** The Division of Marine Fisheries of the Department of
10 Environment and Natural Resources shall, in consultation with representatives of the
11 commercial fishing industry, representatives of the shellfish aquaculture industry, and relevant
12 federal agencies, create a proposal to open to shellfish cultivation leasing certain areas of Core
13 Sound that are currently subject to a moratorium on shellfish leasing. The Division shall submit
14 a report regarding the plan no later than April 1, 2016, to the Joint Legislative Commission on
15 Governmental Operations.

16 17 **AMEND SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY** 18 **LEGISLATION**

19 **SECTION 14.9.** Section 44 of S.L. 2014-120 reads as rewritten:

20 **"SENATOR JEAN PRESTON MARINE ~~SHELLFISH~~ OYSTER SANCTUARY**
21 **PROGRAM**

22 "**SECTION 44.(a)** It is the intent of the General Assembly ~~to establish a marine shellfish~~
23 ~~sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston, to be~~
24 ~~called the "Senator Jean Preston Marine Shellfish Sanctuary."~~to enhance shellfish habitats
25 within the Albemarle and Pamlico Sounds and their tributaries to benefit fisheries, water
26 quality, and the economy. This will be achieved through the establishment of a network of
27 oyster sanctuaries, harvestable enhancement sites, and coordinated support for the development
28 of shellfish aquaculture. The network of oyster sanctuaries is to be named in honor of
29 Senator Jean Preston and shall be called the "Senator Jean Preston Oyster Sanctuary
30 Network".

31 "**SECTION 44.(b)** The Division of Marine Fisheries of the Department of Environment
32 and Natural Resources shall ~~designate an area of appropriate acreage within the Pamlico Sound~~
33 ~~as a recommendation to the Environmental Review Commission for establishment of the~~
34 ~~"Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for managing the~~
35 ~~sanctuary that includes~~develop a plan to construct and manage additional oyster habitats. The
36 new sanctuaries, along with selected existing oyster sanctuaries, shall be included in the
37 Senator Jean Preston Oyster Sanctuary Network. The plan shall include the following
38 components:

- 39 (1) Location and delineation of ~~the sanctuary.~~oyster sanctuaries. ~~— The plan~~
40 ~~should include a location~~locations for the sanctuarysanctuary network
41 components that minimizes minimize the impact on commercial trawling. In
42 addition, the sanctuary should be gridded into areas leased to private parties
43 for restoration and harvest and areas operated and maintained by the State
44 for restoration that are not open for harvest. The leased and unleased areas
45 should be arranged in a pattern where leased squares are surrounded on four
46 sides by unleased squares. The location of sanctuaries shall take into account
47 connectivity to existing oyster sanctuaries and proposed oyster enhancement
48 sites. New oyster sanctuaries shall be designed to provide hook-and-line
49 fishing while allowing the development of complex fish habitats and
50 brood-stock oysters that will enhance recruitment in the surrounding reefs.

- 1 The plan should outline a 10-year development project to accomplish the
2 expansion.
- 3 ~~(2)~~ Administration.— The plan should include the prices to be charged for the
4 leased portions of the sanctuary, including an administration fee to be
5 retained by the Division to support the leasing and monitoring program. The
6 plan shall also provide that the balance of lease payments collected by the
7 Division be transferred to the General Fund with a recommendation that
8 some or all of the proceeds be used for the support of the State's special
9 education programs in memory of Senator Jean Preston.
- 10 (3) Enhancement of oyster habitat restoration. – The General Assembly finds
11 that the lack of a reliable State-based supply of oyster seed and inadequate
12 funding for cultch planting are limitations to the expansion of oyster
13 harvesting and the restoration of wild oyster habitat in North Carolina.
14 Therefore, the plan should include the following:
- 15 a. Provisions and recommendations to facilitate the availability of
16 oyster seed produced in North Carolina for wild oyster habitat
17 restoration projects as well as oyster aquaculture and to reduce
18 potential negative impacts from importation of non-native oyster
19 seed.
- 20 b. Plans, where feasible, for public-private partnerships for State-based
21 production of viable oyster seed through the creation of one or more
22 production hatcheries and recommendations for increased support of
23 the existing research hatchery at UNC-Wilmington.
- 24 c. Plans and cost estimates for an expansion of cultch planting in
25 suitable areas of the State's coastal waters in order to expand areas
26 suitable for development of wild oyster habitat.
- 27 (4) Economic relief. – The plan should consider a waiver of application fees and
28 yearly rental fees for new shellfish leases for an established period of time to
29 further promote and support shellfish aquaculture in North Carolina. The
30 new leasing fee waiver program should include measures to discourage
31 speculation and target persons with a genuine interest in starting a shellfish
32 aquaculture business, such as a requirement that the lease be nontransferable
33 for a five-year period.
- 34 (5) Outreach. – The plan should include outreach and education that promotes,
35 whenever possible, public-private partnerships utilizing the Sea Grant
36 College Program, local colleges, and other nongovernmental organizations
37 to (i) encourage shellfish aquaculture and provide technical assistance to
38 broaden cost-effective technologies available to leaseholders; (ii) encourage
39 best management practices to leaseholders; and (iii) inform fishermen and
40 the public on the benefits provided by the Senator Jean Preston Oyster
41 Sanctuary Network.
- 42 (6) Monitoring. – The plan should include a monitoring plan designed to (i)
43 determine the success of oyster reef construction and (ii) evaluate the cost
44 benefit of the oyster sanctuary network and harvestable enhancement sites.
- 45 ~~(3)~~(7) Funding. – The plan should include a request for appropriations sufficient to
46 provide funds for the construction of appropriate bottom habitat and shellfish
47 seeding and for Division staff necessary to conduct oyster restoration and
48 monitoring activities. The plan should provide that, whenever possible,
49 construction and shellfish seeding be carried out by contract with private
50 entities for Division staff to expand oyster restoration and monitoring
51 activities for 10 years. The plan should provide that, whenever possible,

1 public-private partnerships are employed to meet the construction, seeding,
 2 and outreach requirements of the plan.

3 (4) ~~Commercial fisherman relief. To promote the diversification of~~
 4 ~~commercial fishing opportunities, the plan should include a program to~~
 5 ~~award free or discounted leases under this section to commercial fishermen~~
 6 ~~who (i) have held one or more commercial fishing licenses continually for a~~
 7 ~~period of 10 or more years and (ii) receive at least fifty percent (50%) of~~
 8 ~~their income from commercial fishing with those licenses.~~

9 (5)(8) Recommendations. – The plan ~~should~~ shall include recommendations for
 10 statutory or regulatory changes needed to expedite the expansion of shellfish
 11 restoration and harvesting in order to improve water quality, restore
 12 ecological habitats, provide enhanced recreational and commercial fishing
 13 opportunities, and expand the coastal economy.

14 (9) No funding for sanctuaries in closed areas. – The plan shall provide that no
 15 funding or other resources shall be available in water bodies where a
 16 moratorium or other legal prohibition on shellfish leasing under Article 16 of
 17 Chapter 113 of the General Statutes is currently in effect. This subdivision
 18 does not apply to leasing moratoria imposed because the area is closed to
 19 shellfish harvesting or recommended for closure by the State Health Director
 20 due to pollution.

21 "SECTION 44.(c) ~~No later than December 1, 2014, and quarterly thereafter until~~
 22 ~~submission of a final plan to the Environmental Review Commission, March 1, 2016, the~~
 23 ~~Department of Environment and Natural Resources shall report to the Environmental Review~~
 24 ~~Commission~~ Chairs of the House of Representatives Appropriations Committee on Agriculture
 25 and Natural and Economic Resources, the Senate Appropriations Committee on Natural and
 26 Economic Resources, and the Fiscal Research Division regarding its implementation of this
 27 section and its recommended plan."

29 SHELLFISH CULTIVATION LEASING REFORM

30 SECTION 14.10.(a) G.S. 113-202(i) reads as rewritten:

31 "**§ 113-202. New and renewal leases for shellfish cultivation; termination of leases issued**
 32 **prior to January 1, 1966.**

33 ...

34 (i) After a lease application is approved by the Secretary, the applicant shall submit to
 35 the Secretary a survey of the area approved for leasing and information sufficient to define the
 36 bounds of the area approved for leasing with markers in accordance with the rules of the
 37 Commission. The survey information shall conform to standards prescribed by the Secretary
 38 concerning accuracy of survey and the amount of detail to be shown. When an acceptable
 39 survey information is submitted, the boundaries are marked and all fees and rents due in
 40 advance are paid, the Secretary shall execute the lease on forms approved by the Attorney
 41 General. The Secretary is authorized, with the approval of the lessee, to amend an existing lease
 42 by reducing the area under lease or by combining contiguous leases without increasing the total
 43 area leased. The information required by this subsection may be based on coordinate
 44 information produced using a device equipped to receive global positioning system data."

45 SECTION 14.10.(b) G.S. 113-202(j) reads as rewritten:

46 "(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at
 47 noon on the first day of July following the ~~fifth-tenth~~ anniversary of the granting of the lease.
 48 Renewal leases are issued for a period of ~~five-10~~ years from the time of expiration of the
 49 previous lease. At the time of making application for renewal of a lease, the applicant must pay
 50 a filing fee of one hundred dollars (\$100.00). The rental for initial leases is one dollar (\$1.00)
 51 per acre ~~for all leases entered into before July 1, 1965, and for all other leases until noon on the~~

1 first day of July following the first anniversary of the lease. Thereafter, for initial leases entered
2 into after July 1, 1965, leases and from the beginning for renewals of leases entered into after
3 that date, the rental is ten dollars (\$10.00) per acre per year. Rental must be paid annually in
4 advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata
5 amount for the portion of the year left until the first day of July must be paid in advance at the
6 rate of one dollar (\$1.00) per acre per year; then, on or before the first day of April next, the
7 lessee must pay the rental for the next full year."

8 **SECTION 14.10.(c)** This section applies to shellfish lease applications received by
9 the Department of Environment and Natural Resources on or after the date this act becomes
10 law.

11 12 **SIMPLIFY OYSTER RESTORATION PROJECT PERMITTING**

13 **SECTION 14.10A.(a)** The Division of Marine Fisheries and Division of Coastal
14 Management of the Department of Environment and Natural Resources shall, in consultation
15 with representatives of nongovernmental conservation organizations working on oyster
16 restoration, create a new permitting process specifically designed for oyster restoration projects
17 that apply to oyster restoration projects instead of a major development permit under
18 G.S. 113A-118. The Department shall submit its report, including recommended legislation, to
19 the Environmental Review Commission no later than May 1, 2016.

20 **SECTION 14.10A.(b)** Until the effective date of the revised permanent rule that
21 the Coastal Resources Commission is required to adopt pursuant to subsection (d) of this
22 section, the Commission and the Department of Environment and Natural Resources shall
23 implement 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit) as provided in
24 subsection (c) of this section.

25 **SECTION 14.10A.(c)** Notwithstanding 15A NCAC 03O .0503(g) (Scientific or
26 Educational Activity Permit), the Division of Marine Fisheries may issue a scientific or
27 educational activity permit for approved activities conducted by or under the direction of a
28 nongovernmental conservation organization in addition to a scientific or educational institution.
29 For purposes of this section, a nongovernmental conservation organization is defined as an
30 organization whose primary mission is the conservation of natural resources.

31 **SECTION 14.10A.(d)** The Environmental Management Commission shall adopt
32 rules to amend 15A NCAC 03O .0503(g) and any other cross-referenced rules consistent with
33 subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the
34 Commission pursuant to this subsection shall be substantively identical to the provisions of
35 subsection (c) of this section. Rules adopted pursuant to this subsection are not subject to Part 3
36 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this
37 subsection shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more
38 written objections had been received as provided by G.S. 150B-21.3(b2).

39 **SECTION 14.10A.(e)** This section is effective when this act becomes law.
40 Subsection (c) of this section expires on the date that rules adopted pursuant to subsection (d)
41 of this section become effective.

42 43 **SCFL EXEMPTION FOR EMPLOYEES OF LEASEHOLDER**

44 **SECTION 14.10B.** G.S. 113-169.2 reads as rewritten:

45 "**§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

46 (a) License or Endorsement Necessary to Take or Sell Shellfish Taken by Hand
47 Methods. – It is unlawful for an individual to take shellfish from the public or private grounds
48 of the State as part of a commercial fishing operation by hand methods without holding either a
49 shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks
50 only to take shellfish by hand methods and sell such shellfish shall be eligible to obtain a

1 shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell
2 shellfish.

3 (a1) License Necessary to Take or Sell Shellfish Taken by Mechanical Means. – ~~Subject~~
4 ~~to~~ Except as provided in subsection (i) of this section, an individual who takes shellfish from
5 the public or private grounds of the State by mechanical means must obtain an SCFL under the
6 provisions of G.S. 113-168.2.

7 ...
8 (i) Taking Shellfish Without a License for Personal Use. ~~Use or as Employee of Certain~~
9 License Holders. – Shellfish may be taken without a license ~~for~~ under the following
10 circumstances:

11 (1) For personal use in quantities established by rules of the Marine Fisheries
12 Commission.

13 (2) When the taking is from an area leased for the cultivation of shellfish under
14 Article 16 of this Chapter by a person who is an employee of a leaseholder
15 holding a valid SCFL issued under the provisions of G.S. 113-168.2."

17 WATER COLUMN LEASING CLARIFICATION

18 SECTION 14.10C.(a) G.S. 113-201.1(5) reads as rewritten:

19 "(5) "Water column" means the vertical extent of water, including the surface
20 ~~thereof,~~ above a designated area of submerged bottom land."

21 SECTION 14.10C.(b) G.S. 113-202 is amended by adding a new subsection to
22 read:

23 "(r) A lease under this section shall include the right to place devices or equipment
24 related to the cultivation or harvesting of marine resources on or within 18 inches of the leased
25 bottom. Devices or equipment not resting on the bottom or extending more than 18 inches
26 above the bottom will require a water column lease under G.S. 113-202.1."

27 SECTION 14.10C.(c) G.S. 113-202.1 reads as rewritten:

28 "§ 113-202.1. Water column leases for aquaculture.

29 ...
30 (c) The Secretary shall not amend shellfish cultivation leases to authorize ~~use~~ uses of
31 the water column involving devices or equipment not resting on the bottom or that extend more
32 than 18 inches above the bottom unless:

33 (1) The leaseholder submits an application, accompanied by a nonrefundable
34 application fee of one hundred dollars (\$100.00), which conforms to the
35 standards for lease applications in G.S. 113-202(d) and the duly adopted
36 rules of the Commission;

37 (2) The proposed amendment has been noticed consistent with G.S. 113-202(f);

38 (3) Public hearings have been conducted consistent with G.S. 113-202(g);

39 (4) The aspects of the proposals which require use and dedication of the water
40 column have been documented and are recognized by the Secretary as
41 commercially feasible forms of aquaculture which will enhance shellfish
42 production on the leased area;

43 (5) It is not feasible to undertake the aquaculture activity outside of coastal
44 fishing waters; and

45 (6) The authorized water column use has the least disruptive effect on other
46 public trust uses of the waters of any available technology to produce the
47 shellfish identified in the proposal.

48"

50 BLUE RIBBON OYSTER STUDY

1 **SECTION 14.10D.** The Joint Legislative Oversight Committee on Natural and
2 Economic Resources created by this act shall convene a stakeholder working group to study
3 and advance efforts to ecologically restore the resource and achieve economic stability of the
4 shellfish aquaculture industry, including (i) how best to spend financial resources to counter
5 declining oyster populations and habitats; (ii) the use of nonnative oyster species to accomplish
6 oyster restoration; (iii) means of combating oyster disease and managing harvesting practices to
7 balance the needs of the industry and promote long-term viability and health of oyster habitat
8 and substrate; (iv) economic aquaculture methods to improve oyster stock and populations; (v)
9 long-term, dedicated options for funding sources and water quality improvements; (vi) means
10 to increase oyster production for both population growth and harvest; (vii) options that expand
11 the use of private hatchery capacity in the State; (viii) options for promoting the use of cultch
12 planting to enhance and increase oyster habitat and population; (ix) other resources that might
13 be leveraged to enhance reform efforts; and (x) any other issue the Committee deems relevant.
14 In the conduct of this study, the Committee may consult with representatives of the North
15 Carolina Division of Marine Fisheries, the Marine Fisheries Commission, nature conservation
16 entities, and commercial and recreational oyster harvesting industries and with experts in the
17 fields of marine biology and marine ecology. The Department of Environment and Natural
18 Resources shall provide any information and personnel requested by the Committee in the
19 conduct of this study.
20

21 **FISHERY MANAGEMENT PLAN PROCEDURES**

22 **SECTION 14.10E.(a)** The Marine Fisheries Commission shall study its procedures
23 for adoption of temporary supplemental management measures to the State's fishery
24 management plans. The study shall include a review of the opportunities provided in the
25 process for public input and comment from commercial and recreational fishing interests, local
26 governments, environmental and conservation nonprofits, and other stakeholders, and an
27 assessment of whether economic impact of a proposed measure is adequately addressed in the
28 formulation, approval, and implementation of temporary supplemental management measures.
29 The Commission shall report no later than May 1, 2016, to the chairs of the Senate Natural and
30 Economic Resources Committee, the chairs of the House Agriculture and Natural and
31 Economic Resources Committee, and the Fiscal Research Division.

32 **SECTION 14.10E.(b)** The Marine Fisheries Commission shall not adopt any
33 temporary supplemental management measures to the State's fishery management plans until
34 the study required by this section has been submitted or July 1, 2016, whichever occurs later.
35

36 **DIVISION OF MARINE FISHERIES/NO JOINT ENFORCEMENT AGREEMENTS**

37 **SECTION 14.10F.(a)** G.S. 113-224 reads as rewritten:

38 **"§ 113-224. Cooperative agreements by Department.**

39 (a) ~~The~~ Except as otherwise provided in this section, the Department is empowered to
40 enter into cooperative agreements with public and private agencies and individuals respecting
41 the matters governed in this Subchapter. Pursuant to such agreements the Department may
42 expend funds, assign employees to additional duties within or without the State, assume
43 additional responsibilities, and take other actions that may be required by virtue of such
44 agreements, in the overall best interests of the conservation of marine and estuarine resources.

45 (b) The Fisheries Director or a designee of the Fisheries Director may not enter into an
46 agreement with the National Marine Fisheries Service of the United States Department of
47 Commerce allowing Division of Marine Fisheries inspectors to accept delegation of law
48 enforcement powers over matters within the jurisdiction of the National Marine Fisheries
49 Service."

50 **SECTION 14.10F.(b)** G.S. 128-1.1(c2) is repealed.
51

COMMERCIAL FISHING FOR-HIRE LOGBOOK

SECTION 14.10G.(a) G.S. 113-174.3(e), as enacted by subsection 14.8(o) of S.L. 2013-360, reads as rewritten:

"(e) Each individual who obtains a for-hire license ~~shall~~may submit to the Division logbooks summarizing catch and effort statistical data to the Division. The Commission may adopt rules that determine the means and methods to satisfy the requirements of this subsection."

SECTION 14.10G.(b) Section 14.8(ab) of S.L. 2013-360 reads as rewritten:

"SECTION 14.8.(ab) ~~This G.S. 113-174.3(e), as enacted by subsection 14.8(o) of this section, becomes effective January 1, 2016. The remainder of this section becomes effective August 1, 2013.~~"

SECTION 14.10G.(c) Prior to any further implementation of subsection 14.8(o) of S.L. 2013-360, the Division of Marine Fisheries shall conduct a 12-month implementation process to include seeking input from stakeholders with regard to the requirement and public workshops to provide education for persons subject to the requirement. The process shall also include the establishment of a stakeholder advisory group that includes persons who are for-hire license holders representing all major recreational fishing areas on the North Carolina coast. The Division shall review and provide a written response to any issues raised by the advisory group and shall report to the Environmental Review Commission no later than January 15, 2016, regarding the implementation process required by this section.

DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION

SECTION 14.10H.(a) G.S. 143-254.5 reads as rewritten:

"§ 143-254.5. Disclosure of personal identifying information.

Social security numbers and identifying information obtained by the Commission shall be treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information" also includes a person's mailing address, residence address, e-mail address, date of birth, and telephone number."

SECTION 14.10H.(b) G.S. 143B-289.52(h) reads as rewritten:

"(h) Social security numbers and identifying information obtained by the Commission or the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this subsection, "identifying information" also includes a person's mailing address, residence address, e-mail address, date of birth, and telephone number."

BEACH EROSION STUDY

SECTION 14.10I.(a) The Division of Coastal Management shall study and develop a proposed strategy for preventing, mitigating, and remediating the effects of beach erosion. The study shall consider efforts by other states and countries to prevent beach erosion and ocean overwash and to renourish and sustain beaches and coastlines and incorporate best practices into the strategy.

SECTION 14.10I.(b) By February 15, 2016, the Division of Coastal Management shall report to the Environmental Review Commission, the chairs of the Senate Appropriations Committee on Natural and Economic Resources and the House Appropriations Committee on Agriculture, Natural, and Economic Resources, and the Fiscal Research Division on the results of the study and its proposed strategy as required by subsection (a) of this section, including any legislative recommendations.

DYNAMIC PRICING FOR STATE PARKS AND ATTRACTIONS

SECTION 14.11.(a) G.S. 150B-1(d) reads as rewritten:

"§ 150B-1. Policy and scope.

...

1 (d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
2 following:

3 ...
4 (26) The Board of Agriculture in the Department of Agriculture and Consumer
5 Services with respect to ~~annual~~ the following:

6 a. Annual admission fees for the State Fair.

7 b. Operating hours, admission fees, or related activity fees at State
8 forests.

9 The Board shall annually post the admission fee and operating hours
10 schedule on its Web site and provide notice of the ~~fee~~ schedule, along with a
11 citation to this section, to all persons named on the mailing list maintained
12 pursuant to G.S. 150B-21.2(d).

13 (27) The Department of Environment and Natural Resources with respect to
14 operating hours, admission fees, or related activity fees at:

15 a. The North Carolina Zoological Park pursuant to G.S. 143B-335.

16 b. State parks pursuant to G.S. 113-35.

17 c. The North Carolina Aquariums pursuant to G.S. 143B-289.44.

18 d. The North Carolina Museum of Natural Sciences.

19 The exclusion from rule making for the setting of operating hours set forth in
20 this subdivision shall not apply to a decision to eliminate all public operating
21 hours for the sites and facilities listed."

22 **SECTION 14.11.(b)** The Department of Environment and Natural Resources, or
23 any other department given responsibilities for the North Carolina Zoological Park, State parks,
24 the North Carolina Museum of Natural Sciences, and the North Carolina Aquariums, may
25 establish admission fees and related activity fees. In setting these fees, the Department of
26 Environment and Natural Resources shall use a dynamic pricing strategy as defined in
27 subsection (e) of this section. Any rule currently in the Administrative Code related to fees
28 covered by subsection (a) of this section is ineffective and repealed upon the effective date of
29 new admission fees and related activity fees adopted by the Department under the authority set
30 out in that subsection. Notice of the initial adoption of new admission fees and related activity
31 fees under subsection (a) of this section shall be given by the Department to the Codifier of
32 Rules, who, upon receipt of notice of the initial adoption of new admission fees and related
33 activity fees by the Department, shall note the repeal of these rules in the Administrative Code.

34 **SECTION 14.11.(c)** The Department of Cultural Resources may establish
35 admission fees and related activity fees authorized by G.S. 121-7.3 for historic sites and
36 museums. In setting these fees, the Department shall use a dynamic pricing strategy as defined
37 in subsection (e) of this section.

38 **SECTION 14.11.(d)** The Department of Agriculture and Consumer Services may
39 establish admission fees and related activity fees authorized by G.S. 106-877 for State forests.
40 In setting these fees, the Department shall use a dynamic pricing strategy as defined in
41 subsection (e) of this section.

42 **SECTION 14.11.(e)** For purposes of this section, "dynamic pricing" is the
43 adjustment of fees for admission and related activities from time to time to reflect market
44 forces, including seasonal variations and special event interests, with the intent and effect to
45 maximize revenues from use of these State resources to the extent practicable to offset
46 appropriations from the General Assembly.

47 **SECTION 14.11.(f)** No later than March 1, 2016, the Department of Environment
48 and Natural Resources, the Department of Cultural Resources, and the Department of
49 Agriculture and Consumer Services shall submit a report on implementation of the new pricing
50 strategy to the Environmental Review Commission, including an evaluation of the feasibility

1 and obstacles to charging new entrance or admission fees at other attractions not subject to this
2 section.

3 **SECTION 14.11.(g)** This part applies to admission fees or related activity fees
4 charged on or after the effective date of this act.

5
6 **WATER INFRASTRUCTURE AUTHORITY REVISIONS**

7 **SECTION 14.13.(a)** G.S. 159G-20(1) is recodified as G.S. 159G-20(1a), and
8 G.S. 159G-20(1a) is recodified as G.S. 159G-20(1c).

9 **SECTION 14.13.(b)** G.S. 159G-20, as amended by subsection (a) of this section,
10 reads as rewritten:

11 **"§ 159G-20. Definitions.**

12 The following definitions apply in this Chapter:

13 (1) Affordability. – The relative affordability of a project for a community
14 compared to other communities in North Carolina based on factors that shall
15 include, at a minimum, water and sewer service rates, median household
16 income, poverty rates, employment rates, the population of the served
17 community, and past expenditures by the community on water infrastructure
18 compared to that community's capacity for financing of water infrastructure
19 improvements.

20 (1a) Asset management plan. – The strategic and systematic application of
21 management practices applied to the infrastructure assets of a local
22 government unit in order to minimize the total costs of acquiring, operating,
23 maintaining, improving, and replacing the assets while at the same time
24 maximizing the efficiency, reliability, and value of the assets.

25 (1b) Authority. – The State Water Infrastructure Authority created and
26 established pursuant to Article 5 of this Chapter.

27 ...

28 ~~(9) High unit cost project. — A project that results in an estimated average~~
29 ~~household user fee for water and sewer service in the area served by the~~
30 ~~project in excess of the high unit cost threshold. The average household user~~
31 ~~fee is calculated for a continuous 12 month period.~~

32 ~~(10) High unit cost threshold. — Either of the following amounts determined on~~
33 ~~the basis of data from the most recent federal decennial census and updated~~
34 ~~by the U.S. Department of Housing and Urban Development's annual~~
35 ~~estimated income adjustment factors:~~

36 a. ~~One and one-half percent (1.5%) of the median household income in~~
37 ~~an area that receives both water and sewer service.~~

38 b. ~~Three-fourths of one percent (3/4%) of the median household income~~
39 ~~in an area that receives only water service or only sewer service.~~

40 ...

41 (13) Local government unit. – Any of the following:

42 a. A city as defined in G.S. 160A-1.

43 b. A county.

44 c. A consolidated city-county as defined in G.S. 160B-2.

45 d. A county water and sewer district created pursuant to Article 6 of
46 Chapter 162A of the General Statutes.

47 e. A metropolitan sewerage district or a metropolitan water district
48 created pursuant to Article 4 of Chapter 162A of the General
49 Statutes.

50 f. A water and sewer authority created under Article 1 of Chapter 162A
51 of the General Statutes.

- g. A sanitary district created pursuant to Part 2 of Article 2 of Chapter 130A of the General Statutes.
- h. A joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes.
- i. A joint agency that was created by agreement between two cities and towns to operate an airport pursuant to G.S. 63-56 and that provided drinking water and wastewater services off the airport premises before 1 January 1995.

(13a) Merger. – The consolidation of two or more water and/or sewer systems into one system with common ownership, management, and operation.

(14) Nonprofit water corporation. – A nonprofit corporation that is incorporated under Chapter 55A of the General Statutes solely for the purpose of providing drinking water or wastewater services and is an eligible applicant for a federal loan or grant from the Rural Utility Services Division, U.S. Department of Agriculture.

(15) Public water system. – Defined in G.S. 130A-313.

(16) Regionalization. – The physical interconnecting of an eligible entity's wastewater system to another entity's wastewater system for the purposes of providing regional treatment or the physical interconnecting of an eligible entity's public water system to another entity's water system for the purposes of providing regional water supply.

...

(21) Targeted interest rate project. – Either of the following types of projects:

- a. ~~A high unit cost project that is awarded a loan.~~ A project that is awarded a loan from the Drinking Water Reserve or the Wastewater Reserve based on affordability.
- b. A project that is awarded a loan from the CWSRF or the DWSRF and is in a category for which federal law encourages a special focus.

...."

SECTION 14.13.(c) G.S. 159G-23 reads as rewritten:

"§ 159G-23. ~~Common criteria~~Priority consideration for loan or grant from Wastewater Reserve or Drinking Water Reserve.

The ~~criteria-considerations~~ for priority in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water Infrastructure must ~~establish a system of assigning points to applications based on the following criteria: consider the following items when evaluating applications:~~

- (1) Public necessity. – ~~An applicant must explain how the project~~ A project that promotes public health and protects the environment. A project that ~~that~~environment, 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. ~~system.~~
- (2) Effect on impaired waters. – A project that improves designated impaired waters of the ~~State has priority.~~ State.
- (3) Efficiency. – A project that achieves efficiencies in meeting the State's water infrastructure needs or reduces vulnerability to drought consistent with Part 2A of Article 21 and Article 38 of Chapter 143 of the General Statutes by one of the following ~~methods has priority.~~ methods:
 - a. The combination of two or more wastewater or public water systems into a regional wastewater or public water system by merger, consolidation, or another means.

- 1 b. Conservation or reuse of water, including bulk water reuse facilities
2 and waterlines to supply reuse water for irrigation and other
3 approved uses.
- 4 c. Construction of an interconnection between water systems intended
5 for use in drought or other water shortage emergency.
- 6 d. Repair or replacement of leaking waterlines to improve water
7 conservation and efficiency or to prevent contamination.
- 8 e. Replacement of meters and installation of new metering systems.
- 9 (4) Comprehensive land-use plan. – A project that is located in a city or county
10 that has adopted or has taken significant steps to adopt a comprehensive
11 land-use plan under Article 18 of Chapter 153A of the General Statutes or
12 Article 19 of Chapter 160A of the General Statutes ~~has priority over a~~
13 ~~project located in a city or county that has not adopted a plan or has not~~
14 ~~taken steps to do so.~~Statutes. The existence of a plan has more priority than
15 steps taken to adopt a plan, such as adoption of a zoning ordinance. A plan
16 that exceeds the minimum State standards for protection of water resources
17 has ~~more~~higher priority than one that does not. A project is considered to be
18 located in a city or county if it is located in whole or in part in that unit. A
19 land-use plan is not considered a comprehensive land-use plan unless it has
20 provisions that protect existing water uses and ensure compliance with water
21 quality standards and classifications in all waters of the State affected by the
22 plan.
- 23 (5) Flood hazard ordinance. – A project that is located in a city or county that
24 has adopted a flood hazard prevention ordinance under ~~G.S. 143-215.54A~~
25 ~~has priority over a project located in a city or county that has not adopted an~~
26 ~~ordinance.~~G.S. 143-215.54A. A plan that exceeds the minimum standards
27 under G.S. 143-215.54A for a flood hazard prevention ordinance has ~~more~~
28 higher priority than one that does not. A project is considered to be located
29 in a city or county if it is located in whole or in part in that unit. If no part of
30 the service area of a project is located within the 100-year floodplain, the
31 project has ~~the same priority~~equal consideration under this subdivision as if
32 it were located in a city or county that has adopted a flood hazard prevention
33 ordinance. The most recent maps prepared pursuant to the National Flood
34 Insurance Program or approved by the Department determine whether an
35 area is within the 100-year floodplain.
- 36 (6) Sound management. – A project submitted by a local government unit that
37 has demonstrated a willingness and ability to meet its responsibilities
38 through sound fiscal policies and efficient operation and ~~management has~~
39 ~~priority.~~management.
- 40 (6a) Asset management plan. – A project submitted by a local government unit
41 with more than 1,000 service connections that has developed and is
42 implementing an asset management plan ~~has priority over a project~~
43 ~~submitted by a local government unit with more than 1,000 service~~
44 ~~connections that has not developed or is not implementing an asset~~
45 ~~management plan.~~plan.
- 46 (7) Capital improvement plan. – A project that implements the applicant's
47 capital improvement plan for the wastewater system or public water system
48 it ~~manages has priority over a project that does not implement a capital~~
49 ~~improvement plan. To receive priority,~~ manages, so long as the capital
50 improvement plan ~~must~~sets out the applicant's expected water
51 infrastructure needs for at least 10 years.

- 1 (8) Coastal habitat protection. – A project that implements a recommendation of
2 a Coastal Habitat Protection Plan adopted by the Environmental
3 Management Commission, the Coastal Resources Commission, and the
4 Marine Fisheries Commission pursuant to ~~G.S. 143B-279.8~~ has priority over
5 other projects that affect counties subject to that Plan.~~G.S. 143B-279.8~~. If no
6 part of the service area of a project is located within a county subject to that
7 Plan, the project has equal priority under this subdivision with a project that
8 receives priority under this subdivision.
- 9 (9) ~~High unit cost threshold. — A high unit cost project has priority over~~
10 ~~projects that are not high unit cost projects. The priority given to a~~
11 ~~high unit cost project shall be set using a sliding scale based on the amount~~
12 ~~by which the applicant exceeds the high unit cost threshold.~~Affordability. —
13 The relative affordability of a project for a community compared to other
14 communities in North Carolina.
- 15 (10) Merger and Regionalization. – A project to provide for the planning of
16 regional public water and wastewater systems, to provide for the orderly
17 coordination of local actions relating to public water and wastewater
18 systems, or to help realize economies of scale in regional public water and
19 wastewater systems through consolidation, management, merger, or
20 interconnection of public water and wastewater ~~systems has priority.~~systems.
21 If an applicant demonstrates that it is not feasible for the project to include
22 regionalization, the funding agency shall assign the project the same priority
23 under this subdivision as a project that includes regionalization.
- 24 (11) State water supply plan. – A project that addresses a potential conflict
25 between local plans or implements a measure in which local water supply
26 plans could be better coordinated, as identified in the State water supply plan
27 pursuant to ~~G.S. 143-355(m)~~, has priority.~~G.S. 143-355(m)~~.
- 28 (12) Water conservation measures for drought. – A project that includes adoption
29 of water conservation measures by a local government unit that are more
30 stringent than the minimum water conservation measures required pursuant
31 to ~~G.S. 143-355.2~~ has priority.~~G.S. 143-355.2~~.
- 32 (13) Low-income residents. – A project that is located in an area annexed by a
33 municipality under Article 4A of Chapter 160A of the General Statutes in
34 order to provide water or sewer services to low-income ~~residents has~~
35 ~~priority.~~ For purposes of this section, low income residents are those with a
36 family income that is eighty percent (80%) or less of median family
37 income residents."

38 **SECTION 14.13.(c1)** G.S. 159G-31 reads as rewritten:

39 **"§ 159G-31. Entities eligible to apply for loan or grant.**

40 (a) A local government unit or a nonprofit water corporation is eligible to apply for a
41 loan or grant from the CWSRF, the DWSRF, the Wastewater Reserve, or the Drinking Water
42 Reserve. An investor-owned drinking water corporation is also eligible to apply for a loan or
43 grant from the DWSRF. Other entities are not eligible for a loan or grant from these accounts.

44 (b) Entities eligible in subsection (a) of this section for grants from the Wastewater
45 Reserve and the Drinking Water Reserve may be limited, based on affordability, to a portion of
46 the total construction costs for the project types defined in G.S. 159G-33(a)(2) and
47 G.S. 159G-34(a)(2).

48 (c) To the extent that funds are available, loans shall be considered for the portion of
49 construction costs not eligible for grant funding."

50 **SECTION 14.13.(d)** G.S. 159G-33(a)(4) is recodified as G.S. 159G-33(a)(5).

1 **SECTION 14.13.(e)** G.S. 159G-33(a), as amended by subsection (d) of this
2 section, reads as rewritten:

3 "(a) Types. – The Department is authorized to make the types of loans and grants listed
4 in this subsection from the Wastewater Reserve. Each type of loan or grant must be
5 administered through a separate account within the Wastewater Reserve.

6 (1) ~~General.—Loan.~~ Loan. – A loan ~~or grant~~ is available for a project authorized in
7 G.S. 159G-32(b).

8 (2) ~~High unit cost~~Project grant. – A ~~high unit cost~~project grant is available for a
9 ~~portion of the portion of the~~ construction costs of a wastewater collection
10 system ~~project or project,~~ a wastewater treatment works ~~project that results in~~
11 ~~an estimated average household user fee for water and sewer service in the~~
12 ~~area served by the project that exceeds the high unit cost threshold.~~project,
13 or a stormwater quality project as authorized in G.S. 159G-32(b).

14 (3) ~~Technical assistance~~Merger/regionalization feasibility grant. – A ~~technical~~
15 ~~assistance~~merger/regionalization feasibility grant is available to determine
16 the ~~best way to correct the deficiencies in a wastewater collection system or~~
17 ~~wastewater treatment works that either is not in compliance with its permit~~
18 ~~limits or, as identified in the most recent inspection report by the Department~~
19 ~~under G.S. 143-215.3, is experiencing operational problems and is at risk of~~
20 ~~violating its permit limits.~~feasibility of consolidating the management of
21 multiple utilities into a single utility operation or to provide regional
22 treatment and the best way of carrying out the consolidation or
23 regionalization. The Department shall not make a loan or grant under this
24 subdivision for a merger or regionalization proposal that would result in a
25 new surface water transfer regulated under G.S. 143-215.22L.

26 (4) Asset inventory and assessment grant. – An asset inventory and assessment
27 grant is available to inventory the existing water and/or sewer system and
28 document the condition of the inventoried infrastructure.

29 (5) Emergency loan. – An emergency loan is available in the event the Secretary
30 certifies that a serious public health hazard related to the inadequacy of an
31 existing wastewater collection system or wastewater treatment works is
32 present or imminent in a community."

33 **SECTION 14.13.(f)** G.S. 159G-34(a)(4) is recodified as G.S. 159G-34(a)(5).

34 **SECTION 14.13.(g)** G.S. 159G-34(a), as amended by subsection (f) of this section,
35 reads as rewritten:

36 "(a) Types. – The Department is authorized to make the types of loans and grants listed
37 in this section from the Drinking Water Reserve. Each type of loan or grant must be
38 administered through a separate account within the Drinking Water Reserve.

39 (1) ~~General.—Loan.~~ Loan. – A loan ~~or grant~~ is available for a project for a public
40 water system.

41 (2) ~~High unit cost~~Project grant. – A project grant is available for ~~the a~~ portion of
42 the construction costs of a public water system ~~project that results in an~~
43 ~~estimated average household user fee for water and sewer service in the area~~
44 ~~served by the project that exceeds the high unit cost threshold.~~as defined in
45 G.S. 159G-32(c).

46 (3) ~~Technical assistance~~Merger/regionalization feasibility grant. – A ~~technical~~
47 ~~assistance~~merger/regionalization grant is available to determine the ~~best way~~
48 ~~to correct the deficiencies in a public water system that does not comply~~
49 ~~with State law or the rules adopted to implement that law.~~feasibility of
50 consolidating the management of multiple utilities into a single utility
51 operation or to provide regional water supply and the best way of carrying

1 out the consolidation or regionalization. The Department shall not make a
2 loan or grant under this subdivision for a merger or regionalization proposal
3 that would result in a new surface water transfer regulated under
4 G.S. 143-215.22L.

5 (4) Asset inventory and assessment grant. – An asset inventory and assessment
6 grant is available to inventory the existing water and/or sewer system and
7 document the condition of the inventoried infrastructure.

8 (5) Emergency loan. – An emergency loan is available to an applicant in the
9 event the Secretary certifies that either a serious public health hazard or a
10 drought emergency related to the water supply system is present or imminent
11 in a community."

12 **SECTION 14.13.(h)** G.S. 159G-35 reads as rewritten:

13 **"§ 159G-35. Criteria for loans and grants.**

14 (a) CWSRF and DWSRF. – Federal law determines the criteria for awarding a loan or
15 grant from the CWSRF or the DWSRF. An award of a loan or grant from one of these accounts
16 must meet the criteria set under federal law. The Department is directed to establish through
17 negotiation with the United States Environmental Protection Agency the criteria for evaluating
18 applications for loans and grants from the CWSRF and the DWSRF and the priority assigned to
19 the criteria. The Department must incorporate the negotiated criteria and priorities in the
20 Capitalization Grant Operating Agreement between the Department and the United States
21 Environmental Protection Agency. The criteria and priorities incorporated in the Agreement
22 apply to a loan or grant from the CWSRF or the DWSRF. The ~~common criteria~~priority
23 considerations in G.S. 159G-23 do not apply to a loan or grant from the CWSRF or the
24 DWSRF.

25 (b) Reserves. – The ~~common criteria~~priority considerations in G.S. 159G-23 apply to a
26 loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Department
27 may establish by rule other criteria that apply to a loan or grant from the Wastewater Reserve
28 or the Drinking Water Reserve."

29 **SECTION 14.13.(i)** G.S. 159G-36(c) reads as rewritten:

30 "(c) Reserve Recipient Limit. – The following limits apply to ~~a~~the loan or grant types
31 made from the Wastewater Reserve or the Drinking Water Reserve to the same local
32 government unit or nonprofit water corporation:

33 (1) The amount of loans awarded for a fiscal year may not exceed three million
34 dollars (\$3,000,000).

35 (2) The amount of loans awarded for three consecutive fiscal years for targeted
36 interest rate projects may not exceed three million dollars (\$3,000,000).

37 (3) The amount of ~~high-unit-cost~~project grants awarded for three consecutive
38 fiscal years may not exceed three million dollars (\$3,000,000).

39 (4) The amount of ~~technical assistance~~merger/regionalization feasibility grants
40 awarded for three consecutive fiscal years may not exceed fifty thousand
41 dollars (\$50,000).

42 (5) The amount of asset inventory and assessment grants awarded for three
43 consecutive fiscal years may not exceed one hundred fifty thousand dollars
44 (\$150,000)."

45 **SECTION 14.13.(j)** The Division of Water Infrastructure of the Department of
46 Environment and Natural Resources shall report to the Environmental Review Commission and
47 the Fiscal Research Division regarding its implementation of the relative affordability of
48 projects criteria for grants from the Wastewater Reserve or Drinking Water Reserve set forth in
49 G.S. 159G-23(9), as amended by subsection (c) of this section, within 30 days of the adoption
50 of the affordability criteria.

WATER INFRASTRUCTURE STATE MATCH SURPLUS FUNDS

SECTION 14.14. Notwithstanding G.S. 159G-22, funds appropriated in this act to the Division of Water Infrastructure for the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund to provide State matching funds that are in excess of the amount required to draw down the maximum amount of federal capitalization grant funds may be used for State water and wastewater infrastructure grants awarded from the Wastewater Reserve and the Drinking Water Reserve that benefit rural and economically distressed areas of the State.

ENCOURAGE INTERCONNECTION OF PUBLIC WATER SYSTEMS

SECTION 14.14A.(a) G.S. 130A-317 is amended by adding a new subsection to read:

"(g) The Department shall identify systems meeting all of the following criteria:

- (1) As constructed or altered, the system appears capable of interconnectivity with another system or systems located within the same river basin, as set out in G.S. 143-215.22.
- (2) The system appears to have adequate unallocated capacity to expand.
- (3) Interconnectivity would promote public health, protect the environment, or ensure compliance with established drinking water rules.

The Department shall notify the identified systems of the potential for interconnectivity in the future. The systems so notified may discuss options for potential interconnectivity, including joint operations, regionalization, or merger. The Local Government Commission shall be copied on the notice from the Department and shall assist the systems with any questions regarding liabilities of the systems and alterations to the operational structure of the systems."

SECTION 14.14A.(b) The Commission for Public Health may adopt rules to implement G.S. 130A-317, as amended by this section.

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES/CLOSE CERTAIN SPECIAL FUNDS

SECTION 14.16.(a) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer the unencumbered cash balances in the following funds as of June 30, 2015, to the Department's General Fund budget and then close each of these special funds:

- (1) Mining Fees (Special Fund Code 24300-2745).
- (2) Mining Interest (Special Fund Code 24300-2610).
- (3) Storm Water Permits (Special Fund Code 24300-2750).
- (4) UST Soil Permitting (Special Fund Code 24300-2391).

SECTION 14.16.(b) G.S. 74-54.1(b) reads as rewritten:

"(b) ~~The Mining Account is established as a nonreverting account within the Department.~~ Fees collected under this section shall be credited to the Mining Account-General Fund and shall be applied to the costs of administering this Article."

SECTION 14.16.(c) G.S. 130A-309.17(i) is repealed.

SECTION 14.16.(d) G.S. 143-215.3A(a) reads as rewritten:

"(a) The Water and Air Quality Account is established as an account within the Department. Revenue in the Account shall be applied to the costs of administering the programs for which the fees were collected. Revenue credited to the Account pursuant to G.S. 105-449.43, G.S. 105-449.125, and G.S. 105-449.136 shall be used to administer the air quality program. Any funds credited to the Account from fees collected for laboratory facility certifications under G.S. 143-215.3(a)(10) that are not expended at the end of each fiscal year for the purposes for which these fees may be used under G.S. 143-215.3(a)(10) shall revert.

1 Any other funds credited to the Account that are not expended at the end of each fiscal year
2 shall not revert. Except for the following fees, all application fees and permit administration
3 fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38 of this
4 Chapter shall be credited to the Account:

- 5 (1) Fees collected under Part 2 of Article 21A and credited to the Oil or Other
6 Hazardous Substances Pollution Protection Fund.
- 7 (2) Fees credited to the Title V Account.
- 8 (3) Repealed by Session Laws 2005-454, s. 7, effective January 1, 2006.
- 9 (4) Fees collected under G.S. 143-215.28A.
- 10 (5) Fees collected under G.S. 143-215.94C shall be credited to the Commercial
11 Leaking Petroleum Underground Storage Tank Cleanup Fund.
- 12 (6) Fees collected under G.S. 143-215.3D for the following permits and
13 certificates shall be credited to the General Fund for use by the Department
14 to administer the program for which the fees were collected:
 - 15 a. Stormwater permits and certificates of general permit coverage
16 authorized under G.S. 143-214.7.
 - 17 b. Permits to apply petroleum contaminated soil to land authorized
18 under G.S. 143-215.1."

19 **SECTION 14.16.(e)** The transfers in subsection (a) of this section are to offset
20 reductions in General Fund appropriations to the Department of Environment and Natural
21 Resources for the 2015-2016 fiscal year. Fee receipts previously deposited to the funds listed in
22 subsection (a) of this section shall be budgeted to support the programs and functions
23 previously supported by those funds.

24 25 **PHASEOUT OF NONCOMMERCIAL LEAKING UST FUND**

26 **SECTION 14.16A.(a)** G.S. 143-215.94B(b) reads as rewritten:

27 "(b) The Commercial Fund shall be used for the payment of the following costs up to an
28 aggregate maximum of one million dollars (\$1,000,000) per occurrence resulting from a
29 discharge or release of a petroleum product from a commercial underground storage tank:

- 30 (1) For discharges or releases discovered or reported between 30 June 1988 and
31 31 December 1991 inclusive, the cleanup of environmental damage as
32 required by G.S. 143-215.94E(a) in excess of fifty thousand dollars
33 (\$50,000) per occurrence.
- 34 (2) For discharges or releases discovered on or after 1 January 1992 and
35 reported between 1 January 1992 and 31 December 1993 inclusive, the
36 cleanup of environmental damage as required by G.S. 143-215.94E(a) in
37 excess of twenty thousand dollars (\$20,000) per occurrence.
- 38 (2a) For discharges or releases discovered and reported on or after 1 January
39 1994 and prior to 1 January 1995, the cleanup of environmental damage as
40 required by G.S. 143-215.94E(a) in excess of twenty thousand dollars
41 (\$20,000) if the owner or operator (i) notifies the Department prior to 1
42 January 1994 of its intent to permanently close the tank in accordance with
43 applicable regulations or to upgrade the tank to meet the requirements that
44 existing underground storage tanks must meet by 22 December 1998, (ii)
45 commences closure or upgrade of the tank prior to 1 July 1994, and (iii)
46 completes closure or upgrade of the tank prior to 1 January 1995.
- 47 (3) For discharges or releases reported on or after 1 January 1994, the cleanup of
48 environmental damage as required by G.S. 143-215.94E(a) in excess of
49 twenty thousand dollars (\$20,000) if, prior to the discharge or release, the
50 commercial underground storage tank from which the discharge or release
51 occurred met the performance standards applicable to tanks installed after 22

1 December 1988 or met the requirements that existing underground storage
2 tanks must meet by 22 December 1998.

- 3 (4) For discharges or releases reported on or after 1 January 1994 from a
4 commercial underground storage tank that does not qualify under
5 subdivision (2a) of this subsection or does not meet the standards in
6 subdivision (3) of this subsection, sixty percent (60%) of the costs per
7 occurrence of the cleanup of environmental damage as required by
8 G.S. 143-215.94E(a) that exceeds twenty thousand dollars (\$20,000) but is
9 not more than one hundred fifty-seven thousand five hundred dollars
10 (\$157,500) and one hundred percent (100%) of the costs above this amount,
11 up to the limits established in this section.
- 12 (5) Compensation to third parties for bodily injury and property damage in
13 excess of one hundred thousand dollars (\$100,000) per occurrence.
- 14 (6) Reimbursing the State for damages or other costs incurred as a result of a
15 loan from the Loan Fund. The per occurrence limit does not apply to
16 reimbursements to the State under this subdivision.
- 17 (7) Recordation of residual petroleum as required by G.S. 143B-279.11 if the
18 Commercial Fund is responsible for the payment of costs under subdivisions
19 (1) through (4) of this subsection.
- 20 (8) The costs of a site investigation required by the Department for the purpose
21 of determining whether a release from a tank system has occurred, whether
22 or not the investigation confirms that a release has occurred. This
23 subdivision shall not be construed to allow reimbursement for costs of
24 investigations that are part of routine leak detection procedures required by
25 statute or rule.
- 26 (9) If the owner or operator cannot be identified or fails to proceed with the
27 cleanup.
- 28 (10) That was taken out of operation prior to 1 January 1974 if, at the time the
29 discharge or release is discovered, neither the owner or operator owns or
30 leases the lands on which the tank is located.
- 31 (11) Where the owner of the commercial underground storage tank is the owner
32 only as a result of owning the land on which the commercial underground
33 storage tank is located, the owner did not know or have reason to know that
34 the underground storage tank was located on the property, and the land was
35 not transferred to the owner to avoid liability for the commercial
36 underground storage tank.
- 37 (12) Compensation to third parties for bodily injury and property damage in
38 excess of one hundred thousand dollars (\$100,000) per occurrence caused by
39 releases from noncommercial underground storage tanks reported to the
40 Department prior to August 1, 2015, if the claim for compensation is made
41 prior to July 1, 2016."

42 **SECTION 14.16A.(b)** G.S. 143-215.94D reads as rewritten:

43 **"§ 143-215.94D. Noncommercial Leaking Petroleum Underground Storage Tank**
44 **Cleanup Fund.**

45 (a) There is established under the control and direction of the Department the
46 Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This
47 Noncommercial Fund shall be a nonreverting revolving fund consisting of any monies
48 appropriated for such purpose by the General Assembly or available to it from grants, or other
49 monies paid to it or recovered on behalf of the Noncommercial Fund.

50 (b) The Noncommercial Fund shall be used for the payment of the costs set out in
51 subsection (b1) of this section, up to an aggregate maximum of one million dollars

1 (\$1,000,000) per occurrence resulting from a discharge or release of a petroleum product
2 reported to the Department prior to August 1, 2015, from:

- 3 (1) Noncommercial underground storage tanks if the discharge or release meets
4 the minimum priority criteria for corrective action established by the
5 Department.
6 ~~(2) Commercial underground storage tanks if the owner or operator cannot be
7 identified or fails to proceed with the cleanup.~~
8 ~~(3) Commercial underground storage tanks that were taken out of operation
9 prior to 1 January 1974 if, at the time the discharge or release is discovered,
10 neither the owner or operator owns or leases the lands on which the tank is
11 located.~~
12 ~~(4) Commercial underground storage tanks if the owner of the commercial
13 underground storage tank is the owner only as a result of owning the land on
14 which the commercial underground storage tank is located, the owner did
15 not know or have reason to know that the underground storage tank was
16 located on the property, and the land was not transferred to the owner to
17 avoid liability for the commercial underground storage tank.~~

18 (b1) The Noncommercial Fund shall be used for the payment of the ~~costs of~~ following
19 costs, provided a claim for compensation is made prior to July 1, 2016:

- 20 (1) For releases discovered or reported to the Department prior to August 1,
21 2013, the cleanup of environmental damage as required by
22 G.S. 143-215.94E(a).
23 (1a) For releases ~~discovered or~~ reported to the Department on or after ~~August 1,~~
24 ~~2013,~~ August 1, 2013, and prior to August 1, 2015, the cleanup of
25 environmental damage as required by G.S.143-215.94E(a) in excess of two
26 thousand dollars (\$2,000) or the sum of the following amounts, whichever is
27 less:
28 a. A deductible of one thousand dollars (\$1,000) per occurrence.
29 b. A co-payment equal to ten percent (10%) of the costs of the cleanup
30 of environmental damage, per occurrence.
31 ~~(2) Compensation to third parties for bodily injury and property damage in
32 excess of one hundred thousand dollars (\$100,000) per occurrence.~~
33 (3) Reimbursing the State for damages or other costs incurred as a result of a
34 loan from the Loan Fund. The per occurrence limit does not apply to
35 reimbursements to the State under this subdivision.
36 (4) Recordation of residual petroleum as required by G.S. 143B-279.11 if the
37 Noncommercial Fund is responsible for the payment of costs under
38 subdivisions (1) through (3) of this subsection and subsection (b) of this
39 section.

40 (b2) The Noncommercial Fund may be used by the Department for the payment of costs
41 necessary to render harmless any noncommercial underground storage tank from which a
42 discharge or release has not occurred but which poses an imminent hazard to the environment if
43 the owner or operator cannot be identified or located, or if the owner or operator fails to take
44 action to render harmless the underground storage tank within 90 days after having been
45 notified of the imminent hazard posed by the underground storage tank. The Secretary shall
46 seek to recover the costs of the action from the owner or operator as provided in
47 G.S. 143-215.94G.

48 (b3) For purposes of subsection (b1) of this section, the cleanup of environmental
49 damage includes connection of a third party to a public water system if the Department
50 determines that connection of the third party to a public water system is a cost-effective
51 measure, when compared to other available measures, to reduce risk to human health or the

1 environment. A payment or reimbursement under this subsection is subject to the requirements
2 and limitations of this section. This subsection shall not be construed to limit any right or
3 remedy available to a third party under any other provision of law. This subsection shall not be
4 construed to require a third party to connect to a public water system. Except as provided by
5 this subsection, connection to a public water system does not constitute cleanup under Part 2 of
6 this Article, G.S. 143-215.94E, G.S. 143-215.94V, any other applicable statute, or at common
7 law.

8 (b4) The Noncommercial Fund shall pay any claim made after 1 September 2001 for
9 compensation to third parties pursuant to subdivision (2) of subsection (b1) of this section only
10 if the owner, operator, or other party responsible for the discharge or release has complied with
11 the requirements of G.S. 143B-279.9 and G.S. 143B-279.11, unless compliance is prohibited
12 by another provision of law.

13 (c) The Noncommercial Fund is to be available on an occurrence basis, without regard
14 to number of occurrences associated with tanks owned or operated by the same owner or
15 operator.

16 (d) The Noncommercial Fund shall not be used for:

- 17 (1) Costs incurred as a result of a discharge or release from an aboveground
18 tank, aboveground pipe or fitting not connected to an underground storage
19 tank, or vehicle.
- 20 (2) The removal or replacement of any tank, pipe, fitting or related equipment.
- 21 (3) Costs incurred as a result of a discharge or release of petroleum from a
22 transmission pipeline.
- 23 (4) Costs intended to be paid for by the Commercial Fund.
- 24 (5) Costs associated with the administration of any underground storage tank
25 program other than the program administered pursuant to this Part.
- 26 (6) Costs paid or reimbursed by or from any source other than the
27 Noncommercial Fund, including, but not limited to, any payment or
28 reimbursement made under a contract of insurance.
- 29 (7) Costs incurred as a result of the cleanup of environmental damage to
30 groundwater to a more protective standard than the risk-based standard
31 required by the Department unless the cleanup of environmental damage to
32 groundwater to a more protective standard is necessary to resolve a claim for
33 compensation by a third party for property damage.
- 34 (8) Costs in excess of those required to achieve the most cost-effective cleanup.

35 (e) The Noncommercial Fund shall be treated as a special trust fund pursuant to
36 G.S. 147-69.2 and G.S. 147-69.3, except that interest and other income received on the Fund
37 balance shall be treated as set forth in G.S. 147-69.1(d).

38 (f) Expired October 1, 2011, pursuant to Session Laws 2001-442, s. 8, as amended by
39 Session Laws 2008-195, s. 11.

40 (g) The Noncommercial Fund may be used to support the administrative functions of
41 the program for underground storage tanks under this Part and Part 2B of this Article up to the
42 amounts allowed by law, which amounts may be changed from time to time. In the case of a
43 legislated increase or decrease in salaries and benefits, the administrative allowance existing at
44 the time of the increase or decrease shall be correspondingly increased or decreased an amount
45 equal to the legislated increase or decrease in salaries and benefits.

46 (h) During each fiscal year, the Department shall use up to one hundred thousand
47 (\$100,000) of the funds in the Noncommercial Fund to fund necessary assessment and cleanup
48 to be conducted by the Department of discharges or releases for which a responsible party has
49 been identified but for which the responsible party can demonstrate that undertaking the costs
50 of assessment and cleanup will impose a severe financial hardship. Any portion of the \$100,000
51 designated each fiscal year, which is not used during that fiscal year to address situations of

1 severe financial hardship, shall revert to the Noncommercial Fund for the uses otherwise
2 provided by this section. The Commission shall adopt rules to define severe financial hardship;
3 establish criteria for assistance due to severe financial hardship pursuant to this section; and
4 establish a process for evaluation and determinations of eligibility with respect to applications
5 for assistance due to severe financial hardship. The Commission shall create a subcommittee of
6 the Commission's Committee on Civil Penalty Remissions as established by G.S. 143B-282.1
7 to render determinations of eligibility under this subsection."

8 **SECTION 14.16A.(c)** G.S. 143-215.94N(b) reads as rewritten:

9 "(b) ~~The Except as otherwise specified in this Part, the provisions of this Part as they~~
10 relate to costs paid from the Noncommercial Fund apply to discharges or releases without
11 regard to the date discovered or reported; however, reimbursement of costs under
12 G.S. 143-215.94G(d)(1), (2), (3), (3a), and (4) shall be for the full amount of the costs paid for
13 from the Noncommercial Fund and shall not be limited pursuant to G.S. 143-215.94E(b) for
14 discharges or releases from commercial underground storage tanks discovered or reported on or
15 before 30 June 1988."

16 **SECTION 14.16A.(d)** G.S. 143-215.94A(6), 143-215.94B(d)(4), 143-215.94D,
17 and 143-215.94N(b) are repealed.

18 **SECTION 14.16A.(e)** G.S. 143-215.94E reads as rewritten:

19 "**§ 143-215.94E. Rights and obligations of the owner or operator.**

20 ...

21 (b1) In the case of a discharge or release from a commercial underground storage tank
22 where the owner and operator cannot be identified or located, or where the owner and operator
23 fail to proceed as required by subsection (a) of this section, the following requirements apply:

24 (1) ~~if~~ If the current landowner of the land in which the commercial underground
25 storage tank is located notifies the Department in accordance with
26 G.S. 143-215.85 and undertakes to collect and remove the discharge or
27 release and to restore the area affected in accordance with the requirements
28 of this Article and applicable federal and State laws, regulations, and rules,
29 the current landowner may elect to have the Commercial Fund pay or
30 reimburse the current landowner for any costs described in subdivisions (1),
31 (2), (2a), (3), and (4) of G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) that
32 exceed the amounts for which the owner or operator is responsible under that
33 subsection.

34 a. The current landowner is not eligible for payment or reimbursement
35 until the current landowner has paid the costs described in
36 subdivisions (1), (2), (2a), (3), and (4) of G.S. 143-215.94B(b) or
37 G.S. 143-215.94B(b1) for which the owner or operator is
38 responsible.

39 b. Eligibility for reimbursement under this subsection may be
40 transferred from a current landowner who has paid the costs
41 described in subdivisions (1), (2), (2a), (3), and (4) of
42 G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) to a subsequent
43 landowner.

44 The current landowner shall submit documentation of all expenditures as
45 required by G.S. 143-215.94G(b).

46 (2) The sum of payments from the Commercial Fund and from all other sources
47 shall not exceed one million dollars (\$1,000,000) per discharge or release
48 except as provided in G.S. 143-215.94B(b2).

49 (3) This subsection shall not be construed to require a current landowner to
50 cleanup a discharge or release of petroleum from an underground storage
51 tank for which the current landowner is not otherwise responsible. This

1 subsection does not alter any right, duty, obligation, or liability of a current
2 landowner, former landowner, subsequent landowner, owner, or operator
3 under other provisions of law.

4 (4) This subsection shall not be construed to limit the authority of the
5 Department to engage in a cleanup under this Article or any other provision
6 of law. In the event that an owner or operator is subsequently identified or
7 located, the Secretary shall seek reimbursement as provided in
8 G.S. 143-215.94G(d). ~~The current landowner shall submit documentation of~~
9 ~~all expenditures as required by G.S. 143-215.94G(b).~~

10 (e) ~~In the case of a discharge or release from a noncommercial underground storage~~
11 ~~tank or a commercial underground storage tank eligible for the Noncommercial Fund in~~
12 ~~accordance with G.S. 143-215.94D(b), where the owner or operator has been identified and has~~
13 ~~proceeded with the cleanup, the owner or operator may elect to have the Noncommercial Fund~~
14 ~~pay or reimburse the owner or operator for any costs described in G.S. 143-215.94D(b1) up to a~~
15 ~~maximum of one million dollars (\$1,000,000) per discharge or release.~~

16 (e1) ~~In the case of a discharge or release from a noncommercial underground storage~~
17 ~~tank where the owner and operator cannot be identified or located, or where the owner and~~
18 ~~operator fail to proceed as required by subsection (a) of this section, if the current landowner of~~
19 ~~the land in which the noncommercial underground storage tank is located notifies the~~
20 ~~Department in accordance with G.S. 143-215.85 and undertakes to collect and remove the~~
21 ~~discharge or release and to restore the area affected in accordance with the requirements of this~~
22 ~~Article and applicable federal and State laws, regulations, and rules, the current landowner may~~
23 ~~elect to have the Noncommercial Fund pay or reimburse the current landowner for any costs~~
24 ~~described in G.S. 143-215.94D(b1). Eligibility for reimbursement under this subsection may be~~
25 ~~transferred to a subsequent landowner from a current landowner. The sum of payments from~~
26 ~~the Noncommercial Fund and from all other sources shall not exceed one million dollars~~
27 ~~(\$1,000,000) per discharge or release. This subsection shall not be construed to require a~~
28 ~~current landowner to clean up a discharge or release of petroleum from an underground storage~~
29 ~~tank for which the current landowner is not otherwise responsible. This subsection does not~~
30 ~~alter any right, duty, obligation, or liability of a current landowner, former landowner,~~
31 ~~subsequent landowner, owner, or operator under other provisions of law. This subsection shall~~
32 ~~not be construed to limit the authority of the Department to engage in a cleanup under this~~
33 ~~Article or any other provision of law. The current landowner shall submit documentation of all~~
34 ~~expenditures as required by G.S. 143-215.94G(b).~~

35 ...

36 (e1) The Department may contract for any services necessary to evaluate any claim for
37 reimbursement or compensation from ~~either the Commercial Fund or the Noncommercial Fund,~~
38 may contract for any expert witness or consultant services necessary to defend any decision to
39 pay or deny any claim for reimbursement, and may pay the cost of these services from the fund
40 against which the claim is made; provided that in any fiscal year the Department shall not
41 expend from either fund more than one percent (1%) of the unobligated balance of the fund on
42 30 June of the previous fiscal year. The cost of contractual services to evaluate a claim or for
43 expert witness or consultant services to defend a decision with respect to a claim shall be
44 included as costs under G.S. 143-215.94B(b), 143-215.94B(b1), and 143-215.94D(b1).

45 ...

46 (e4) (1) If the owner or operator takes initial steps to collect and remove the
47 discharge or release as required by the Department and completes the initial
48 assessment required to determine degree of risk, the owner or operator shall
49 not be subject to any violation or penalty for any failure to proceed with
50 further assessment or cleanup under G.S. 143-215.84 or this section before
51 the owner or operator is authorized to proceed with further assessment or

1 cleanup as provided in subsection (e5) of this section. The lack of
2 availability of funds in the Commercial Fund ~~or the Noncommercial Fund~~
3 shall not relieve an owner or operator of responsibility to immediately
4 undertake to collect and remove the discharge or release or to conduct any
5 assessment or cleanup ordered by the Department or be a defense against
6 any violations and penalties issued to the owner or operator for failure to
7 conduct required assessment or cleanup.

8 (2) The Department shall establish the degree of risk to human health and the
9 environment posed by a discharge or release of petroleum from a
10 commercial underground storage tank and shall determine a schedule for
11 further assessment and cleanup that is based on the degree of risk to human
12 health and the environment posed by the discharge or release and that gives
13 priority to the assessment and cleanup of discharges and releases that pose
14 the greatest risk. If any of the costs of assessment and cleanup of the
15 discharge or release from a commercial underground storage tank are
16 eligible to be paid or reimbursed from the Commercial Fund, the Department
17 shall also consider the availability of funds in the Commercial Fund and the
18 order in which the discharge or release was reported in determining the
19 schedule.

20 (3) ~~The Department shall establish the degree of risk to human health and the~~
21 ~~environment posed by a discharge or release of petroleum from a~~
22 ~~noncommercial underground storage tank and shall determine a schedule for~~
23 ~~further assessment and cleanup that is based on the degree of risk to human~~
24 ~~health and the environment posed by the discharge or release and that gives~~
25 ~~priority to the assessment and cleanup of discharges and releases that pose~~
26 ~~the greatest risk. If any of the costs of assessment or cleanup of the discharge~~
27 ~~or release from a noncommercial underground storage tank are eligible to be~~
28 ~~paid or reimbursed from the Noncommercial Fund, the Department shall~~
29 ~~also consider the availability of funds in the Noncommercial Fund and the~~
30 ~~order in which the discharge or release was reported in determining the~~
31 ~~schedule.~~

32 (4) The Department may revise the schedules that apply to the assessment and
33 cleanup of any discharge or release at any time based on its reassessment of
34 any of the foregoing factors.

35 ...

36 (f1) Any person seeking payment or reimbursement from ~~either the Commercial Fund or~~
37 ~~the Noncommercial Fund~~ shall certify to the Department that the costs to be paid or reimbursed
38 by the Commercial Fund ~~or the Noncommercial Fund~~ are not eligible to be paid or reimbursed
39 by or from any other source, including any contract of insurance. If any cost paid or reimbursed
40 by the Commercial Fund ~~or the Noncommercial Fund~~ is eligible to be paid or reimbursed by or
41 from another source, that cost shall not be paid from, or if paid shall be repaid to, the
42 Commercial Fund ~~or the Noncommercial Fund~~. As used in this Part, the phrase "any other
43 source including any contract of insurance" does not include self-insurance.

44 ...

45 (j) An owner, operator, or landowner shall request that the Department determine
46 whether any of the costs of assessment and cleanup of a discharge or release from a petroleum
47 underground storage tank are eligible to be paid or reimbursed from either the Commercial
48 Fund ~~or the Noncommercial Fund~~ within one year after completion of any task that is eligible
49 to be paid or reimbursed under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1).

50 (k) An owner, operator, or landowner shall request payment or reimbursement from the
51 Commercial Fund ~~or the Noncommercial Fund~~ for the cost of a task within one year after the

1 completion of the task. The Department shall deny any request for payment or reimbursement
2 of the cost of any task that would otherwise be eligible to be paid or reimbursed if the request is
3 not received within 12 months after the later of the date on which the:

- 4 (1) Department determines that the cost is eligible to be paid or reimbursed.
- 5 (2) Task is completed."

6 **SECTION 14.16A.(f)** G.S. 143-215.94G reads as rewritten:

7 "**§ 143-215.94G. Authority of the Department to engage in cleanups; actions for fund**
8 **reimbursement.**

9 (a) The Department may use staff, equipment, or materials under its control or provided
10 by other cooperating federal, State, or local agencies and may contract with any agent or
11 contractor it deems appropriate to investigate a release, to develop and implement a cleanup
12 plan, to provide interim alternative sources of drinking water to third parties, and to pay the
13 initial costs for providing permanent alternative sources of drinking water to third parties, and
14 shall pay the costs resulting from ~~commercial underground storage tanks~~ from the Commercial
15 ~~Fund and shall pay the costs resulting from noncommercial underground storage tanks from the~~
16 ~~Noncommercial Fund.~~ Fund whenever there is a discharge or release of petroleum from any of
17 the following:

- 18 (1) A noncommercial underground storage tank.
- 19 (2) An underground storage tank whose owner or operator cannot be identified
20 or located.
- 21 (3) An underground storage tank whose owner or operator fails to proceed as
22 required by G.S. 143-215.94E(a).
- 23 (4) A commercial underground storage tank taken out of operation prior to 1
24 January 1974 if, when the discharge or release is discovered, neither the
25 owner nor operator owns or leases the land on which the underground
26 storage tank is located.

27 (a1) Every State agency shall provide to the Department to the maximum extent feasible
28 such staff, equipment, and materials as may be available and useful to the development and
29 implementation of a cleanup program.

30 (a2) The cost of any action authorized under subsection (a) of this section shall be paid,
31 to the extent funds are available, from the following sources in the order listed:

- 32 (1) Any funds to which the State is entitled under any federal program providing
33 for the cleanup of petroleum discharges or releases from underground
34 storage tanks, including, but not limited to, the Leaking Underground
35 Storage Tank Trust Fund established pursuant to 26 U.S.C. § 4081 and 42
36 U.S.C. § 6991b(h).
- 37 (2) ~~The Commercial Fund or the Noncommercial Fund.~~

38 (a3) Expired October 1, 2011, pursuant to Session Laws 2001-442, s. 8, as amended by
39 Session Laws 2008-195, s. 11.

40 (b) Whenever the discharge or release of a petroleum product is from a commercial
41 underground storage tank, the Department may supervise the cleanup of environmental damage
42 required by G.S. 143-215.94E(a). If the owner or operator elects to have the Commercial Fund
43 reimburse or pay for any costs allowed under subsection (b) or (b1) of G.S. 143-215.94B, the
44 Department shall require the owner or operator to submit documentation of all expenditures
45 claimed for the purposes of establishing that the owner or operator has spent the amounts
46 required to be paid by the owner or operator pursuant to and in accordance with
47 G.S. 143-215.94E(b). The Department shall allow credit for all expenditures that the
48 Department determines to be reasonable and necessary. The Department may not pay for any
49 costs for which the Commercial Fund was established until the owner or operator has paid the
50 amounts specified in G.S. 143-215.94E(b).

- 1 (c) The Secretary shall keep a record of all expenses incurred for the services of State
2 personnel and for the use of the State's equipment and material.
- 3 (d) The Secretary shall seek reimbursement through any legal means available, for:
- 4 (1) Any costs not authorized to be paid from ~~either the Commercial or the~~
5 ~~Noncommercial~~ Fund;
- 6 (2) The amounts provided for in G.S. 143-215.94B(b) or G.S. 143-215.94B(b1)
7 required to be paid for by the owner or operator pursuant to
8 G.S. 143-215.94E(b) where the owner or operator of a commercial
9 underground storage tank is later identified or located;
- 10 (3) The amounts provided for in G.S. 143-215.94B(b) or G.S. 143-215.94B(b1)
11 required to be paid for by the owner or operator pursuant to
12 G.S. 143-215.94E(b) where the owner or operator of a commercial
13 underground storage tank failed to proceed as required by
14 G.S. 143-215.94E(a);
- 15 (3a) The amounts provided for by G.S. 143-215.94B(b)(5) required to be paid by
16 the owner or operator to third parties for the cost of providing interim
17 alternative sources of drinking water to third parties and the initial cost of
18 providing permanent alternative sources of drinking water to third parties;
- 19 (4) Any funds due under G.S. 143-215.94E(g); and
- 20 (5) Any funds to which the State is entitled under any federal program providing
21 for the cleanup of petroleum discharges or releases from underground
22 storage tanks; [and]
- 23 (6) The amounts provided for in G.S. 143-215.94B(b5) and
24 G.S. 143-215.94D(b2).
- 25 (e) In the event that a civil action is commenced to secure reimbursement pursuant to
26 subdivisions (1) through (4) of subsection (d) of this section, the Secretary may recover, in
27 addition to any amount due, the costs of the action, including but not limited to reasonable
28 attorney's fees and investigation expenses. Any monies received or recovered as reimbursement
29 shall be paid into the appropriate fund or other source from which the expenditures were made.
- 30 ~~(f) In the event that a recovery equal to or in excess of the amounts required to be paid~~
31 ~~for by the owner or operator pursuant to G.S. 143-215.94E(b) is recovered pursuant to~~
32 ~~subdivisions (2) and (3) of subsection (d) of this section for the costs described in~~
33 ~~G.S. 143-215.94B(b) or G.S. 143-215.94B(b1), the Department shall transfer funds from the~~
34 ~~Commercial Fund that would have been paid from the Commercial Fund pursuant to subsection~~
35 ~~(b) or (b2) of G.S. 143-215.94B if the owner or operator had proceeded with the cleanup, but~~
36 ~~which were paid from the Noncommercial Fund, into the Noncommercial Fund.~~
- 37 (g) If the Department paid or reimbursed costs that are not authorized to be paid or
38 reimbursed under G.S. 143-215.94B or G.S. 143-215.94D as a result of a misrepresentation by
39 an agent who acted on behalf of an owner, operator, or landowner, the Department shall first
40 seek reimbursement, pursuant to subdivision (1) of subsection (d) of this section, from the
41 agent of monies paid to or retained by the agent.
- 42 (h) The Department shall take administrative action to recover costs or bring a civil
43 action pursuant to subdivision (1) of subsection (d) of this section to seek reimbursement of
44 costs in accordance with the time limits set out in this subsection.
- 45 (1) The Department shall take administrative action to recover costs or bring a
46 civil action to seek reimbursement of costs that are not authorized to be paid
47 from the Commercial Fund under subdivision (1), (2), or (3) of
48 G.S. 143-215.94B(d) ~~or from the Noncommercial Fund under subdivision~~
49 ~~(1), (2), or (3) of G.S. 143-215.94D(d)~~ within five years after payment.

1 (2) The Department shall take administrative action to recover costs or bring a
2 civil action to seek reimbursement of costs other than those described in
3 subdivision (1) of this subsection within three years after payment.

4 (3) Notwithstanding the time limits set out in subdivisions (1) and (2) of this
5 subsection, the Department may take administrative action to recover costs
6 or bring a civil action to seek reimbursement of costs paid as a result of
7 fraud or misrepresentation at any time.

8 (i) An administrative action or civil action that is not commenced within the time
9 allowed by subsection (h) of this section is barred.

10 (j) Except with the consent of the claimant, the Department may not withhold payment
11 or reimbursement of costs that are authorized to be paid from the Commercial Fund ~~or the~~
12 ~~Noncommercial Fund~~ in order to recover any other costs that are in dispute unless the
13 Department is authorized to withhold payment by a final decision of the Commission pursuant
14 to G.S. 150B-36 or an order or final decision of a court."

15 **SECTION 14.16A.(g)** G.S. 143-215.94J reads as rewritten:

16 "**§ 143-215.94J. Limitation of liability of the State of North Carolina.**

17 (a) No claim filed against ~~either the Commercial Fund or the Noncommercial Fund~~
18 shall be paid except from assets of the respective fund as provided for in this Part or as may
19 otherwise be authorized by law.

20 (b) This Part shall not be construed to obligate the General Assembly to make any
21 appropriation to implement the provisions of this Part; nor shall it be construed to obligate the
22 Secretary to take any action pursuant to this Part for which funds are not available from
23 appropriations or otherwise.

24 (c) The Secretary may budget anticipated receipts as needed to implement this Part.

25 ~~(d) Should the Secretary find that the Noncommercial Fund balance is insufficient to~~
26 ~~satisfy all claims and other obligations of the Noncommercial Fund incurred pursuant to this~~
27 ~~Part, the Secretary may transfer funds which would otherwise revert to the General Fund to the~~
28 ~~Noncommercial Fund in order to meet such claims and obligations.~~

29 (e) If at any time ~~either the~~ fund balance is insufficient to pay all valid claims against it,
30 the claims shall be paid in full in the order in which they are finally determined. The Secretary
31 may retain not more than five hundred thousand dollars (\$500,000) in the ~~Noncommercial~~
32 Commercial Fund as a contingency reserve and not apply the reserve to the claims. The
33 Department may use the contingency reserve to conduct cleanups in accordance with
34 G.S. 143-215.94G when an imminent hazard poses a threat to human health or to significant
35 natural resources."

36 **SECTION 14.16A.(h)** G.S. 143-215.94M reads as rewritten:

37 "**§ 143-215.94M. Reports.**

38 (a) The Secretary shall present an annual report to the Environmental Review
39 Commission, the Fiscal Research Division, the Senate Appropriations Subcommittee on
40 Natural and Economic Resources, and the House Appropriations Subcommittee on Natural and
41 Economic Resources which shall include at least the following:

42 (1) A list of all discharges or releases of petroleum from underground storage
43 tanks.

44 ~~(2) A list of all cleanups requiring State funding through the Noncommercial~~
45 ~~Fund and a comprehensive budget to complete such cleanups.~~

46 (3) A list of all cleanups undertaken by tank owners or operators and the status
47 of these cleanups.

48 (4) A statement of receipts and disbursements for ~~both the Commercial Fund~~
49 ~~and the Noncommercial Fund.~~

1 (5) A statement of all claims against ~~both the Commercial Fund and the~~
2 ~~Noncommercial Fund~~, including claims paid, claims denied, pending claims,
3 anticipated claims, and any other obligations.

4 (6) The adequacy of ~~both the Commercial Fund and the Noncommercial Fund~~ to
5 carry out the purposes of this Part together with any recommendations as to
6 measures that may be necessary to assure the continued solvency of the
7 ~~Commercial Fund and the Noncommercial Fund~~.

8 (7) Repealed by Session Laws 2012-200, s. 23, effective August 1, 2012.

9 (b) The report required by this section shall be made by the Secretary on or before
10 November 1 of each year."

11 **SECTION 14.16A.(i)** Subsections (d) through (h) of this section become effective
12 December 31, 2016. The balance remaining in the Noncommercial Leaking Petroleum
13 Underground Storage Tank Cleanup Fund and any outstanding requests for payment or
14 reimbursement that have been deemed eligible by the Department prior to that date are
15 transferred to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.
16 The Revisor of Statutes may conform names and titles changed by this section, and may correct
17 statutory references as required by this section, throughout the General Statutes. In making the
18 changes authorized by this section, the Revisor may also adjust subject and verb agreement and
19 the placement of conjunctions.

20 ENVIRONMENTAL ASSESSMENT METHODOLOGY

21 **SECTION 14.19.** The Department of Environment and Natural Resources shall
22 review and revise its procedures and rate tables for reimbursement of soil assessment activities
23 in order to facilitate the use of the Ultra Violet Fluorescence (UVF) test method as a substitute
24 for US EPA Method 8015 for soil assessment and petroleum contamination delineation
25 activities, where the substitution would (i) not violate federal law or regulations, (ii) provide
26 equivalent accuracy and quality of results, and (iii) result in appreciable cost savings.

27 LANDFILL CHANGES

28 **SECTION 14.20.(a)** G.S. 130A-294 reads as rewritten:

29 **"§ 130A-294. Solid waste management program.**

30 (a) The Department is authorized and directed to engage in research, conduct
31 investigations and surveys, make inspections and establish a statewide solid waste management
32 program. In establishing a program, the Department shall have authority to:

33 ...
34 (4) a. Develop a permit system governing the establishment and operation
35 of solid waste management facilities. A landfill with a disposal area
36 of 1/2 acre or less for the on-site disposal of land clearing and inert
37 debris is exempt from the permit requirement of this section and shall
38 be governed by G.S. 130A-301.1. Demolition debris from the
39 decommissioning of manufacturing buildings, including electric
40 generating stations, that is disposed of on the same site as the
41 decommissioned buildings, is exempt from the permit requirement of
42 this section and rules adopted pursuant to this section and shall be
43 governed by G.S. 130A-301.3. The Department shall not approve an
44 application for a new permit, ~~the renewal of a permit, major permit~~
45 modification, or a substantial amendment to a permit for a sanitary
46 landfill, excluding demolition landfills as defined in the rules of the
47 Commission, except as provided in subdivisions (3) and (4) of
48 subsection (b1) of this section. No permit shall be granted for a solid
49 waste management facility having discharges that are point sources
50
51

1 until the Department has referred the complete plans and
2 specifications to the Commission and has received advice in writing
3 that the plans and specifications are approved in accordance with the
4 provisions of G.S. 143-215.1. In any case where the Department
5 denies a permit for a solid waste management facility, it shall state in
6 writing the reason for denial and shall also state its estimate of the
7 changes in the applicant's proposed activities or plans that will be
8 required for the applicant to obtain a permit.
9

10 (a2) ~~Permits for sanitary landfills and transfer stations shall be issued for (i) a design and~~
11 ~~operation phase of five years or (ii) a design and operation phase of 10 years. A permit issued~~
12 ~~for a design and operation phase of 10 years shall be subject to a limited review within five~~
13 ~~years of the issuance date.~~the life-of-site of the facility unless revoked as otherwise provided
14 under this Article or upon the expiration of any local government franchise required for the
15 facility pursuant to subsection (b1) of this section. For purposes of this section, "life-of-site"
16 means the period from the initial receipt of solid waste at the facility until the Department
17 approves final closure of the facility. Permits issued pursuant to this subsection shall take into
18 account the duration of any permits previously issued for the facility and the remaining
19 capacity at the facility.

20 (a3) Each permit for a sanitary landfill and transfer station shall have a limited review of
21 the permit five years after issuance of the initial permit and at five-year intervals thereafter until
22 expiration of the permit. The limited review includes review of the operational activities at the
23 facility for the preceding time period, as well as future operational plans, financial assurance
24 cost estimates, environmental monitoring plans, closure plans, post-closure plans, and any other
25 applicable plans for the facility. Whenever such review is undertaken, the Department may
26 modify the permit to include additional limitations, standards, or conditions when the technical
27 limitations, standards, or conditions on which the original permit was based have been changed
28 by statute or rule. If, upon such review, the Department finds that repeated material or
29 substantial violations at the sanitary landfill render operation of the facility a danger to human
30 health, safety, and welfare, or the environment, the Department shall modify or revoke the
31 permit. Parties aggrieved by a final decision of the Department pursuant to this subsection may
32 appeal the decision as provided under Article 3 of Chapter 150B of the General Statutes.

33 (b) The Commission shall adopt and the Department shall enforce rules to implement a
34 comprehensive statewide solid waste management program. The rules shall be consistent with
35 applicable State and federal law; and shall be designed to protect the public health, safety, and
36 welfare; preserve the environment; and provide for the greatest possible conservation of
37 cultural and natural resources. Rules for the establishment, location, operation, maintenance,
38 use, discontinuance, recordation, post-closure care of solid waste management facilities also
39 shall be based upon recognized public health practices and procedures, including applicable
40 epidemiological research and studies; hydrogeological research and studies; sanitary
41 engineering research and studies; and current technological development in equipment and
42 methods. The rules shall not apply to the management of solid waste that is generated by an
43 individual or individual family or household unit on the individual's property and is disposed of
44 on the individual's property.

45 (b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this
46 section, a "substantial amendment" means either:

- 47 a. An increase of ten percent (10%) or more in:
 - 48 1. The population of the geographic area to be served by the
49 sanitary landfill;
 - 50 2. The quantity of solid waste to be disposed of in the sanitary
51 landfill; or

- 1 3. The geographic area to be served by the sanitary landfill.
- 2 b. A change in the categories of solid waste to be disposed of in the
- 3 sanitary landfill or any other change to the application for a permit or
- 4 to the permit for a sanitary landfill that the Commission or the
- 5 Department determines to be substantial.
- 6 (2) A person who intends to apply for a new permit, ~~the renewal of a permit,~~
- 7 major permit modification, or a substantial amendment to a permit for a
- 8 sanitary landfill shall obtain, prior to applying for a permit, a franchise for
- 9 the operation of the sanitary landfill from each local government having
- 10 jurisdiction over any part of the land on which the sanitary landfill and its
- 11 appurtenances are located or to be located. A local government may adopt a
- 12 franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise
- 13 granted for a sanitary landfill shall be granted for the life-of-site of the
- 14 landfill and shall include all of the following:
- 15 a. A statement of the population to be served, including a description of
- 16 the geographic area.
- 17 b. A description of the volume and characteristics of the waste stream.
- 18 c. A projection of the useful life of the sanitary landfill.
- 19 d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.
- 20 e. The procedures to be followed for governmental oversight and
- 21 regulation of the fees and rates to be charged by facilities subject to
- 22 the franchise for waste generated in the jurisdiction of the franchising
- 23 entity.
- 24 f. A facility plan for the sanitary landfill that shall include the
- 25 boundaries of the proposed facility, proposed development of the
- 26 ~~facility site in five-year operational phases, site,~~ the boundaries of all
- 27 waste disposal units, final elevations and capacity of all waste
- 28 disposal units, the amount of waste to be received per day in tons, the
- 29 total waste disposal capacity of the sanitary landfill in tons, a
- 30 description of environmental controls, and a description of any other
- 31 waste management activities to be conducted at the facility. In
- 32 addition, the facility plan shall show the proposed location of soil
- 33 borrow areas, leachate facilities, and all other facilities and
- 34 infrastructure, including ingress and egress to the facility.
- 35 ...
- 36 (4) An applicant for a new permit, ~~the renewal of a permit,~~ major permit
- 37 modification, or a substantial amendment to a permit for a sanitary landfill
- 38 shall request each local government having jurisdiction over any part of the
- 39 land on which the sanitary landfill and its appurtenances are located or to be
- 40 located to issue a determination as to whether the local government has in
- 41 effect a franchise, zoning, subdivision, or land-use planning ordinance
- 42 applicable to the sanitary landfill and whether the proposed sanitary landfill,
- 43 or the existing sanitary landfill as it would be operated under the ~~renewed or~~
- 44 major permit modification or substantially amended permit, would be
- 45 consistent with the applicable ordinances. The request to the local
- 46 government shall be accompanied by a copy of the permit application and
- 47 shall be delivered to the clerk of the local government personally or by
- 48 certified mail. In order to serve as a basis for a determination that an
- 49 application for a new permit, ~~the renewal of a permit,~~ major permit
- 50 modification, or a substantial amendment to a permit for a sanitary landfill is
- 51 consistent with a zoning, subdivision, or land-use planning ordinance, an

1 ordinance or zoning classification applicable to the real property designated
2 in the permit application shall have been in effect not less than 90 days prior
3 to the date the request for a determination of consistency is delivered to the
4 clerk of the local government. The determination shall be verified or
5 supported by affidavit signed by the chief administrative officer, the chief
6 administrative officer's designee, clerk, or other official designated by the
7 local government to make the determination and, if the local government
8 states that the sanitary landfill as it would be operated under the ~~new,
9 renewed,~~ new permit, major permit modification, or substantially amended
10 permit is inconsistent with a franchise, zoning, subdivision, or land-use
11 planning ordinance, shall include a copy of the ordinance and the specific
12 reasons for the determination of inconsistency. A copy of the determination
13 shall be provided to the applicant when the determination is submitted to the
14 Department. The Department shall not act upon an application for a permit
15 under this section until it has received a determination from each local
16 government requested to make a determination by the applicant; provided
17 that if a local government fails to submit a determination to the Department
18 as provided by this subsection within 15 days after receipt of the request, the
19 Department shall proceed to consider the permit application without regard
20 to a franchise, local zoning, subdivision, and land-use planning ordinances.
21 Unless the local government makes a subsequent determination of
22 consistency with all ordinances cited in the determination or the sanitary
23 landfill as it would be operated under the ~~new, renewed,~~ new permit, major
24 permit modification, or substantially amended permit is determined by a
25 court of competent jurisdiction to be consistent with the cited ordinances, the
26 Department shall attach as a condition of the permit a requirement that the
27 applicant, prior to construction or operation of the sanitary landfill under the
28 permit, comply with all lawfully adopted local ordinances cited in the
29 determination that apply to the sanitary landfill. This subsection shall not be
30 construed to affect the validity of any lawfully adopted franchise, local
31 zoning, subdivision, or land-use planning ordinance or to affect the
32 responsibility of any person to comply with any lawfully adopted franchise,
33 local zoning, subdivision, or land-use planning ordinance. This subsection
34 shall not be construed to limit any opportunity a local government may have
35 to comment on a permit application under any other law or rule. This
36 subsection shall not apply to any facility with respect to which local
37 ordinances are subject to review under either G.S. 104E-6.2 or
38 G.S. 130A-293.

- 39 (5) As used in this subdivision, "coal-fired generating unit" and "investor-owned
40 public utility" have the same meaning as in G.S. 143-215.107D(a).
41 Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no
42 franchise shall be required for a sanitary landfill used only to dispose of
43 waste generated by a coal-fired generating unit that is owned or operated by
44 an investor-owned utility subject to the requirements of G.S. 143-215.107D.

45"

46 **SECTION 14.20.(b)** No later than July 1, 2016, the Environmental Management
47 Commission shall adopt rules to allow applicants for permits for sanitary landfills to apply for a
48 permit for the life-of-site of the facility. No later than July 1, 2016, the Commission shall also
49 adopt rules to allow applicants for permits for transfer stations to apply for a permit to construct
50 and operate a transfer station for the life-of-site of the station.

51 **SECTION 14.20.(c)** G.S. 130A-295.8 reads as rewritten:

1 **"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

2 (a) The Solid Waste Management Account is established as a nonreverting account
3 within the Department. All fees collected under this section shall be credited to the Account
4 and shall be used to support the solid waste management program established pursuant to
5 G.S. 130A-294.

6 (b) As used in this section:

7 (1) "Major permit modification" means either of the following:

8 a. ~~an~~ An application for any change to the approved engineering plans
9 for a sanitary landfill or transfer station permitted for a 10-year
10 life-of-site design capacity that does not constitute a "permit
11 amendment," "new permit," or "permit modification."

12 b. An application for a permit to be issued pursuant to
13 G.S. 130A-294(a2), which is issued for a duration of less than a
14 facility's life-of-site based upon permits previously issued to a
15 facility.

16 (1a) "New permit" means any of the following:

17 a. An application for a permit for a solid waste management facility
18 that has not been previously permitted by the Department. The term
19 includes one site suitability review, the initial permit to construct,
20 and one permit to ~~operate the constructed portion of a phase included~~
21 ~~in the permit to construct.~~ operate.

22 b. An application that proposes to expand the boundary of a permitted
23 waste management facility for the purpose of expanding the
24 permitted activity.

25 c. An application that includes a proposed expansion to the boundary of
26 a waste disposal unit within a permitted solid waste management
27 facility.

28 d. An application for a substantial amendment to a solid waste permit,
29 as defined in G.S. 130A-294.

30 (2) "Permit amendment" means any of the following:

31 a. ~~An application for a permit to construct and one permit to operate for~~
32 ~~the second and subsequent phases of landfill development described~~
33 ~~in the approved facility plan for a permitted solid waste management~~
34 ~~facility.~~

35 b. An application for the five-year renewal of a permit for a permitted
36 solid waste management facility or for a permit review of a permitted
37 solid waste management facility. This sub-subdivision shall not
38 apply to sanitary landfills or transfer stations.

39 c. Any application that proposes a change in ownership or corporate
40 structure of a permitted solid waste management facility. This
41 sub-subdivision shall not apply to sanitary landfills or transfer
42 stations.

43 (3) "Permit modification" means any of the following:

44 a. An application for any change to the plans approved in a permit for a
45 solid waste management facility that does not constitute a "permit
46 amendment" or a "new permit". This sub-subdivision shall not apply
47 to sanitary landfills or transfer stations.

48 b. ~~A second or subsequent permit to operate for a constructed portion of~~
49 ~~a phase included in the permit to construct.~~

50 c. An application for a five-year limited review of a ~~10-year life-of-site~~
51 permit, as required by ~~G.S. 130A-294(a2),~~ G.S. 130A-294(a3),

1 including review of the ~~operations plan, operational activities at the~~
2 ~~facility for the preceding time period, as well as future operational~~
3 ~~plans, closure plan, plans, post-closure plan, plans, financial~~
4 assurance cost estimates, environmental monitoring plans, and any
5 other applicable plans for the facility.

6 (4) "Ownership modification" means any application that proposes a change in
7 ownership or corporate structure of a permitted sanitary landfill or transfer
8 station.

9 (e) ~~An applicant for a permit shall pay an application fee upon submission of an~~
10 ~~application according to the following schedule:~~

11 (1) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
12 ~~solid waste, New Permit (Five Year) — \$25,000.~~

13 (1a) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
14 ~~solid waste, New Permit (Ten Year) — \$38,500.~~

15 (2) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
16 ~~solid waste, Amendment (Five Year) — \$15,000.~~

17 (2a) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
18 ~~solid waste, Amendment (Ten Year) — \$28,500.~~

19 (3) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
20 ~~solid waste, Modification (Five Year) — \$1,500.~~

21 (3a) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~
22 ~~solid waste, Major Modification (Ten Year) — \$7,500.~~

23 (4) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
24 ~~waste, New Permit (Five Year) — \$50,000.~~

25 (4a) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
26 ~~waste, New Permit (Ten Year) — \$77,000.~~

27 (5) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
28 ~~waste, Amendment (Five Year) — \$30,000.~~

29 (5a) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
30 ~~waste, Amendment (Ten Year) — \$57,000.~~

31 (6) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
32 ~~waste, Modification (Five Year) — \$3,000.~~

33 (6a) ~~Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid~~
34 ~~waste, Major Modification (Ten Year) — \$15,000.~~

35 (7) ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~
36 ~~of solid waste, New Permit (Five Year) — \$15,000.~~

37 (7a) ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~
38 ~~of solid waste, New Permit (Ten Year) — \$22,500.~~

39 (8) ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~
40 ~~of solid waste, Amendment (Five Year) — \$9,000.~~

41 (8a) ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~
42 ~~of solid waste, Amendment (Ten Year) — \$16,500.~~

43 (9) ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~
44 ~~of solid waste, Modification (Five Year) — \$1,500.~~

45 (9a) ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~
46 ~~of solid waste, Major Modification (Ten Year) — \$4,500.~~

47 (10) ~~Construction and Demolition Landfill accepting 100,000 tons/year or more~~
48 ~~of solid waste, New Permit (Five Year) — \$30,000.~~

49 (10a) ~~Construction and Demolition Landfill accepting 100,000 tons/year or more~~
50 ~~of solid waste, New Permit (Ten Year) — \$46,000.~~

- 1 (11) Construction and Demolition Landfill accepting 100,000 tons/year or more
2 of solid waste, Amendment (Five Year) — \$18,500.
- 3 (11a) Construction and Demolition Landfill accepting 100,000 tons/year or more
4 of solid waste, Amendment (Ten Year) — \$34,500.
- 5 (12) Construction and Demolition Landfill accepting 100,000 tons/year or more
6 of solid waste, Modification (Five Year) — \$2,500.
- 7 (12a) Construction and Demolition Landfill accepting 100,000 tons/year or more
8 of solid waste, Major Modification (Ten Year) — \$9,250.
- 9 (13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New
10 Permit (Five Year) — \$15,000.
- 11 (13a) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New
12 Permit (Ten Year) — \$22,500.
- 13 (14) Industrial Landfill accepting less than 100,000 tons/year of solid waste,
14 Amendment (Five Year) — \$9,000.
- 15 (14a) Industrial Landfill accepting less than 100,000 tons/year of solid waste,
16 Amendment (Ten Year) — \$16,500.
- 17 (15) Industrial Landfill accepting less than 100,000 tons/year of solid waste,
18 Modification (Five Year) — \$1,500.
- 19 (15a) Industrial Landfill accepting less than 100,000 tons/year of solid waste,
20 Major Modification (Ten Year) — \$4,500.
- 21 (16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New
22 Permit (Five Year) — \$30,000.
- 23 (16a) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New
24 Permit (Ten Year) — \$46,000.
- 25 (17) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
26 Amendment (Five Year) — \$18,500.
- 27 (17a) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
28 Amendment (Ten Year) — \$34,500.
- 29 (18) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
30 Modification (Five Year) — \$2,500.
- 31 (18a) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
32 Major Modification (Ten Year) — \$9,250.
- 33 (19) Tire Monofill, New Permit — \$1,750.
- 34 (19a) Tire Monofill, New Permit (Ten Year) — \$2,500.
- 35 (20) Tire Monofill, Amendment — \$1,250.
- 36 (20A) Tire Monofill, Amendment (Ten Year) — \$2,000.
- 37 (21) Tire Monofill, Modification — \$500.
- 38 (21A) Tire Monofill, Major Modification — \$625.
- 39 (22) Treatment and Processing, New Permit — \$1,750.
- 40 (23) Treatment and Processing, Amendment — \$1,250.
- 41 (24) Treatment and Processing, Modification — \$500.
- 42 (25) Transfer Station, New Permit (Five Year) — \$5,000.
- 43 (25a) Transfer Station, New Permit (Ten Year) — \$7,500.
- 44 (26) Transfer Station, Amendment (Five Year) — \$3,000.
- 45 (26a) Transfer Station, Amendment (Ten Year) — \$5,500.
- 46 (27) Transfer Station, Modification (Five Year) — \$500.
- 47 (27a) Transfer Station, Major Modification (Ten Year) — \$1,500.
- 48 (28) Incinerator, New Permit — \$1,750.
- 49 (29) Incinerator, Amendment — \$1,250.
- 50 (30) Incinerator, Modification — \$500.
- 51 (31) Large Compost Facility, New Permit — \$1,750.

- 1 (32) ~~Large Compost Facility, Amendment—\$1,250.~~
 2 (33) ~~Large Compost Facility, Modification—\$500.~~
 3 (34) ~~Land Clearing and Inert, New Permit—\$1,000.~~
 4 (35) ~~Land Clearing and Inert, Amendment—\$500.~~
 5 (36) ~~Land Clearing and Inert, Modification—\$250.~~
 6 (d) ~~A permitted solid waste management facility shall pay an annual permit fee on or~~
 7 ~~before 1 August of each year according to the following schedule:~~
 8 (1) ~~Municipal Solid Waste Landfill—\$3,500.~~
 9 (2) ~~Post-Closure Municipal Solid Waste Landfill—\$1,000.~~
 10 (3) ~~Construction and Demolition Landfill—\$2,750.~~
 11 (4) ~~Post-Closure Construction and Demolition Landfill—\$500.~~
 12 (5) ~~Industrial Landfill—\$2,750.~~
 13 (6) ~~Post-Closure Industrial Landfill—\$500.~~
 14 (7) ~~Transfer Station—\$750.~~
 15 (8) ~~Treatment and Processing Facility—\$500.~~
 16 (9) ~~Tire Monofill—\$500.~~
 17 (10) ~~Incinerator—\$500.~~
 18 (11) ~~Large Compost Facility—\$500.~~
 19 (12) ~~Land Clearing and Inert Debris Landfill—\$500.~~
 20 (d1) A permitted solid waste management facility shall pay an annual permit fee on or
 21 before August 1 of each year according to the following schedule:
 22 (1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of
 23 solid waste – \$7,500.
 24 (2) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less
 25 than 250,000 tons/year of solid waste – \$12,000.
 26 (3) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid
 27 waste – \$20,000.
 28 (4) Post-Closure Municipal Solid Waste Landfill – \$1,000.
 29 (5) Construction and Demolition Landfill accepting less than 25,000 tons/year
 30 of solid waste – \$6,000.
 31 (6) Construction and Demolition Landfill accepting 25,000 tons/year or more of
 32 solid waste – \$9,250.
 33 (7) Post-Closure Construction and Demolition Landfill – \$500.
 34 (8) Industrial Landfill accepting less than 100,000 tons/year of solid waste –
 35 \$7,500.
 36 (9) Industrial Landfill accepting 100,000 tons/year or more of solid waste –
 37 \$15,000.
 38 (10) Post-Closure Industrial Landfill – \$500.
 39 (11) Transfer Station accepting less than 25,000 tons/year of solid waste – \$750.
 40 (12) Transfer Station accepting 25,000 tons/year or more of solid waste – \$1,500.
 41 (13) Treatment and Processing Facility – \$750.
 42 (14) Tire Monofill – \$6,000.
 43 (15) Incinerator – \$750.
 44 (16) Large Compost Facility – \$750.
 45 (17) Land Clearing and Inert Debris Landfill – \$750.
 46 (d2) Upon submission of an application for a new permit, an applicant shall pay an
 47 application fee in the amount of ten percent (10%) of the annual permit fee imposed for that
 48 type of solid waste management facility as identified in subdivisions (1) through (17) of
 49 subsection (d1) of this section.
 50 "

51 **SECTION 14.20.(d)** G.S. 130A-295.3 reads as rewritten:

1 "**§ 130A-295.3. Environmental compliance review requirements for applicants and**
2 **permit holders.**

3 ...

4 (b) The Department shall conduct an environmental compliance review of each
5 applicant for a new ~~permit, permit renewal, permit~~ and permit amendment under this Article.
6 The environmental compliance review shall evaluate the environmental compliance history of
7 the applicant for a period of five years prior to the date of the application and may cover a
8 longer period at the discretion of the Department. The environmental compliance review of an
9 applicant may include consideration of the environmental compliance history of the parents,
10 subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any
11 business entity or joint venturer with a direct or indirect interest in the applicant, and other
12 facilities owned or operated by any of them. The Department shall determine the scope of the
13 review of the environmental compliance history of the applicant, parents, subsidiaries, or other
14 affiliates of the applicant or parent, including any business entity or joint venturer with a direct
15 or indirect interest in the applicant, and of other facilities owned or operated by any of them.
16 An applicant for a permit shall provide environmental compliance history information for each
17 facility, business entity, joint venture, or other undertaking in which any of the persons listed in
18 this subsection is or has been an owner, operator, officer, director, manager, member, or
19 partner, or in which any of the persons listed in this subsection has had a direct or indirect
20 interest as requested by the Department.

21"

22 **SECTION 14.20.(e)** This section becomes effective August 1, 2015.
23 G.S. 130A-294(b1)(2), as amended by subsection (a) of this section, applies to franchise
24 agreements executed on or after August 1, 2015. The remainder of G.S. 130A-294, as amended
25 by subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c) of this
26 section, apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued
27 before the date this act becomes effective, when that permit is next subject to renewal after July
28 1, 2016, and (ii) new sanitary landfills and transfer stations, for applications submitted on or
29 after July 1, 2016.

30
31 **ENVIRONMENTAL REVIEW COMMISSION STUDIES**

32 **SECTION 14.21.(a)** The Environmental Review Commission shall convene a
33 stakeholder working group to study local government authority over solid waste management
34 matters, including (i) the authority to enact ordinances concerning collection and processing of
35 solid waste generated within their jurisdictions, as well as their authority to charge fees for such
36 services; (ii) an examination of costs to local governments for providing solid waste collection
37 and processing services to citizens; (iii) whether efficiencies and cost reductions could be
38 realized through privatization of such services, and what impacts might result from
39 privatization, including any bearing on local government financing of currently sited solid
40 waste management facilities; and (iv) any other issue the Commission deems relevant. In the
41 conduct of this study, the Commission shall consult with representatives of the League of
42 Municipalities, the Association of County Commissioners, the Local Government Commission,
43 faculty from the School of Government at the University of North Carolina at Chapel Hill, as
44 well as private waste management interests, at a minimum. The Division of Waste
45 Management and the Division of Environmental Assistance and Customer Service of the
46 Department of Environment and Natural Resources shall provide any information and
47 personnel requested by the Commission in the conduct of a study required by this section.

48 **SECTION 14.21.(b)** The Environmental Review Commission shall study the use
49 of new technologies and strategies, including the use of integrated and mobile aerosolization
50 systems, to dewater leachate and other forms of wastewater for the purpose of reducing the
51 burden and cost of disposal at the site where it is generated. The Commission shall determine

1 the efficiency, cost-effectiveness, and environmental impact of each studied technology and
2 strategy. The Division of Waste Management and the Division of Water Resources of the
3 Department of Environment and Natural Resources shall provide any information and
4 personnel requested by the Commission in the conduct of a study required by this section.
5

6 **PRE-1983 LANDFILL CLEANUP PRIVATIZATION**

7 **SECTION 14.22.(a)** Legislative Findings. – The General Assembly makes the
8 following findings:

- 9 (1) Section 5 of Article XIV of the North Carolina Constitution sets out the
10 conservation and protection of State lands and waters as a policy of the
11 State, and a more expeditious method for remediation and reuse of pre-1983
12 landfill sites and other State-identified contaminated sites is in furtherance of
13 that policy.
- 14 (2) Despite past legislative directives, a dedicated source of revenue, and a
15 considerable fund balance, little progress has been made in active cleanup of
16 these landfill sites.
- 17 (3) Qualified private firms should be given the opportunity to remediate
18 pre-1983 landfills and other State-identified contamination sites.
- 19 (4) Implementation of a site assessment and remediation program based on
20 requests for proposal from private firms for the 10 highest-priority pre-1983
21 landfill sites will result in multiple benefits to the State, including (i)
22 reducing known environmental hazards that are associated with the many
23 identified sites across the State, (ii) decreasing the State's economic liability
24 for these sites, (iii) promoting economic growth through the job creation
25 associated with returning these sites to beneficial and productive use, and
26 (iv) establishing an efficient, cost-effective model for other State projects.

27 **SECTION 14.22.(b)** G.S. 130A-310.6 is amended by adding a new subsection to
28 read:

29 "(h) The Department shall implement an ongoing program that provides for the
30 expeditious assessment and, where indicated as necessary based on assessment and other data,
31 the conduct of site remediation by qualified private entities at no less than 10 of the pre-1983
32 landfill sites that have been identified by the Department as being among the 100 sites rated
33 highest in priority under subsection (c) of this section. The program shall include the following
34 activities to be undertaken by the Department:

- 35 (1) Contract via issuance of a Request for Proposal with one or more qualified
36 private entities who have prequalified under procedures established by the
37 Department for (i) remaining assessment and contamination delineation
38 activities necessary to identify those sites within the 100 highest-priority
39 sites where completion of site remediation will yield maximum health,
40 safety, and economic benefits based on an evaluation of potential beneficial
41 and productive use of the site, impact of the unremediated site on uses of
42 surrounding property, and other pertinent factors and (ii) remediation of the
43 selected sites utilizing private sector best practices for maximizing efficacy
44 and cost-effectiveness of the remedial alternative selected.
- 45 (2) Develop requirements for full-time monitoring of project sites to ensure that
46 remedial activities are conducted in a safe and environmentally protective
47 manner and performed to a health-based, predetermined risk standard based
48 on the proposed subsequent use of the properties."

49 **SECTION 14.22.(c)** G.S. 143-64.34 reads as rewritten:

50 **"§ 143-64.34. Exemption of certain projects.**

1 (a) State capital improvement projects under the jurisdiction of the State Building
2 Commission, capital improvement projects of The University of North Carolina, and
3 community college capital improvement projects, where the estimated expenditure of public
4 money is less than five hundred thousand dollars (\$500,000), are exempt from the provisions of
5 this Article.

6 (b) Pre-1983 landfill sites remediated pursuant to G.S. 130A-310.6 are exempt from the
7 provisions of this Article."

8 **SECTION 14.22.(d)** The Department of Environment and Natural Resources shall
9 seek United States Environmental Protection Agency approval for implementation of all
10 elements of the program required by this section. On or before December 31, 2015, the
11 Department shall develop and submit any Memoranda of Agreement, delineations of
12 programmatic responsibility, procedure for coordination, and other information that the United
13 States Environmental Protection Agency may require in order to effectuate the elements of the
14 program required by this section.

15 **SECTION 14.22.(e)** If approval for implementation of all elements of the program
16 required by this section is received by the United States Environmental Protection Agency, the
17 Department of Environment and Natural Resources shall issue the Request for Proposal
18 required by G.S. 130A-310.6(h), as enacted by subsection (b) of this section, no later than 60
19 days of receipt of that approval.

20 **SECTION 14.22.(f)** The Department shall review and evaluate other states'
21 requirements, programs, and policies for remediation of sites similar to those classified as
22 "pre-1983 landfills" as defined by the State with a focus on other states that may have
23 implemented requirements, programs, and policies that are resulting in safe remediation of such
24 sites and that are performed in a more cost-effective and expeditious manner than that
25 performed in North Carolina under traditional remediation requirements, programs, and
26 policies and report its findings, including recommendations for further legislative action, to the
27 chairs of the House of Representatives Appropriations Committee on Agriculture and Natural
28 and Economic Resources, the Senate Appropriations Committee on Natural and Economic
29 Resources, and the Fiscal Research Division prior to May 15, 2016.

30 31 **COMPENSATORY MITIGATION REQUIREMENTS**

32 **SECTION 14.23.(a)** The Department of Environment and Natural Resources,
33 Division of Mitigation Services, shall develop a program to increase the State's ability to utilize
34 private mitigation banks to satisfy compensatory mitigation requirements of the State. The
35 program shall include all of the following components:

- 36 (1) Thirty months after the effective date of this act, the Division of Mitigation
37 Services shall cease acceptance of fees for governmental and
38 nongovernmental entities in lieu of mitigation for stream, wetland, riparian
39 buffer, and nutrient impacts permitted to occur in the Neuse, Cape Fear, and
40 Tar-Pamlico River Basins.
- 41 (2) The Department, with the concurrence of the Environmental Management
42 Commission (Commission), may cease acceptance of fees in lieu of
43 mitigation within additional river basins after June 30, 2018, provided the
44 public is notified at least 24 months in advance of the cessation of service.
- 45 (3) In the event of unforeseen, unique, or exigent circumstances and upon the
46 request of the Secretary of Commerce or the Secretary of Transportation, the
47 Department may direct the Division of Mitigation Services to accept fees in
48 lieu of mitigation to support permits for projects owned or sponsored by
49 those Departments.
- 50 (4) The Division of Mitigation Services shall continue to provide watershed
51 planning statewide under a fee structure set by the Commission.

1 (5) The Division of Mitigation Services will manage the inventory and
2 utilization of all existing mitigation credits held by the North Carolina
3 Department of Transportation and shall also oversee and direct the future
4 acquisition of mitigation credits by that Department.

5 **SECTION 14.23.(b)** No later than October 1, 2015, the Commission shall adopt
6 temporary rules consistent with this subsection. The temporary rules shall remain in effect until
7 permanent rules that replace the temporary rules become effective.

8 9 **PETITION FOR WETLANDS MITIGATION FLEXIBILITY**

10 **SECTION 14.24.(a)** No later than October 1, 2015, the Department of
11 Environment and Natural Resources shall petition the Wilmington District, the South Atlantic
12 District, and the Headquarters of the United States Army Corps of Engineers (the Corps
13 Offices) to allow for greater flexibility and opportunity to perform wetlands mitigation outside
14 of the eight-digit Hydrologic Unit Code (HUC) where development will occur. The Department
15 shall seek this greater flexibility and opportunity for mitigation for both public and private
16 development. The Department shall request that the Corps Offices review the flexibility and
17 opportunities for mitigation allowed by other Districts of the United States Army Corps of
18 Engineers, both within the South Atlantic District and nationwide.

19 **SECTION 14.24.(b)** The Department shall report on its progress in petitioning the
20 Corps Offices as required by subsection (a) of this section to the Environmental Review
21 Commission, the chairs of the Senate Appropriations Committee on Natural and Economic
22 Resources and the House Appropriations Committee on Agriculture and Natural and Economic
23 Resources, and the Fiscal Research Division no later than January 1, 2016.

24 25 **SECTION 404 PERMITTING PROGRAM DELEGATION**

26 **SECTION 14.25.** The funds appropriated in this act for Section 404 Program
27 delegation application shall be used by the Department of Environment and Natural Resources
28 to issue a Request for Proposal for a consultant to plan and prepare an application for the
29 assumption by the State of administration of the Section 404 permitting program under the
30 Federal Water Pollution Control Act for North Carolina from the United States Army Corps of
31 Engineers (Corps).

32 33 **REPEAL SEDIMENTATION CONTROL COMMISSION AND TRANSFER** 34 **RESPONSIBILITIES TO THE ENVIRONMENTAL MANAGEMENT** 35 **COMMISSION AND REFORM CIVIL PENALTIES UNDER THE** 36 **SEDIMENTATION POLLUTION CONTROL ACT**

37 **SECTION 14.26.(a)** Part 8 of Article 7 of Chapter 143B of the General Statutes is
38 repealed.

39 **SECTION 14.26.(b)** G.S. 113A-52(2) reads as rewritten:

40 "(2) "Commission" means the ~~North—Carolina—Sedimentation~~
41 ~~Control~~Environmental Management Commission."

42 **SECTION 14.26.(c)** G.S. 113A-54.1(c) reads as rewritten:

43 **"§ 113A-54.1. Approval of erosion control plans.**

44 ...

45 (c) The Commission shall disapprove an erosion and sedimentation control plan if
46 implementation of the plan would result in a violation of rules adopted by the ~~Environmental~~
47 ~~Management~~ Commission to protect riparian buffers along surface waters. The Director of the
48 Division of Energy, Mineral, and Land Resources may disapprove an erosion and
49 sedimentation control plan or disapprove a transfer of a plan under subsection (d1) of this
50 section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

- 1 (1) Is conducting or has conducted land-disturbing activity without an approved
2 plan, or has received notice of violation of a plan previously approved by the
3 Commission or a local government pursuant to this Article and has not
4 complied with the notice within the time specified in the notice;
- 5 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local
6 ordinance adopted pursuant to this Article by the time the payment is due;
- 7 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any
8 criminal provision of a local ordinance adopted pursuant to this Article; or
- 9 (4) Has failed to substantially comply with State rules or local ordinances and
10 regulations adopted pursuant to this Article."

11 **SECTION 14.26.(d)** G.S. 113A-57(1) reads as rewritten:

12 **"§ 113A-57. Mandatory standards for land-disturbing activity.**

13 No land-disturbing activity subject to this Article shall be undertaken except in accordance
14 with the following mandatory requirements:

- 15 (1) No land-disturbing activity during periods of construction or improvement to
16 land shall be permitted in proximity to a lake or natural watercourse unless a
17 buffer zone is provided along the margin of the watercourse of sufficient
18 width to confine visible siltation within the twenty-five percent (25%) of the
19 buffer zone nearest the land-disturbing activity. Waters that have been
20 classified as trout waters by the ~~Environmental Management~~ Commission
21 shall have an undisturbed buffer zone 25 feet wide or of sufficient width to
22 confine visible siltation within the twenty-five percent (25%) of the buffer
23 zone nearest the land-disturbing activity, whichever is greater. Provided,
24 however, that the ~~Sedimentation Control~~ Commission may approve plans
25 which include land-disturbing activity along trout waters when the duration
26 of said disturbance would be temporary and the extent of said disturbance
27 would be minimal. This subdivision shall not apply to a land-disturbing
28 activity in connection with the construction of facilities to be located on,
29 over, or under a lake or natural watercourse."

30 **SECTION 14.26.(e)** G.S. 113A-61(b1) reads as rewritten:

31 "(b1) A local government shall condition approval of a draft erosion and sedimentation
32 control plan upon the applicant's compliance with federal and State water quality laws,
33 regulations, and rules. A local government shall disapprove an erosion and sedimentation
34 control plan if implementation of the plan would result in a violation of rules adopted by the
35 ~~Environmental Management~~ Commission to protect riparian buffers along surface waters. A
36 local government may disapprove an erosion and sedimentation control plan or disapprove a
37 transfer of a plan under subsection (b3) of this section upon finding that an applicant or a
38 parent, subsidiary, or other affiliate of the applicant:

- 39 (1) Is conducting or has conducted land-disturbing activity without an approved
40 plan, or has received notice of violation of a plan previously approved by the
41 Commission or a local government pursuant to this Article and has not
42 complied with the notice within the time specified in the notice.
- 43 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local
44 ordinance adopted pursuant to this Article by the time the payment is due.
- 45 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any
46 criminal provision of a local ordinance adopted pursuant to this Article.
- 47 (4) Has failed to substantially comply with State rules or local ordinances and
48 regulations adopted pursuant to this Article."

49 **SECTION 14.26.(f)** G.S. 113A-125(c) reads as rewritten:

50 "(c) Within the meaning of this section, "existing regulatory permits" include dredge and
51 fill permits issued pursuant to G.S. 113-229; sand dune permits issued pursuant to G.S. 104B-4;

1 air pollution control and water pollution control permits, special orders or certificates issued
2 pursuant to G.S. 143-215.1 and 143-215.2, or any other permits, licenses, authorizations,
3 approvals or certificates issued by the Board of Water and Air Resources pursuant to Chapter
4 143; capacity use area permits issued pursuant to G.S. 143-215.15; final approval of dams
5 pursuant to G.S. 143-215.30; floodway permits issued pursuant to G.S. 143-215.54; water
6 diversion authorizations issued pursuant to G.S. 143-354(c); oil refinery permits issued
7 pursuant to G.S. 143-215.99; mining operating permits issued pursuant to G.S. 74-51;
8 permissions for construction of wells issued pursuant to G.S. 87-88; and rules concerning
9 pesticide application within the coastal area issued pursuant to G.S. 143-458; approvals by the
10 Department of Health and Human Services of plans for water supply, drainage or sewerage,
11 pursuant to G.S. 130-161.1 and 130-161.2; standards and approvals for solid waste disposal
12 sites and facilities, adopted by the Department of Health and Human Services pursuant to
13 Chapter 130, Article 13B; permits relating to sanitation of shellfish, crustacea or scallops issued
14 pursuant to Chapter 130, Articles 14A or 14B; permits, approvals, authorizations and rules
15 issued by the Department of Health and Human Services pursuant to Articles 23 or 24 of
16 Chapter 130 with reference to mosquito control programs or districts; any permits, licenses,
17 authorizations, rules, approvals or certificates issued by the Department of Health and Human
18 Services relating to septic tanks or water wells; oil or gas well rules and orders issued for the
19 protection of environmental values or resources pursuant to G.S. 113-391; a certificate of
20 public convenience and necessity issued by the State Utilities Commission pursuant to Chapter
21 62 for any public utility plant or system, other than a carrier of persons or property; permits,
22 licenses, leases, options, authorization or approvals relating to the use of State forestlands, State
23 parks or other state-owned land issued by the State Department of Administration, the State
24 Department of Natural and Economic Resources or any other State department, agency or
25 institution; any approvals of erosion and sedimentation control plans that may be issued by the
26 ~~North Carolina Sedimentation Control~~ Commission pursuant to G.S. 113A-60 or 113A-61; and
27 any permits, licenses, authorizations, rules, approvals or certificates issued by any State agency
28 pursuant to any environmental protection legislation not specified in this subsection that may
29 be enacted prior to the permit changeover date."

30 **SECTION 14.26.(g)** G.S. 143B-279.3(b) reads as rewritten:

31 "(b) All functions, powers, duties, and obligations previously vested in the following
32 commissions, boards, councils, and committees of the following departments are transferred to
33 and vested in the Department of Environment and Natural Resources by a Type II transfer, as
34 defined in G.S. 143A-6:

- 35 (1) Repealed by Session Laws 1993, c. 501, s. 27.
- 36 (2) Radiation Protection Commission, Department of Health and Human
37 Services.
- 38 (3) Repealed by Session Laws 1997-443, s. 11A.6.
- 39 (4) Water Treatment Facility Operators Board of Certification, Department of
40 Health and Human Services.
- 41 (5) to (8) Repealed by Session Laws 1997-443, s. 11A.6.
- 42 (9) Coastal Resources Commission, Department of Natural Resources and
43 Community Development.
- 44 (10) Environmental Management Commission, Department of Natural Resources
45 and Community Development.
- 46 (11) Air Quality Council, Department of Natural Resources and Community
47 Development.
- 48 (12) Wastewater Treatment Plant Operators Certification Commission,
49 Department of Natural Resources and Community Development.
- 50 (13) Repealed by Session Laws 2011-145, s. 13.25(e), effective July 1, 2011.

- 1 (14) North Carolina Mining and Energy Commission, Department of Natural
2 Resources and Community Development.
3 (15) Advisory Committee on Land Records, Department of Natural Resources
4 and Community Development.
5 (16) Marine Fisheries Commission, Department of Natural Resources and
6 Community Development.
7 (17) Parks and Recreation Council, Department of Natural Resources and
8 Community Development.
9 (18) Repealed by Session Laws 2013-360, s. 14.3(j), effective August 1, 2013.
10 (19) North Carolina Trails Committee, Department of Natural Resources and
11 Community Development.
12 ~~(20) Sedimentation Control Commission, Department of Natural Resources and~~
13 ~~Community Development.~~
14 (21) Repealed by Session Laws 2011-145, s. 13.22A(d), effective July 1, 2011.
15 (22) North Carolina Zoological Park Council, Department of Natural Resources
16 and Community Development.
17 (23) Repealed by Session Laws 1997-286, s. 6."

18 **SECTION 14.26.(h)** G.S. 150B-19.3 reads as rewritten:

19 **"§ 150B-19.3. Limitation on certain environmental rules.**

20 (a) An agency authorized to implement and enforce State and federal environmental
21 laws may not adopt a rule for the protection of the environment or natural resources that
22 imposes a more restrictive standard, limitation, or requirement than those imposed by federal
23 law or rule, if a federal law or rule pertaining to the same subject matter has been adopted,
24 unless adoption of the rule is required by one of the subdivisions of this subsection. A rule
25 required by one of the following subdivisions of this subsection shall be subject to the
26 provisions of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more
27 persons under G.S. 150B-21.3(b2):

- 28 (1) A serious and unforeseen threat to the public health, safety, or welfare.
29 (2) An act of the General Assembly or United States Congress that expressly
30 requires the agency to adopt rules.
31 (3) A change in federal or State budgetary policy.
32 (4) A federal regulation required by an act of the United States Congress to be
33 adopted or administered by the State.
34 (5) A court order.

35 (b) For purposes of this section, "an agency authorized to implement and enforce State
36 and federal environmental laws" means any of the following:

- 37 (1) The Department of Environment and Natural Resources created pursuant to
38 G.S. 143B-279.1.
39 (2) The Environmental Management Commission created pursuant to
40 G.S. 143B-282.
41 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
42 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
43 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
44 (6) The Commission for Public Health created pursuant to G.S. 130A-29.
45 ~~(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.~~
46 (8) **(Effective until August 1, 2015)** The North Carolina Mining and Energy
47 Commission created pursuant to G.S. 143B-293.1.
48 (8) **(Effective August 1, 2015)** The North Carolina Oil and Gas Commission
49 created pursuant to G.S. 143B-293.1.
50 (9) The Pesticide Board created pursuant to G.S. 143-436."

51 **SECTION 14.26.(i)** G.S. 143B-282 reads as rewritten:

1 "§ 143B-282. Environmental Management Commission – creation; powers and duties.

2 (a) There is hereby created the Environmental Management Commission of the
3 Department of Environment and Natural Resources with the power and duty to promulgate
4 rules to be followed in the protection, preservation, and enhancement of the water and air
5 resources of the State.

6 (1) Within the limitations of G.S. 143-215.9 concerning industrial health and
7 safety, the Environmental Management Commission shall have all of the
8 following powers and duties:

9 ...
10 w. To, in cooperation with the Secretary of Transportation and Highway
11 Safety and other appropriate State and federal agencies, develop,
12 promulgate, publicize, and administer a comprehensive State erosion
13 and sedimentation control program pursuant to Article 4 of Chapter
14 113A of the General Statutes.

15 x. To assist local governments in the development of erosion and
16 sedimentation programs pursuant to G.S. 113A-60.

17 y. To assist and encourage other State agencies in the development of
18 erosion and sedimentation control programs pursuant to
19 G.S. 113A-56.

20 z. To develop recommended methods of control of sedimentation and
21 prepare and make available for distribution publications and other
22 materials dealing with sedimentation control techniques pursuant to
23 G.S. 113A-54.

24 (2) The Environmental Management Commission shall adopt rules:

25 ...
26 m. For the control of erosion and sedimentation pursuant to
27 G.S. 113A-54.

28"

29 **SECTION 14.26.(j)** Notwithstanding G.S. 113A-54(b), the Environmental
30 Management Commission shall review the rules adopted by the Sedimentation Control
31 Commission and amend or repeal any such rules that the Environmental Management
32 Commission determines to be outdated, unnecessary, duplicative, or confusing. The
33 Environmental Management Commission shall report its findings and any actions taken
34 pursuant to this section to the Environmental Review Commission on or before January 1,
35 2016.

36 **SECTION 14.26.(k)** G.S. 113A-54 is amended by adding a new subsection to
37 read:

38 "(g) The Commission is authorized to make the final decision on a request for the
39 remission of a civil penalty under G.S. 113A-64.2."

40 **SECTION 14.26.(l)** G.S. 113A-64(a) reads as rewritten:

41 "(a) Civil Penalties. –

42 (1) Any person who violates any of the provisions of this Article or any
43 ordinance, rule, or order adopted or issued pursuant to this Article by the
44 Commission or by a local government, or who initiates or continues a
45 land-disturbing activity for which an erosion and sedimentation control plan
46 is required except in accordance with the terms, conditions, and provisions
47 of an approved plan, is subject to a civil penalty. The maximum civil penalty
48 for a violation is five thousand dollars (\$5,000). A civil penalty may be
49 assessed from the date of the violation. Each day of a continuing violation
50 shall constitute a separate violation. When the person has not been assessed
51 any civil penalty under this subsection for any previous violation and that

1 person abated continuing environmental damage resulting from the violation
2 within 180 days from the date of the notice of violation, the maximum
3 cumulative total civil penalty assessed under this subsection for all violations
4 associated with the land-disturbing activity for which the erosion and
5 sedimentation control plan is required is twenty-five thousand dollars
6 (\$25,000).

- 7 (2) The Secretary or a local government that administers an erosion and
8 sedimentation control program approved under G.S. 113A-60 shall
9 determine the amount of the civil penalty and shall notify the person who is
10 assessed the civil penalty of the amount of the ~~penalty and penalty~~, the reason
11 for assessing the ~~penalty-penalty~~, the option available to that person to
12 request a remission of the civil penalty under G.S. 113A-64.2, the date of the
13 deadline for that person to make the request regarding this particular penalty,
14 and, when that person has not been assessed any civil penalty under this
15 section for any previous violation, the date of the deadline for that person to
16 abate continuing environmental damage resulting from the violation in order
17 to be subject to the maximum cumulative total civil penalty under
18 subdivision (1) of this subsection. The notice of assessment shall be served
19 by any means authorized under G.S. 1A-1, Rule 4, and shall direct the
20 violation to either pay the assessment or contest the assessment within 30
21 days by filing a petition for a contested case under Article 3 of Chapter 150B
22 of the General Statutes. If a violator does not pay a civil penalty assessed by
23 the Secretary within 30 days after it is due, the Department shall request the
24 Attorney General to institute a civil action to recover the amount of the
25 assessment. If a violator does not pay a civil penalty assessed by a local
26 government within 30 days after it is due, the local government may institute
27 a civil action to recover the amount of the assessment. The civil action may
28 be brought in the superior court of any county where the violation occurred
29 or the violator's residence or principal place of business is located. A civil
30 action must be filed within three years of the date the assessment was due.
31 An assessment that is not contested is due when the violator is served with a
32 notice of assessment. An assessment that is contested is due at the
33 conclusion of the administrative and judicial review of the assessment.

34"

35 **SECTION 14.26.(m)** Article 4 of Chapter 113A of the General Statutes is
36 amended by adding a new section to read:

37 **"§ 113A-64.2. Remission of civil penalties.**

38 (a) Notwithstanding G.S. 143B-282.1(c), the Commission's Committee on Civil Penalty
39 Remissions shall evaluate requests for remission of civil penalties assessed under this Article in
40 accordance with this section.

41 (b) A request for remission of a civil penalty imposed under G.S. 113A-64 may be filed
42 with the Commission within 60 days of receipt of the notice of assessment. A remission request
43 must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter
44 150B of the General Statutes and a stipulation of the facts on which the assessment was based.

45 (c) The following factors shall be considered in determining whether a civil penalty
46 remission request will be approved:

- 47 (1) Whether one or more of the civil penalty assessment factors in
48 G.S. 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.
49 (2) Whether the petitioner promptly abated continuing environmental damage
50 resulting from the violation.
51 (3) Whether the violation was inadvertent or a result of an accident.

- 1 (4) Whether the petitioner had been assessed civil penalties for any previous
2 violations.
3 (5) Whether payment of the civil penalty will prevent payment for necessary
4 remedial actions or would otherwise create a significant financial hardship.
5 (6) The assessed property tax valuation of the petitioner's property upon which
6 the violation occurred, excluding the value of any structures located on the
7 property.

8 (d) The petitioner has the burden of providing information concerning the financial
9 impact of a civil penalty on the petitioner and the burden of showing the petitioner's financial
10 hardship.

11 (e) The Commission may remit the entire amount of the penalty only when the
12 petitioner has not been assessed civil penalties for previous violations and payment of the civil
13 penalty will prevent payment for necessary remedial actions.

14 (f) The Commission may not impose a penalty under this section that is in excess of the
15 civil penalty imposed by the Department."

16 **SECTION 14.26.(n)** G.S. 113A-61.1(c) reads as rewritten:

17 "(c) If the Secretary, a local government that administers an erosion and sedimentation
18 control program approved under G.S. 113A-60, or other approving authority determines that
19 the person engaged in the land-disturbing activity has failed to comply with this Article, the
20 Secretary, local government, or other approving authority shall immediately serve a notice of
21 violation upon that person. The notice may be served by any means authorized under
22 G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply
23 with this Article and inform the person of the actions that need to be taken to comply with this
24 Article. Any person who fails to comply within the time specified is subject to additional civil
25 and criminal penalties for a continuing violation as provided in G.S. 113A-64. If the person
26 engaged in the land-disturbing activity has not received a previous notice of violation under this
27 section, the Department, local government, or other approving authority shall deliver the notice
28 of violation in person and shall offer assistance in developing corrective measures. Assistance
29 may be provided by referral to a technical assistance program in the Department, referral to a
30 cooperative extension program, or by the provision of written materials such as Department
31 guidance documents. If the Department, local government, or other approving authority is
32 unable to deliver the notice of violation in person within 15 days following discovery of the
33 violation, the notice of violation may be served in the manner prescribed for service of process
34 by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing
35 corrective measures."

36 **SECTION 14.26.(o)** Subsections (a) through (j) of this section become effective
37 June 30, 2015. The remainder of this section is effective when this act becomes law and applies
38 to civil penalties assessed and notices of violation issued on or after that date.

39 **ENERGY CENTERS**

40 **SECTION 14.27.** Of the funds appropriated in this act for University energy
41 centers, the sum of seven hundred ninety-four thousand one hundred forty-eight dollars
42 (\$794,148) shall be allocated to the existing energy center at North Carolina Agricultural and
43 Technical University and the sum of three hundred seventeen thousand ninety-four dollars
44 (\$317,094) shall be allocated to the University of North Carolina at Charlotte for establishment
45 of a University Energy Center. The Centers shall prioritize the use of these funds for study of
46 the beneficial reuse of coal combustion residuals.

47 **GEOLOGICAL RESEARCH FUNDS**

48 **SECTION 14.28.(a)** The funds appropriated by this act to the Department of
49 Environment and Natural Resources for geological research related to natural gas assessment
50 51

1 and development shall be used to fund a contract with a qualified private entity to perform a
2 comprehensive basin analysis on all known and potential onshore natural gas resources within
3 the State. The contract may include as part of the statewide basin analysis the digitization,
4 analysis, or reanalysis of geologic data related to natural gas exploration or development
5 opportunities, including utilization of existing seismic reflection data. The analysis shall
6 include recommendations and conclusions regarding the extent of potential natural gas-bearing
7 rocks in the State, the potential volumes of oil and gas within these basins, and additional data
8 and data analysis necessary to better quantify geographic extent, volume, and quality of
9 potential onshore oil and gas resources (together with cost estimates to acquire and process
10 these data).

11 **SECTION 14.28.(b)** The Department shall transmit the consultant's report and
12 recommendations no later than December 1, 2016, to the Environmental Review Commission;
13 the chairs of the Senate Appropriations Committee on Natural and Economic Resources and the
14 House Appropriations Committee on Agriculture, Natural, and Economic Resources; and the
15 Fiscal Research Division on the results of the study and its proposed strategy as required by
16 subsection (a) of this section, including any legislative recommendations.

17 18 **RESTRICTION ON CERTAIN FEDERAL GRANTS**

19 **SECTION 14.29.** The Department of Environment and Natural Resources shall not
20 apply for funding from the following grant programs in future grant cycles:

- 21 (1) SEP (State Energy Program) Competitive Grant.
- 22 (2) Clean Energy and Manufacturing.

23 24 **CONSOLIDATE ALL STATE ATTRACTIONS WITHIN DEPARTMENT OF** 25 **CULTURAL RESOURCES TO CREATE THE DEPARTMENT OF NATURAL** 26 **AND CULTURAL RESOURCES**

27
28 **SECTION 14.30.(a)** The Department of Cultural Resources is renamed the
29 Department of Natural and Cultural Resources, and all functions, powers, duties, and
30 obligations vested in the following programs, divisions, and entities within the Department of
31 Environment and Natural Resources are transferred to, vested in, and consolidated within the
32 Department of Natural and Cultural Resources by a Type I transfer, as defined in G.S. 143A-6:

- 33 (1) The Division of Parks and Recreation.
- 34 (2) The State Parks System, including Mount Mitchell State Park.
- 35 (3) The North Carolina Aquariums Division.
- 36 (4) The North Carolina Zoological Park.
- 37 (5) The Museum of Natural Sciences.

38 **SECTION 14.30.(b)** All functions, powers, duties, and obligations vested in the
39 following commissions, boards, councils, and committees within the Department of
40 Environment and Natural Resources are transferred to, vested in, and consolidated within the
41 Department of Natural and Cultural Resources by a Type II transfer, as defined in G.S. 143A-6:

- 42 (1) North Carolina Parks and Recreation Authority.
- 43 (2) North Carolina Trails Committee.
- 44 (3) North Carolina Zoological Park Council.
- 45 (4) Advisory Commission for North Carolina State Museum of Natural
46 Sciences.

47 **SECTION 14.30.(c)** The Department of Environment and Natural Resources is
48 renamed the Department of Environmental Quality. All references to the Department of
49 Environment and Natural Resources or the Department of Cultural Resources in acts of the
50 2015 General Assembly taking effect after the effective date of this section shall be construed
51 to refer to the Department of Environmental Quality or the Department of Natural and Cultural

Resources, respectively. References to duties or requirements of the Department of Environment and Natural Resources with respect to entities transferred under subsections (a) and (b) of this section shall be construed as duties or requirements of the Department of Natural and Cultural Resources as reorganized by this section.

RECODIFICATION OF AFFECTED STATUTES

SECTION 14.30.(d) The following apply to any recodification pursuant to subsections (e) through (k) of this section:

- (1) The recodifications are of the affected statutes as rewritten by subsections (l) through (r) of this section, as applicable.
- (2) Prior session laws that required the Revisor of Statutes to set out certain provisions as notes to the former statutes shall be set out as notes to the recodified statutes.

SECTION 14.30.(e) Subchapter II of Chapter 113 of the General Statutes, consisting of Article 2 and Article 2C, and G.S. 113-23 are recodified as Parts 31 and 32 of Article 2 of Chapter 143B of the General Statutes as set forth in the table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Article 2:	Part 31:
G.S. 113-29	G.S. 143B-135.10
G.S. 113-34	G.S. 143B-135.12
G.S. 113-34.1	G.S. 143B-135.14
G.S. 113-35	G.S. 143B-135.16
G.S. 113-37	G.S. 143B-135.18
G.S. 113-39	G.S. 143B-135.20
G.S. 113-40	G.S. 143B-135.22
G.S. 113-41	G.S. 143B-135.24
G.S. 113-42	G.S. 143B-135.26
G.S. 113-43	G.S. 143B-135.28
G.S. 113-44	G.S. 143B-135.30
Article 2C:	Part 32:
G.S. 113-44.7	G.S. 143B-135.40
G.S. 113-44.8	G.S. 143B-135.42
G.S. 113-23	G.S. 143B-135.43
G.S. 113-44.9	G.S. 143B-135.44
G.S. 113-44.10	G.S. 143B-135.46
G.S. 113-44.11	G.S. 143B-135.48
G.S. 113-44.12	G.S. 143B-135.50
G.S. 113-44.13	G.S. 143B-135.52
G.S. 113-44.14	G.S. 143B-135.54
G.S. 113-44.15	G.S. 143B-135.56

SECTION 14.30.(f) Articles 5 and 6 of Chapter 113A of the General Statutes and Part 21 of Article 7 of Chapter 143B of the General Statutes and Article 3 of Chapter 113A of the General Statutes are recodified as Parts 33, 34, 35, and 36 of Article 2 of Chapter 143B of the General Statutes as set forth in the table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Article 5:	Part 33:
G.S. 113A-72	G.S. 143B-135.70
G.S. 113A-73	G.S. 143B-135.72
G.S. 113A-74	G.S. 143B-135.74
G.S. 113A-75	G.S. 143B-135.76

1	G.S. 113A-76	G.S. 143B-135.78
2	G.S. 113A-77	G.S. 143B-135.80
3	Article 6:	Part 34:
4	G.S. 113A-83	G.S. 143B-135.90
5	G.S. 113A-84	G.S. 143B-135.92
6	G.S. 113A-85	G.S. 143B-135.94
7	G.S. 113A-86	G.S. 143B-135.96
8	G.S. 113A-87	G.S. 143B-135.98
9	G.S. 113A-87.1	G.S. 143B-135.100
10	G.S. 113A-88	G.S. 143B-135.102
11	G.S. 113A-89	G.S. 143B-135.104
12	G.S. 113A-90	G.S. 143B-135.106
13	G.S. 113A-91	G.S. 143B-135.108
14	G.S. 113A-92	G.S. 143B-135.110
15	G.S. 113A-92.1	G.S. 143B-135.112
16	G.S. 113A-93	G.S. 143B-135.114
17	G.S. 113A-94	G.S. 143B-135.116
18	G.S. 113A-95	G.S. 143B-135.118
19	Part 21:	Part 35:
20	G.S. 143B-333	G.S. 143B-135.130
21	G.S. 143B-334	G.S. 143B-135.132
22	Article 3:	Part 36:
23	G.S. 113A-30	G.S. 143B-135.140
24	G.S. 113A-31	G.S. 143B-135.142
25	G.S. 113A-32	G.S. 143B-135.144
26	G.S. 113A-33	G.S. 143B-135.146
27	G.S. 113A-34	G.S. 143B-135.148
28	G.S. 113A-35	G.S. 143B-135.150
29	G.S. 113A-35.1	G.S. 143B-135.152
30	G.S. 113A-35.2	G.S. 143B-135.154
31	G.S. 113A-36	G.S. 143B-135.156
32	G.S. 113A-37	G.S. 143B-135.158
33	G.S. 113A-38	G.S. 143B-135.160
34	G.S. 113A-39	G.S. 143B-135.162
35	G.S. 113A-40	G.S. 143B-135.164
36	G.S. 113A-41	G.S. 143B-135.166
37	G.S. 113A-42	G.S. 143B-135.168
38	G.S. 113A-43	G.S. 143B-135.170
39	G.S. 113A-44	G.S. 143B-135.172

40

41 **SECTION 14.30.(g)** Part 5C of Article 7 of Chapter 143B of the General Statutes
42 is recodified as Part 37 of Article 2 of Chapter 143B of the General Statutes as set forth in the
43 table below:

44	<u>Former Citation</u>	<u>Recodified Citation</u>
45	Part 5C:	Part 37:
46	G.S. 143B-289.40	G.S. 143B-135.180
47	G.S. 143B-289.41	G.S. 143B-135.182
48	G.S. 143B-289.42	G.S. 143B-135.184
49	G.S. 143B-289.43	G.S. 143B-135.186
50	G.S. 143B-289.44	G.S. 143B-135.188
51	G.S. 143B-289.45	G.S. 143B-135.190

1
2 **SECTION 14.30.(h)** Part 13A of Article 7 of Chapter 143B of the General Statutes
3 is recodified as Part 38 of Article 2 of Chapter 143B of the General Statutes as set forth in the
4 table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Part 13A:	Part 38:
G.S. 143B-313.1	G.S. 143B-135.200
G.S. 143B-313.2	G.S. 143B-135.202

9
10 **SECTION 14.30.(i)** Part 22 of Article 7 of Chapter 143B of the General Statutes is
11 recodified as Part 39 of Article 2 of Chapter 143B of the General Statutes as set forth in the
12 table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Part 22:	Part 39:
G.S. 143B-335	G.S. 143B-135.205
G.S. 143B-336	G.S. 143B-135.207
G.S. 143B-336.1	G.S. 143B-135.209

18
19 **SECTION 14.30.(j)** Article 14 of Chapter 143 of the General Statutes, consisting
20 of G.S. 143-177 through G.S. 143-177.3, is recodified into Part 39 of Article 2 of Chapter 143B
21 as set forth in the table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
G.S. 143-177	G.S. 143B-135.210
G.S. 143-177.1	G.S. 143B-135.211
G.S. 143-177.2	G.S. 143B-135.212
G.S. 143-177.3	G.S. 143B-135.213

27
28 **SECTION 14.30.(k)** Part 29 of Article 7 of Chapter 143B of the General Statutes
29 is recodified as Part 40 of Article 2 of Chapter 143B of the General Statutes as set forth in the
30 table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Part 29:	Part 40:
G.S. 143B-344.18	G.S. 143B-135.215
G.S. 143B-344.19	G.S. 143B-135.217
G.S. 143B-344.20	G.S. 143B-135.219
G.S. 143B-344.21	G.S. 143B-135.221
G.S. 143B-344.22	G.S. 143B-135.223
G.S. 143B-344.23	G.S. 143B-135.229

40 **REVISIONS OF RECODIFIED STATUTES**

41 **SECTION 14.30.(l)** Parts 31 and 32 of Article 2 of Chapter 143B of the General
42 Statutes, as recodified by subsection (e) of this section, reads as rewritten:

43 "Part 31. Acquisition and Control of State Parks.

44 **"§ 143B-135.10. Definitions.**

45 (a) In this ~~Article, Part,~~ unless the context requires otherwise, "Department" means the
46 Department of ~~Environment and Natural Resources;~~ Natural and Cultural Resources, and
47 "Secretary" means the Secretary of ~~Environment and Natural Resources.~~ Natural and Cultural
48 Resources.

49 (b) ~~Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011."~~

50 ...

1 **"§ 143B-135.14. Power to acquire conservation lands not included in the State Parks**
2 **System.**

3 The Department of Administration may acquire and allocate to the Department of
4 ~~Environment and Natural Resources~~ Natural and Cultural Resources for management by the
5 Division of Parks and Recreation lands that the Department of ~~Environment and Natural~~
6 ~~Resources~~ Natural and Cultural Resources finds are important for conservation purposes but
7 which are not included in the State Parks System. Lands acquired pursuant to this section are
8 not subject to ~~Article 2C of Chapter 113~~ Part 32 of Article 2 of Chapter 143B of the General
9 Statutes and may be traded or transferred as necessary to protect, develop, and manage the
10 Mountains to Sea State Park Trail, other State parks, or other conservation lands. This section
11 does not expand the power granted to the Department of ~~Environment and Natural Resources~~
12 Natural and Cultural Resources under ~~G.S. 113-34(a)~~ G.S. 143B-135.12(a) to acquire land by
13 condemnation.

14 **"§ 143B-135.16. Control over State parks; operation of public service facilities;**
15 **concessions to private concerns; authority to charge fees and adopt rules.**

16 (a) The Department shall make reasonable rules governing the use by the public of
17 State parks and State lakes under its charge. These rules shall be posted in conspicuous places
18 on and adjacent to the properties of the State and at the courthouse of the county or counties in
19 which the properties are located. A violation of these rules is punishable as a Class 3
20 misdemeanor.

21 ~~(a1)~~(b) The Department may adopt rules under which the Secretary may issue a special-use
22 permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions.
23 The rules shall require that experts supervise the use of pyrotechnics and that written
24 authorization for the use of pyrotechnics be obtained from the board of commissioners of the
25 county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may
26 impose any conditions on a permit that the Secretary determines to be necessary to protect
27 public health, safety, and welfare. These conditions shall include a requirement that the
28 permittee execute an indemnification agreement with the Department and obtain general
29 liability insurance covering personal injury and property damage that may result from the use
30 of pyrotechnics with policy limits determined by the Secretary.

31 ~~(b)~~(c) The Department may construct, operate, and maintain within the State parks, State
32 lakes, and other areas under its charge suitable public service facilities and conveniences, and
33 may charge and collect reasonable fees for the use of these facilities and conveniences. The
34 Department may also charge and collect reasonable fees for each of the following:

- 35 (1) The erection, maintenance, and use of docks, piers, and any other structures
36 permitted in or on State lakes under rules adopted by the Department.
- 37 (2) Fishing privileges in State parks and State lakes, provided that these
38 privileges shall be extended only to holders of State hunting and fishing
39 licenses who comply with all State game and fish laws.
- 40 (3) Vehicle access for off-road driving at the beach at Fort Fisher State
41 Recreation Area.
- 42 (4) The erection, maintenance, and use of a marina at Carolina Beach.

43 ~~(b1)~~(d) Members of the public who pay a fee under subsection ~~(b)~~-(c) of this section for
44 access to Fort Fisher State Recreation Area may have 24-hour access to Fort Fisher State
45 Recreation Area from September 15 through March 15 of each year.

46 ~~(e)~~(e) The Department may make reasonable rules for the operation and use of boats or
47 other craft on the surface of the waters under its charge. The Department may charge and
48 collect reasonable fees for the use of boats and other watercraft that are purchased and
49 maintained by the Department; however, the Department shall not charge a fee for the use or
50 operation of any other boat or watercraft on these waters.

1 (a) The Secretary shall prepare and adopt a State Parks System Plan by December 31,
2 1988. The Plan, at a minimum, shall:

- 3 (1) Outline a method whereby the mission and purposes of the State Parks
4 System as defined in ~~G.S. 113-44.8~~ G.S. 143B-135.42 can be achieved in a
5 reasonable, timely, and cost-effective manner;
- 6 (2) Evaluate existing parks against these standards to determine their statewide
7 significance;
- 8 (3) Identify duplications and deficiencies in the current State Parks System and
9 make recommendations for correction;
- 10 (4) Describe the resources of the existing State Parks System and their current
11 uses, identify conflicts created by those uses, and propose solutions to them;
12 and
- 13 (5) Describe anticipated trends in usage of the State Parks System, detail what
14 impacts these trends may have on the State Parks System, and recommend
15 means and methods to accommodate those trends successfully.

16 (b) The Plan shall be developed with full public participation, including a series of
17 public meetings held on adequate notice under rules which shall be adopted by the Secretary.
18 The purpose of the public meetings and other public participation shall be to obtain from the
19 public:

- 20 (1) Views and information on the needs of the public for recreational resources
21 in the State Parks System;
- 22 (2) Views and information on the manner in which these needs should be
23 addressed;
- 24 (3) Review of the draft plan prepared by the Secretary before he adopts the Plan.

25 (c) The Secretary shall revise the Plan at intervals not exceeding five years. Revisions
26 to the Plan shall be made consistent with and under the rules providing public participation in
27 adoption of the Plan.

28 (d) No later than October 1 of each year, the Department shall submit electronically the
29 State Parks System Plan to the Environmental Review Commission, the Senate and the House
30 of Representatives ~~Appropriations Subcommittees on Natural and Economic Resources,~~
31 appropriations committees with jurisdiction over natural and cultural resources, and the Fiscal
32 Research Division. Concurrently, the Department shall submit a summary of each change to the
33 Plan that was made during the previous fiscal year.

34 **"§ 143B-135.50. Classification of parks resources.**

35 After adopting the Plan, the Secretary shall identify and classify the major resources of each
36 of the parks in the State Parks System, in order to establish the major purpose or purposes of
37 each of the parks, consistent with the Plan and the purposes of this ~~Article~~ Part.

38 **"§ 143B-135.52. General management plans.**

39 Every park classified pursuant to ~~G.S. 113-44.12~~ G.S. 143B-135.50 shall have a general
40 management plan. The plan shall include a statement of purpose for the park based upon its
41 relationship to the System Plan and its classification. An analysis of the major resources and
42 facilities on hand to achieve those purposes shall be completed along with a statement of
43 management direction. The general management plan shall be revised as necessary to comply
44 with the System Plan and to achieve the purposes of this ~~Article~~ Part.

45 **"§ 143B-135.54. Additions to and deletions from the State Parks System.**

46 (a) If, in the course of implementing ~~G.S. 113-44.12~~ G.S. 143B-135.50 the Secretary
47 determines that the major purposes of a park are not consistent with the purposes of this ~~Article~~
48 Part and the Plan, the Secretary may propose to the General Assembly the deletion of that park
49 from the State Parks System. On a majority vote of each house of the General Assembly, the
50 General Assembly may remove the park from the State Parks System. No other agency or

1 governmental body of the State shall have the power to remove a park or any part from the
2 State Parks System.

3 (b) New parks shall be added to the State Parks System by the Department after
4 authorization by the General Assembly. Each additional park shall be authorized only by an act
5 of the General Assembly. Additions shall be consistent with and shall address the needs of the
6 State Parks System as described in the Plan. All additions shall be accompanied by adequate
7 authorization and appropriations for land acquisition, development, and operations.

8 **"§ 143B-135.56. Parks and Recreation Trust Fund.**

9 ...
10 (c) Reports. – The North Carolina Parks and Recreation Authority shall report no later
11 than October 1 of each year to the Joint Legislative Commission on Governmental Operations,
12 the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the
13 Fiscal Research Division, and the Environmental Review Commission on allocations from the
14 Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under
15 ~~subdivision~~subsection (b1) of this section, this report shall include the operating expenses
16 determined under subdivisions (1) and (2) of subsection (b3) of this section.

17"

18 **SECTION 14.30.(m)** Parts 33-36 of Article 2 of Chapter 143B of the General
19 Statutes, as recodified by subsection (f) of this section, read as rewritten:

20 "Part 33. North Carolina Appalachian Trails System Act.

21 **"§ 143B-135.70. Short title.**

22 This ~~Article-Part~~ may be cited as the North Carolina Appalachian Trails System Act.

23 **"§ 143B-135.72. Policy and purpose.**

24 (a) In order to provide for the ever-increasing outdoor recreation needs of an expanded
25 population and in order to promote public access to, travel within, and enjoyment and
26 appreciation of the open-air, outdoor areas of the State, the Appalachian Trail should be
27 protected in North Carolina as a segment of the National Scenic Trails System.

28 (b) The purpose of this ~~Article-Part~~ is to provide the means for attaining these
29 objectives by instituting a North Carolina Appalachian Trail System, designating the
30 Appalachian Trail lying or located in the North Carolina Counties of Avery, Mitchell, Yancey,
31 Madison, Haywood, Swain, Graham, Macon, and Clay, as defined in the Federal Register of
32 the National Trails Act as the basic component of that System, and by prescribing the methods
33 by which, and standards according to which, additional connecting trails may be added to the
34 System.

35 **"§ 143B-135.74. Appalachian Trails System; connecting or side trails; coordination with
36 the National Trails System Act.**

37 Connecting or side trails may be established, designated and marked as components of the
38 Appalachian Trail System by the Department of ~~Environment and~~ Natural and Cultural
39 Resources in consultation with the federal agencies charged with the responsibility for the
40 administration and management of the Appalachian Trail in North Carolina. Criteria and
41 standards of establishment will coincide with those set forth in the National Trails System Act
42 (PL 90-543).

43 **"§ 143B-135.76. Assistance under this ~~Article-Part~~ with the National Trails System Act
44 (PL 90-543).**

45 (a) The Department of Administration in cooperation with other appropriate State
46 departments shall consult with the federal agencies charged with the administration of the
47 Appalachian Trail in North Carolina and develop a mutually agreeable plan for the orderly and
48 coordinated acquisition of Appalachian Trail right-of-way and the associated tracts, as needed,
49 to provide a suitable environment for the Appalachian Trail in North Carolina.

50 (b) The Department of ~~Environment and~~ Natural and Cultural Resources and the federal
51 agencies charged with the responsibility of the administration of the Appalachian Trail in North

1 Carolina shall give due consideration to the conservation of the environment of the
2 Appalachian Trail and, in accordance with the National Trails System Act, may obtain advice
3 and assistance from local governments, Carolina Mountain Club, Nantahala Hiking Club,
4 Piedmont Appalachian Trail Hikers, Appalachian Trail Conference, other interested
5 organizations and individuals, landowners and land users concerned.

6 (c) The Board of Transportation shall cooperate and assist in carrying out the purposes
7 of this ~~Article-Part~~ and the National Trails System Act where their highway projects cross or
8 may be adjacent to any component of the Appalachian Trail System.

9 (d) Lands acquired by the State of North Carolina within the 200-foot right-of-way of
10 the Appalachian Trail and within the exterior boundaries of the Pisgah or Nantahala National
11 Forests, will be conveyed to the United States Forest Service as the federal agency charged
12 with the responsibility for the administration and management of the Appalachian Trail within
13 these specific areas.

14 (e) Lands acquired by the State of North Carolina outside of the boundaries of the
15 Appalachian Trail right-of-way will be administered by the appropriate State department in
16 such a manner as to preserve and enhance the environment of the Appalachian Trail.

17 (f) In consultation with the Department of ~~Environment and Natural~~ and Cultural
18 Resources, the federal agency charged with the responsibility of the administration of the
19 Appalachian Trail in North Carolina shall establish use regulations in accordance with the
20 National Trails System Act.

21 (g) The use of motor vehicles on the trails of the North Carolina Appalachian Trail
22 System may be authorized when such use is necessary to meet emergencies or to enable
23 adjacent landowners to have reasonable access to their lands and timber rights provided that the
24 granting of this access is in accordance with limitations and conditions of such use set forth in
25 the National Trails System Act.

26 **"§ 143B-135.78. Acquisition of rights-of-way and lands; manner of acquiring.**

27 The State of North Carolina may use lands for trail purposes within the boundaries of areas
28 under its administration that are included in the rights-of-way selected for the Appalachian
29 Trail System. The Department of Administration may acquire lands or easements by donation
30 or purchase with funds donated or appropriated for such purpose.

31 **"§ 143B-135.80. Expenditures authorized.**

32 The Department is authorized to spend any federal, State, local or private funds available
33 for this purpose to the Department for acquisition and development of the Appalachian Trail
34 System.

35 "Part 34. North Carolina Trails System.

36 **"§ 143B-135.90. Short title.**

37 This ~~Article-Part~~ shall be known and may be cited as the "North Carolina Trails System
38 Act."

39 **"§ 143B-135.92. Declaration of policy and purpose.**

40 (a) In order to provide for the ever-increasing outdoor recreation needs of an expanded
41 population and in order to promote public access to, travel within, and enjoyment and
42 appreciation of the outdoor, natural and remote areas of the State, trails should be established in
43 natural, scenic areas of the State, and in and near urban areas.

44 (b) The purpose of this ~~Article-Part~~ is to provide the means for attaining these
45 objectives by instituting a State system of scenic and recreation trails, coordinated with and
46 complemented by existing and future local trail segments or systems, and by prescribing the
47 methods by which, and standards according to which, components may be added to the State
48 trails system.

49 **"§ 143B-135.94. Definitions.**

50 Except as otherwise required by context, the following terms when used in this ~~Article-Part~~
51 shall be construed respectively to mean:

- 1 (1) "Department" means the North Carolina Department of ~~Environment and~~
2 Natural and Cultural Resources.
- 3 (2) "Political subdivision" means any county, any incorporated city or town, or
4 other political subdivision.
- 5 (3) "Scenic easement" means a perpetual easement in land which
6 a. Is held for the benefit of the people of North Carolina,
7 b. Is specifically enforceable by its holder or beneficiary, and
8 c. Limits or obligates the holder of the servient estate, his heirs, and
9 assigns with respect to their use and management of land and
10 activities conducted thereon, the object of such limitations and
11 obligations being the maintenance or enhancement of the natural
12 beauty of the land in question or of areas affected by it.
- 13 (4) "Secretary" means the Secretary of ~~Environment and~~ Natural and Cultural
14 Resources, except as otherwise specified in this ~~Article.~~Part.
- 15 (5) "State trails system" means the trails system established in this ~~Article~~ Part
16 or pursuant to the State Parks Act, ~~Article 2C of Chapter 113 of the General~~
17 ~~Statutes, Part 32 of this Article,~~ and including all trails and trail segments,
18 together with their rights-of-way, added by any of the procedures described
19 in this ~~Article or Article 2C of Chapter 113 of the General Statutes.~~Part or
20 Part 32 of this Article.
- 21 (6) "Trail" means:
22 a. Park trail. – A trail designated and managed as a unit of the North
23 Carolina State Parks System under ~~Article 2C of Chapter 113 of the~~
24 ~~General Statutes.~~Part 32 of this Article.
- 25 b. Designated trail. – A trail designated by the Secretary pursuant to this
26 ~~Article~~ Part as a component of the State trails system and that is
27 managed by another governmental agency or by a corporation listed
28 with the Secretary of State.
- 29 c. A State scenic trail, State recreation trail, or State connecting trail
30 under ~~G.S. 113A-86~~ G.S. 143B-135.96 when the intended primary
31 use of the trail is to serve as a park trail or designated trail.
- 32 d. Any other trail that is open to the public and that the owner, lessee,
33 occupant, or person otherwise in control of the land on which the
34 trail is located allows to be used as a trail without compensation,
35 including a trail that is not designated by the Secretary as a
36 component of the State trails system.
- 37 (7) "Trails Committee" means the North Carolina Trails Committee established
38 by Part 35 of this Article.

39 **"§ 143B-135.96. Composition of State trails system.**

40 The State trails system shall be composed of designated:

- 41 (1) State scenic trails, which are defined as extended trails so located as to
42 provide maximum potential for the appreciation of natural areas and for the
43 conservation and enjoyment of the significant scenic, historic, natural,
44 ecological, geological or cultural qualities of the areas through which such
45 trails may pass.
- 46 (2) State recreation trails, which are defined as trails planned principally for
47 recreational value and may include trails for foot travel, horseback,
48 nonmotorized bicycles, nonmotorized water vehicles, and two-wheel-and
49 four-wheel-drive motorized vehicles. More than one of the aforesaid types of
50 travel may be permitted on a single trail in the discretion of the Secretary.

- 1 (3) Connecting or side trails, which will provide additional points of public
2 access to State recreation or State scenic trails or which will provide
3 connections between such trails.

4 **"§ 143B-135.98. Authority to designate trails.**

5 The Department may establish and designate trails on:

- 6 (1) Lands administered by the Department,
7 (2) Lands under the jurisdiction of a State department, political subdivision, or
8 federal agency, or
9 (3) Private lands provided, fee-simple title, lesser estates, scenic easements,
10 easements of surface ingress and egress running with the land, leases, or
11 other written agreements are obtained from landowners through which a
12 State trail may pass.

13 **"§ 143B-135.100. Use of State land for bicycling; creation of trails by volunteers.**

14 (a) Any land held in fee simple by this State, any agency of this State, or any land
15 purchased or leased with funds provided by this State may be open and available for use by
16 bicyclists upon establishment of a usage agreement. The usage agreement shall be established
17 between the land manager and any local cycling group or organization intending to use the land
18 and shall specify the terms and conditions for use of the land. The land manager shall designate
19 a representative with knowledge of off-road bicycle trail building to negotiate the agreement.
20 Upon establishment of the usage agreement, any bicyclist may use the land pursuant to the
21 agreement.

22 The land manager shall not be required to create, maintain, or make available any special
23 trails, paths, or other accommodations to any user of the land for cycling purposes. However,
24 once a usage agreement has been established, any local cycling group or organization may
25 create and maintain special trails for cycling purposes. Any trails created for the purpose of
26 off-road cycling shall be created and maintained using commonly accepted best practices.

27 (b) Notwithstanding the provisions of subsection (a) of this section, any land may be
28 restricted or removed from use by bicyclists if it is determined by the State, an agency of the
29 State, or the holder of land purchased or leased with State funds that the use would cause
30 substantial harm to the land or the environment or that the use would violate another State or
31 federal law. Before restricting or removing land from use by bicyclists, the State, the agency of
32 the State, or the holder of the land purchased or leased with State funds must show why the
33 lands should not be open for use by bicyclists. Local cycling groups or organizations shall be
34 notified of the intent to restrict or remove the land from use by bicyclists and provided an
35 opportunity to show why cycling should be allowed on the land. Notice of any land restricted
36 or removed from use by bicyclists pursuant to this subsection shall be filed with the Division of
37 Bicycle and Pedestrian Transportation of the Department of Transportation.

38 (c) The Division of Bicycle and Pedestrian Transportation of the Department of
39 Transportation shall keep a record of all lands made open and available for use by bicyclists
40 pursuant to this section and shall make the information available to the public upon request.

41 (d) Any land open and available for use by bicyclists, pursuant to subsection (a) of this
42 section, shall also be available to members of the public for hiking and walking. Persons using
43 the land pursuant to this subsection shall yield the right-of-way to bicyclists when hiking or
44 walking on any trails created and maintained for the purpose of off-road cycling and so
45 designated along that trail.

46 (e) Notwithstanding any other provision of this section, any hiking, walking, or use of
47 bicycles on game lands administered by the Wildlife Resources Commission shall be restricted
48 to roads and trails designated for vehicular use. Hiking, walking, or bicycle use by persons not
49 hunting shall be restricted to days closed to hunting. The Wildlife Resources Commission may
50 restrict the use of bicycles on game lands where necessary to protect sensitive wildlife habitat

1 or species and shall file notice of any restrictions with the Division of Bicycle and Pedestrian
2 Transportation of the Department of Transportation.

3 **"§ 143B-135.102. ~~North Carolina Trails Committee; composition; meetings and~~**
4 **~~functions.~~ Trails Committee duties.**

5 (a) ~~Repealed by Session Laws 1973, c. 1262, s. 82.~~

6 (b)(a) The Committee shall meet in various sections of the State not less than two times
7 annually to advise the Department on all matters directly or indirectly pertaining to trails, their
8 use, extent, location, and the other objectives and purposes of this ~~Article.~~Part.

9 (c)(b) The Committee shall coordinate trail development among local governments, and
10 shall assist local governments in the formation of their trail plans and advise the Department
11 quarterly of its findings.

12 (d)(c) The Secretary, with advice of the Committee, shall study trail needs and potentials,
13 and make additions to the State Trails System as needed. He shall submit an annual report to
14 the Governor and General Assembly on trail activities by the Department, including
15 rights-of-way that have been established and on the program for implementing this ~~Article.~~
16 Part. Each report shall include a short statement on the significance of the various trails to the
17 System. The Secretary shall make such rules as to trail development, management, and use that
18 are necessary for the proper implementation of this ~~Article.~~Part.

19 **"§ 143B-135.104. Location of trails.**

20 The process of locating routes of designated trails to be added to the system shall be as
21 follows:

22 For State scenic trails, the Secretary or a designee, after consulting with the Committee,
23 shall recommend a route. For State recreation trails and for connecting or side trails, the
24 Secretary or a designee, after consulting with the Committee, shall select the route. The
25 Secretary may provide technical assistance to political subdivisions or private, nonprofit
26 organizations that develop, construct, or maintain designated trails or other public trails that
27 complement the State trails system. When a route shall traverse land within the jurisdiction of a
28 governmental unit or political subdivision, the Department shall consult with such unit or such
29 subdivision prior to its final determination of the location of the route. The selected route shall
30 be compatible with preservation or enhancement of the environment it traverses. Reasonable
31 effort shall be made to minimize any adverse effects upon adjacent landowners and users.
32 Notice of the selected route shall be published by the Department in a newspaper of general
33 circulation in the area in which the trail is located, together with appropriate maps and
34 descriptions to be conspicuously posted at the appropriate courthouse. Such publication shall be
35 prior to the designation of the trail by the Secretary.

36 **"§ 143B-135.106. Scenic easements within right-of-way.**

37 Within the boundaries of the right-of-way, the Secretary of the North Carolina Department
38 of Administration may acquire, on behalf of the State of North Carolina, lands in fee title, or
39 interest in land in the form of scenic easements, cooperative agreements, easements of surface
40 ingress and egress running with the land, leases, or less than fee estates. Acquisition of land or
41 of interest therein may be by gift, purchased with donated funds or funds appropriated by the
42 governmental agencies for this purpose, proceeds from the sale of bonds or exchange. Any
43 change in value of land resulting from the grant of an easement shall be taken into
44 consideration in the assessment of the land for tax purposes.

45 **"§ 143B-135.108. Trails within parks; conflict of laws.**

46 Any component of the System that is or shall become a part of any State park, recreation
47 area, wildlife management area, or similar area shall be subject to the provisions of this ~~Article~~
48 Part as well as any other laws under which the other areas are administered, and in the case of
49 conflict between the provisions the more restrictive provisions shall apply.

50 **"§ 143B-135.110. Uniform trail markers.**

1 The Department, in consultation with the Committee, shall establish a uniform marker for
2 trails contained in the System. An additional appropriate symbol characterizing specific trails
3 may be included on the marker. The markers shall be placed at all access points, together with
4 signs indicating the modes of locomotion that are prohibited for the trail, provided that where
5 the trail constitutes a portion of a national scenic trail, use of the national scenic trail uniform
6 marker shall be considered sufficient. The route of the trail and the boundaries of the
7 right-of-way shall be adequately marked.

8 **"§ 143B-135.112. Adopt-A-Trail Program.**

9 The Department shall establish an Adopt-A-Trail Program to coordinate with the Trails
10 Committee and local groups or persons on trail development and maintenance. Local
11 involvement shall be encouraged, and interested groups are authorized to "adopt-a-trail" for
12 such purposes as placing trail markers, trail building, trail blazing, litter control, resource
13 protection, and any other activities related to the policies and purposes of this ~~Article-Part.~~

14 **"§ 143B-135.114. Administrative policy.**

15 The North Carolina Trails System shall be administered by the Department according to the
16 policies and criteria set forth in this ~~Article-Part.~~ The Department shall, in addition, have or
17 designate the responsibility for maintaining the trails, building bridges, campsites, shelters, and
18 related public-use facilities where required.

19 **"§ 143B-135.116. Incorporation in National Trails System.**

20 Nothing in this ~~Article-Part~~ shall preclude a component of the State Trails System from
21 becoming a part of the National Trails System. The Secretary shall coordinate the State Trails
22 System with the National Trails System and is directed to encourage and assist any federal
23 studies for inclusion of North Carolina trails in the National Trails System. The Department
24 may enter into written cooperative agreements for joint federal-State administration of a North
25 Carolina component of the National Trails System, provided such agreements for
26 administration of land uses are not less restrictive than those set forth in this ~~Article-Part.~~

27 **"§ 143B-135.118. Trail use liability.**

28 (a) Any person, as an owner, lessee, occupant, or otherwise in control of land, who
29 allows without compensation another person to use the land for designated trail or other public
30 trail purposes or to construct, maintain, or cause to be constructed or maintained a designated
31 trail or other public trail owes the person the same duty of care he owes a trespasser.

32 (b) Any person who without compensation has constructed, maintained, or caused to be
33 constructed or maintained a designated trail or other public trail pursuant to a written agreement
34 with any person who is an owner, lessee, occupant, or otherwise in control of land on which a
35 trail is located shall owe a person using the trail the same duty of care owed a trespasser.

36 (c) ~~Repealed by Session Laws 1993, c. 184, s. 6.~~

37 "Part 35. North Carolina Trails Committee.

38 **"§ 143B-135.130. North Carolina Trails Committee – creation; powers and duties.**

39 There is hereby created the North Carolina Trails Committee of the Department of
40 ~~Environment and Natural and Cultural Resources.~~ The Committee shall have the following
41 functions and duties:

- 42 (1) To meet not less than two times annually to advise the Department on all
43 matters directly or indirectly pertaining to trails, their use, extent, location,
44 and the other objectives and purposes of ~~G.S. 113A-88.~~ G.S. 143B-135.102.
- 45 (2) To coordinate trail development among local governments, and to assist
46 local governments in the formation of their trail plans and advise the
47 Department of its findings.
- 48 (3) To advise the Secretary of trail needs and potentials pursuant to
49 ~~G.S. 113A-88.~~ G.S. 143B-135.102.

50 **"§ 143B-135.132. North Carolina Trails Committee – members; selection; removal;
51 compensation.**

1 The North Carolina Trails Committee shall consist of seven members appointed by the
2 Secretary of ~~Environment and Natural~~ and Cultural Resources. Two members shall be from the
3 mountain section, two from the Piedmont section, two from the coastal plain, and one at large.
4 They shall as much as possible represent various trail users.

5 ~~The initial members of the North Carolina Trails Committee shall be the members of the~~
6 ~~current North Carolina Trails Committee who shall serve for a period equal to the remainder of~~
7 ~~their current term on the North Carolina Trails Committee. At the end of the respective terms of~~
8 ~~office of the initial members of the Committee, the appointment of their successors shall be for~~
9 Committee members shall serve staggered terms of four years and until their successors are
10 appointed and qualify. Any appointment to fill a vacancy on the Committee created by the
11 resignation, dismissal, death or disability of a member shall be for the balance of the unexpired
12 term.

13 The Governor shall have the power to remove any member of the Committee from office in
14 accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

15 The Secretary of ~~Environment and Natural~~ and Cultural Resources shall designate a
16 member of the Committee to serve as chairman at the pleasure of the Governor.

17 Members of the Committee shall receive per diem and necessary travel and subsistence
18 expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive
19 Organization Act of 1973.

20 "Part 36. Natural and Scenic Rivers System.

21 "**§ 143B-135.140. Short title.**

22 This ~~Article-Part~~ shall be known and may be cited as the "Natural and Scenic Rivers Act of
23 1971."

24 "**§ 143B-135.142. Declaration of policy.**

25 The General Assembly finds that certain rivers of North Carolina possess outstanding
26 natural, scenic, educational, geological, recreational, historic, fish and wildlife, scientific and
27 cultural values of great present and future benefit to the people. The General Assembly further
28 finds as policy the necessity for a rational balance between the conduct of man and the
29 preservation of the natural beauty along the many rivers of the State. This policy includes
30 retaining the natural and scenic conditions in some of the State's valuable rivers by maintaining
31 them in a free-flowing state and to protect their water quality and adjacent lands by retaining
32 these natural and scenic conditions. It is further declared that the preservation of certain rivers
33 or segments of rivers in their natural and scenic condition constitutes a beneficial public
34 purpose.

35 "**§ 143B-135.144. Declaration of purpose.**

36 The purpose of this ~~Article-Part~~ is to implement the policy as set out in ~~G.S. 113A-31~~
37 G.S. 143B-135.142 by instituting a North Carolina natural and scenic rivers system, and by
38 prescribing methods for inclusion of components to the system from time to time.

39 "**§ 143B-135.146. Definitions.**

40 As used in this ~~Article-Part~~, unless the context requires otherwise:

- 41 (1) "Department" means the Department of ~~Environment and Natural~~ and
42 Cultural Resources.
- 43 (2) "Free-flowing," as applied to any river or section of a river, means existing
44 or flowing in natural condition without substantial impoundment, diversion,
45 straightening, rip-rapping, or other modification of the waterway. The
46 existence of low dams, diversion works, and other minor structures at the
47 time any river is proposed for inclusion in the North Carolina natural and
48 scenic rivers system shall not automatically bar its consideration for such
49 inclusion: Provided, that this shall not be construed to authorize, intend, or
50 encourage future construction of such structures within components of the
51 system.

- 1 (3) "River" means a flowing body of water or estuary or a section, portion, or
2 tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small
3 lakes.
- 4 (4) "Road" means public or private highway, hard-surface road, dirt road, or
5 railroad.
- 6 (5) "Scenic easement" means a perpetual easement in land which (i) is held for
7 the benefit of the people of North Carolina, (ii) is specifically enforceable by
8 its holder or beneficiary, and (iii) limits or obligates the holder of the
9 servient estate, his heirs, and assigns with respect to their use and
10 management of the land and activities conducted thereon. The object of such
11 limitations and obligations is the maintenance or enhancement of the natural
12 beauty of the land in question or of the areas affected by it.
- 13 (6) "Secretary" means the Secretary of ~~Environment and~~ Environment and Natural and Cultural
14 Resources.

15 **"§ 143B-135.148. Types of scenic rivers.**

16 The following types of rivers are eligible for inclusion in the North Carolina natural and
17 scenic rivers system:

18 Class I. Natural river areas. Those free-flowing rivers or segments of rivers and adjacent
19 lands existing in a natural condition. Those rivers or segments of rivers that are free of
20 man-made impoundments and generally inaccessible except by trail, with the lands within the
21 boundaries essentially primitive and the waters essentially unpolluted. These represent vestiges
22 of primitive America.

23 Class II. Scenic river areas. Those rivers or segments of rivers that are largely free of
24 impoundments, with the lands within the boundaries largely primitive and largely undeveloped,
25 but accessible in places by roads.

26 Class III. Recreational river areas. Those rivers or segments of rivers that offer outstanding
27 recreation and scenic values and that are largely free of impoundments. They may have some
28 development along their shorelines and have more extensive public access than natural or
29 scenic river segments. Recreational river segments may also link two or more natural and/or
30 scenic river segments to provide a contiguous designated river area. No provision of this
31 section shall interfere with flood control measures; provided that recreational river users can
32 continue to travel the river.

33 **"§ 143B-135.150. Criteria for system.**

34 For the inclusion of any river or segment of river in the natural and scenic river system, the
35 following criteria must be present:

- 36 (1) River segment length – must be no less than one mile.
- 37 (2) Boundaries – of the system shall be the visual horizon or such distance from
38 each shoreline as may be determined to be necessary by the Secretary, but
39 shall not be less than 20 feet.
- 40 (3) Water quality – shall not be less than that required for Class "C" waters as
41 established by the North Carolina Environmental Management Commission.
- 42 (4) Water flow – shall be sufficient to assure a continuous flow and shall not be
43 subjected to withdrawal or regulation to the extent of substantially altering
44 the natural ecology of the stream.
- 45 (5) Public access – shall be limited, but may be permitted to the extent deemed
46 proper by the Secretary, and in keeping with the property interest acquired
47 by the Department and the purpose of this ~~Article~~ Part.

48 **"§ 143B-135.152. Components of system; management plan; acquisition of land and
49 easements; inclusion in national system.**

50 (a) That segment of the south fork of the New River extending from its confluence with
51 Dog Creek in Ashe County downstream through Ashe and Alleghany Counties to its

1 confluence with the north fork of the New River and the main fork of the New River in Ashe
2 and Alleghany Counties downstream to the Virginia State line shall be a scenic river area and
3 shall be included in the North Carolina Natural and Scenic Rivers System.

4 The Department shall prepare and implement a management plan for this river section. This
5 management plan shall recognize and provide for the protection of the existing undeveloped
6 scenic and pastoral features of the river. Furthermore, it shall specifically provide for continued
7 use of the lands adjacent to the river for normal agricultural activities, including, but not limited
8 to, cultivation of crops, raising of cattle, growing of trees and other practices necessary to these
9 agricultural pursuits.

10 For purposes of implementing this section and the management plan, the Department may
11 acquire lands or interests in lands, provide for protection of scenic values as described in
12 ~~G.S. 113A-38~~, G.S. 143B-135.160, and provide for public access. Easements obtained for the
13 purpose of implementing this section and the management plan shall not abridge the water
14 rights being exercised on May 26, 1975.

15 Should the Governor seek inclusion of this river segment in the National System of Wild
16 and Scenic Rivers by action of the Secretary of Interior, such inclusion shall be at no cost to the
17 federal government, as prescribed in the National Wild and Scenic Rivers Act, and therefore
18 shall be under the terms described in this section of the North Carolina Wild and Scenic Rivers
19 Act and in the management plan developed pursuant thereto.

20 (b) ~~Repealed by Session Laws 2012-200, s. 24, effective August 1, 2012.~~

21 "**§ 143B-135.154. Additional components.**

22 That segment of the Linville River beginning at the State Highway 183 bridge over the
23 Linville River and extending approximately 13 miles downstream to the boundary between the
24 United States Forest Service lands and lands of Duke Power Company (latitude 35° 50' 20")
25 shall be a natural river area and shall be included in the North Carolina Natural and Scenic
26 River System.

27 That segment of the Horsepasture River in Transylvania County extending downstream
28 from Bohaynee Road (N.C. 281) to Lake Jocassee shall be a natural river and shall be included
29 in the North Carolina Natural and Scenic Rivers System.

30 That segment of the Lumber River extending from county road 1412 in Scotland County
31 downstream to the North Carolina-South Carolina state line, a distance of approximately 102
32 river miles, shall be included in the Natural and Scenic Rivers System and classified as follows:
33 from county road 1412 in Scotland County downstream to the junction of the Lumber River
34 and Back Swamp shall be classified as scenic; from the junction of the Lumber River and Back
35 Swamp downstream to the junction of the Lumber River and Jacob Branch and the river within
36 the Fair Bluff town limits shall be classified as recreational; and from the junction of the
37 Lumber River and Jacob Branch downstream to the North Carolina-South Carolina state line,
38 excepting the Fair Bluff town limits, shall be classified as natural.

39 "**§ 143B-135.156. Administrative agency; federal grants; additions to the system;
40 regulations.**

41 (a) The Department is the agency of the State of North Carolina with the duties and
42 responsibilities to administer and control the North Carolina natural and scenic rivers system.

43 (b) The Department shall be the agency of the State with the authority to accept federal
44 grants of assistance in planning, developing (which would include the acquisition of land or an
45 interest in land), and administering the natural and scenic rivers system.

46 (c) The Secretary of the Department shall study and from time to time submit to the
47 Governor and to the General Assembly proposals for the additions to the system of rivers and
48 segments of rivers which, in his judgment, fall within one or more of the categories set out in
49 ~~G.S. 113A-34~~. G.S. 143B-135.148. Each proposal shall specify the category of the proposed
50 addition and shall be accompanied by a detailed report of the facts which, in the Secretary's
51 judgment, makes the area a worthy addition to the system.

1 Before submitting any proposal to the Governor or the General Assembly for the addition to
2 the system of a river or segment of a river, the Secretary or his authorized representative, shall
3 hold a public hearing in the county or counties where said river or segment of river is situated.
4 Notice of such public hearing shall be given by publishing a notice once each week for two
5 consecutive weeks in a newspaper having general circulation in the county where said hearing
6 is to be held, the second of said notices appearing not less than 10 days before said hearing.
7 Any person attending said hearing shall be given an opportunity to be heard. Notwithstanding
8 the provisions of the foregoing, no public hearing shall be required with respect to a river
9 bounded solely by the property of one owner, who consents in writing to the addition of such
10 river to the system.

11 The Department shall also conduct an investigation on the feasibility of the inclusion of a
12 river or a segment of river within the system and file a written report with the Governor when
13 submitting a proposal.

14 The Department shall also, before submitting such a proposal to the Governor or the
15 General Assembly, notify in writing the owner, lessee, or tenant of any lands adjoining said
16 river or segment of river of its intention to make such proposal. In the event the Department,
17 after due diligence, is unable to determine the owner or lessee of any such land, the Department
18 may publish a notice for four successive weeks in a newspaper having general circulation in the
19 county where the land is situated of its intention to make a proposal to the Governor or General
20 Assembly for the addition of a river or segment of river to the system.

21 ~~(c)~~(d) Upon receipt of a request in the form of a resolution from the commissioners of the
22 county or counties in which a river segment is located and upon studying the segment and
23 determining that it meets the criteria set forth in ~~G.S. 143A-35~~, G.S. 143B-135.150, the
24 Secretary may designate the segment a potential component of the natural and scenic rivers
25 system. The designation as a potential component shall be transmitted to the Governor and all
26 appropriate State agencies. Any segment so designated is subject to the provisions of this
27 ~~Article-Part~~ applicable to designated rivers, except for acquisition by condemnation or
28 otherwise, and to any rules adopted pursuant to this ~~Article-Part~~. The Secretary shall make a
29 full report and, if appropriate, a proposal for an addition to the natural and scenic rivers system
30 to the General Assembly within 90 days after the convening of the next session following
31 issuance of the designation, and the General Assembly shall determine whether to designate the
32 segment as a component of the natural and scenic rivers system. If the next session of the
33 General Assembly fails to take affirmative action on the designation, the designation as a
34 potential component shall expire.

35 ~~(d)~~(e) The Department may adopt rules to implement this ~~Article-Part~~.

36 **"§ 143B-135.158. Raising the status of an area.**

37 Whenever in the judgment of the Secretary of the Department a scenic river segment has
38 been sufficiently restored and enhanced in its natural scenic and recreational qualities, such
39 segment may be reclassified with the approval of the Department, to a natural river area status
40 and thereafter administered accordingly.

41 **"§ 143B-135.160. Land acquisition.**

42 (a) The Department of Administration is authorized to acquire for the Department,
43 within the boundaries of a river or segment of river as set out in ~~G.S. 143A-35~~
44 G.S. 143B-135.150 on behalf of the State of North Carolina, lands in fee title or a lesser interest
45 in land, preferably "scenic easements." Acquisition of land or interest therein may be by
46 donation, purchase with donated or appropriated funds, exchange or otherwise.

47 (b) The Department of Administration in acquiring real property or a property interest
48 therein as set out in this ~~Article-Part~~ shall have and may exercise the power of eminent domain
49 in accordance with Article 3 of Chapter 40A of the General Statutes.

50 **"§ 143B-135.162. Claim and allowance of charitable deduction for contribution or gift of
51 easement.**

1 The contribution or donation of a "scenic easement," right-of-way or any other easement or
2 interest in land to the State of North Carolina, as provided in this ~~Article, Part~~, shall be deemed
3 a contribution to the State of North Carolina within the provisions of G.S. 105-130.9 and
4 section 170(c)(1) of the Internal Revenue Code. The value of the contribution or donation shall
5 be the fair market value of the easement or other interest in land when the contribution or
6 donation is made.

7 **"§ 143B-135.164. Component as part of State park, wildlife refuge, etc.**

8 Any component of the State natural and scenic rivers system that is or shall become a part
9 of any State park, wildlife refuge, or state-owned area shall be subject to the provisions of this
10 ~~Article-Part~~ and the ~~Articles-laws~~ under which the other areas may be administered, and in the
11 case of conflict between the provisions of these ~~Articles-laws~~, the more restrictive provisions
12 shall apply.

13 **"§ 143B-135.166. Component as part of national wild and scenic river system.**

14 Nothing in this ~~Article-Part~~ shall preclude a river or segment of a river from becoming part
15 of the national wild and scenic river system. The Secretary ~~of the Department~~ is directed to
16 encourage and assist any federal studies for the inclusion of North Carolina rivers in the
17 national system. The Secretary may enter into cooperative agreements for joint federal-state
18 administration of a North Carolina river or segment of river: Provided, that such agreements
19 relating to water and land use are not less restrictive than the requirements of this ~~Article-Part~~.

20 **"§ 143B-135.168. Violations.**

21 (a) Civil Action. – Whoever violates, fails, neglects or refuses to obey any provision of
22 this ~~Article-Part~~ or rule or order of the Secretary may be compelled to comply with or obey the
23 same by injunction, mandamus, or other appropriate remedy.

24 (b) Penalties. – Whoever violates, fails, neglects or refuses to obey any provision of this
25 ~~Article-Part~~ or rule or order of the Secretary is guilty of a Class 3 misdemeanor and may be
26 punished only by a fine of not more than fifty dollars (\$50.00) for each violation, and each day
27 such person shall fail to comply, where feasible, after having been officially notified by the
28 Department shall constitute a separate offense subject to the foregoing penalty.

29 **"§ 143B-135.170. Authorization of advances.**

30 The Department of Administration is hereby authorized to advance from land-purchase
31 appropriations necessary amounts for the purchase of land in those cases where reimbursement
32 will be later effected by the Bureau of Outdoor Recreation of the United States Department of
33 the Interior.

34 **"§ 143B-135.172. Restrictions on project works on natural or scenic river.**

35 The State Utilities Commission may not permit the construction of any dam, water conduit,
36 reservoir, powerhouse transmission line, or any other project works on or directly affecting any
37 river that is designated as a component or potential component of the State Natural and Scenic
38 Rivers System. No department or agency of the State may assist by loan, grant, license, permit,
39 or otherwise in the construction of any water resources project that would have a direct and
40 adverse effect on any river that is designated as a component or potential component of the
41 State Natural and Scenic Rivers System. This section shall not, however, preclude licensing of
42 or assistance to a development below or above a designated or potential component. No
43 department or agency of the State may recommend authorization of any water resources project
44 that would have a direct and adverse effect on any river that is designated as a component or
45 potential component of the State Natural and Scenic Rivers System, or request appropriations
46 to begin construction of any such project, regardless of when authorized, without advising the
47 Secretary in writing of its intention to do so at least 60 days in advance. Such department or
48 agency making such recommendation or request shall submit a written impact statement to the
49 General Assembly to accompany the recommendation or request specifically describing how
50 construction of the project would be in conflict with the purposes of this act and how it would
51 affect the component or potential component."

1 **SECTION 14.30.(n)** Part 37 of Article 2 of Chapter 143B of the General Statutes,
2 as recodified by subsection (g) of this section, reads as rewritten:

3 "Part 37. Division of North Carolina Aquariums.

4 "**§ 143B-135.180. Division of North Carolina Aquariums – creation.**

5 The Division of North Carolina Aquariums is created in the Department of ~~Environment~~
6 ~~and-Natural and Cultural~~ Resources.

7 "**§ 143B-135.182. Division of North Carolina Aquariums – organization; powers and**
8 **duties.**

9 (a) The Division of North Carolina Aquariums shall be organized as prescribed by the
10 Secretary of ~~Environment and-Natural and Cultural~~ Resources and shall exercise the following
11 powers and duties:

12 ~~(1) Repealed by Session Laws 1991, c. 320, s. 3.~~

13 ~~(1a)(1)~~ Establish and maintain the North Carolina Aquariums.

14 ~~(1b)(2)~~ Administer the operations of the North Carolina Aquariums, such
15 administrative duties to include, but not be limited to the following:

16 a. Adopt goals and objectives for the Aquariums and review and revise
17 these goals and objectives periodically.

18 b. Review and approve requests for use of the Aquarium facilities and
19 advise the Secretary of ~~Environment and-Natural and Cultural~~
20 Resources on the most appropriate use consistent with the goals and
21 objectives of the Aquariums.

22 c. Continually review and evaluate the types of projects and programs
23 being carried out in the Aquarium facilities and determine if the
24 operation of the facilities is in compliance with the established goals
25 and objectives.

26 d. Recommend to the Secretary of ~~Environment and-Natural and~~
27 ~~Cultural~~ Resources any policies and procedures needed to assure
28 effective staff performance and proper liaison among Aquarium
29 facilities in carrying out the overall purposes of the Aquarium
30 programs.

31 e. Review Aquarium budget submissions to the Secretary of
32 Environment and Natural Resources.

33 f. Recruit and recommend to the Secretary of ~~Environment and-Natural~~
34 ~~and Cultural~~ Resources candidates for the positions of directors of
35 the Aquariums.

36 g. Create local advisory committees in accordance with the provisions
37 of ~~G.S. 143B-289.43~~ G.S. 143B-135.186.

38 ~~(1e)(3)~~ Notwithstanding Article 3A of Chapter 143 of the General Statutes, and
39 G.S. 143-49(4), dispose of any exhibit, exhibit component, or object from
40 the collections of the North Carolina Aquariums by sale, lease, or trade. A
41 sale, lease, or trade under this subdivision shall be conducted in accordance
42 with generally accepted practices for zoos and aquariums that are accredited
43 by the American Association of Zoos and Aquariums. After deducting the
44 expenses attributable to the sale or lease, the net proceeds of any sale or
45 lease shall be credited to the North Carolina Aquariums Fund.

46 ~~(2), (3) Repealed by Session Laws 1993, c. 321, s. 28(e).~~

47 ~~(4) through (6) Repealed by Session Laws 1991, c. 320, s. 3.~~

48 ~~(7)~~ Assume any other powers and duties assigned to it by the Secretary.

49 (b) The Secretary may adopt any rules and procedures necessary to implement this
50 section.

51 "**§ 143B-135.184. North Carolina Aquariums; purpose.**

1 The purpose of establishing and maintaining the North Carolina Aquariums is to promote
2 an awareness, understanding, and appreciation of the diverse natural and cultural resources
3 associated with North Carolina's oceans, estuaries, rivers, streams, and other aquatic
4 environments.

5 **"§ 143B-135.186. Local advisory committees; duties; membership.**

6 Local advisory committees created pursuant to ~~G.S. 143B-289.41(a)(1b)~~
7 G.S. 143B-135.182(a)(2) shall assist each North Carolina Aquarium in its efforts to establish
8 projects and programs and to assure adequate citizen-consumer input into those efforts.
9 Members of these committees shall be appointed by the Secretary of ~~Environment and Natural~~
10 and Cultural Resources for three-year terms from nominations made by the Director of the
11 Office of Marine Affairs. Each committee shall select one of its members to serve as
12 chairperson. Members of the committees shall serve without compensation for services or
13 expenses.

14 **"§ 143B-135.188. North Carolina Aquariums; fees; fund.**

15 (a) Fees. – The Secretary of ~~Environment and Natural~~ and Cultural Resources may
16 adopt a schedule of fees for the aquariums and piers operated by the North Carolina
17 Aquariums, including:

- 18 (1) Gate admission fees.
- 19 (2) Facility rental fees.
- 20 (3) Educational programs.

21 (b) Fund. – The North Carolina Aquariums Fund is hereby created as a special ~~and~~
22 ~~nonreverting~~ fund. The North Carolina Aquariums Fund shall be used for the following:

- 23 (1) ~~repair, Repair, renovation, expansion, maintenance, and educational exhibit~~
24 ~~construction, and operational expenses~~ construction at existing ~~aquariums,~~
25 aquariums.
- 26 (2) ~~to pay~~ Payment of the debt service and lease payments related to the
27 financing of expansions of ~~aquariums,~~ aquariums.
- 28 (3) ~~and to match~~ Matching of private funds that are raised for these purposes.

29 (c) Disposition of Fees. – All entrance fee receipts shall be credited to the ~~North~~
30 ~~Carolina Aquariums Fund. Receipts so credited that are necessary to support the personnel and~~
31 ~~operational expenses of the aquariums shall be transferred to the aquariums' General Fund~~
32 operating budget on a monthly basis. budget. In each fiscal year, the Secretary may transfer the
33 receipts from the North Carolina aquariums' General Fund to the North Carolina Aquariums
34 Fund in an amount not to exceed the sum of the following:

- 35 (1) One million dollars (\$1,000,000).
- 36 (2) The amount needed to cover the expenses described by subdivision (2) of
37 subsection (b) this section.

38 (d) Approval. – The Secretary may approve the use of the North Carolina Aquariums
39 Fund for repair and renovation projects at the aquariums related facilities that comply with the
40 following:

- 41 (1) The total project cost is less than two hundred fifty thousand dollars
42 (\$250,000).
- 43 (2) The project meets the requirements of G.S. 143C-4-3(b).

44 ~~(d)(e)~~ Report. – The Division of North Carolina Aquariums shall submit to the Joint
45 Legislative Commission on Governmental Operations, the House and Senate Appropriations
46 Subcommittees on Natural and Economic Resources, appropriations committees with
47 jurisdiction over natural and economic resources, and the Fiscal Research Division by
48 September 30 of each year a report on the North Carolina Aquariums Fund that shall include
49 the source and amounts of all funds credited to the Fund and the purpose and amount of all
50 expenditures from the Fund during the prior fiscal year.

51"

1 **SECTION 14.30.(o)** Part 38 of Article 2 of Chapter 143B of the General Statutes,
2 as recodified by subsection (h) of this section, reads as rewritten:

3 "Part 38. North Carolina Parks and Recreation Authority.

4 "**§ 143B-135.200. North Carolina Parks and Recreation Authority; creation; powers and**
5 **duties.**

6 The North Carolina Parks and Recreation Authority is created, to be administered by the
7 Department of ~~Environment and~~ Natural and Cultural Resources. The North Carolina Parks and
8 Recreation Authority shall have at least the following powers and duties:

- 9 (1) To receive public and private donations, appropriations, grants, and revenues
10 for deposit into the Parks and Recreation Trust Fund.
- 11 (2) To allocate funds for land acquisition from the Parks and Recreation Trust
12 Fund.
- 13 (3) To allocate funds for repairs, renovations, improvements, construction, and
14 other capital projects from the Parks and Recreation Trust Fund.
- 15 (4) To solicit financial and material support from public and private sources.
- 16 (5) To develop effective public and private support for the programs and
17 operations of the parks and recreation areas.
- 18 (6) To consider and to advise the Secretary of ~~Environment and~~ Natural and
19 Cultural Resources on any matter the Secretary may refer to the North
20 Carolina Parks and Recreation Authority.

21 "**§ 143B-135.202. North Carolina Parks and Recreation Authority; members; selection;**
22 **compensation; meetings.**

23 (a) Membership. – The North Carolina Parks and Recreation Authority shall consist of
24 nine members. The members shall include persons who are knowledgeable about park and
25 recreation issues in North Carolina or with expertise in finance. In making appointments, each
26 appointing authority shall specify under which subdivision of this subsection the person is
27 appointed. Members shall be appointed as follows:

- 28 (1) One member appointed by the Governor.
- 29 (2) One member appointed by the Governor.
- 30 (3) One member appointed by the Governor.
- 31 ~~(3a) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
- 32 ~~(3b) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
- 33 (4) One member appointed by the General Assembly upon the recommendation
34 of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- 35 (5) One member appointed by the General Assembly upon the recommendation
36 of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- 37 (6) One member appointed by the General Assembly upon the recommendation
38 of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- 39 ~~(7) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
- 40 ~~(7a) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
- 41 ~~(8)~~(7) One member appointed by the General Assembly upon the recommendation
42 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
- 43 ~~(9)~~(8) One member appointed by the General Assembly upon the recommendation
44 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
- 45 ~~(10)~~(9) One member appointed by the General Assembly upon the recommendation
46 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
- 47 ~~(11) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
- 48 ~~(12) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

49 (b) Terms. – Members shall serve staggered terms of office of three years. Members
50 shall serve no more than two consecutive three-year terms. After serving two consecutive
51 three-year terms, a member is not eligible for appointment to the Authority for at least one year

1 after the expiration date of that member's most recent term. Upon the expiration of a three-year
 2 term, a member may continue to serve until a successor is appointed and duly qualified as
 3 provided by G.S. 128-7. The terms of members appointed under subdivision (1), (5), or ~~(9)~~(8)
 4 of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by three.
 5 The terms of members appointed under subdivision (2), (4), or ~~(8)~~(7) of subsection (a) of this
 6 section shall expire on July 1 of years that follow by one year those years that are evenly
 7 divisible by three. The terms of members appointed under subdivision (3), (6), or ~~(10)~~(9) of
 8 subsection (a) of this section shall expire on July 1 of years that precede by one year those
 9 years that are evenly divisible by three.

10 (c) Chair. – The Governor shall appoint one member of the North Carolina Parks and
 11 Recreation Authority to serve as Chair.

12 (d) Vacancies. – A vacancy on the North Carolina Parks and Recreation Authority shall
 13 be filled by the appointing authority responsible for making the appointment to that position as
 14 provided in subsection (a) of this section. An appointment to fill a vacancy shall be for the
 15 unexpired balance of the term.

16 (e) Removal. – The Governor may remove, as provided in Article 10 of Chapter 143C
 17 of the General Statutes any member of the North Carolina Parks and Recreation Authority
 18 appointed by the Governor for misfeasance, malfeasance, or nonfeasance. The General
 19 Assembly may remove any member of the North Carolina Parks and Recreation Authority
 20 appointed by the General Assembly for misfeasance, malfeasance, or nonfeasance.

21 (f) Compensation. – The members of the North Carolina Parks and Recreation
 22 Authority shall receive per diem and necessary travel and subsistence expenses according to the
 23 provisions of G.S. 138-5.

24 (g) Meetings. – The North Carolina Parks and Recreation Authority shall meet at least
 25 quarterly at a time and place designated by the Chair.

26 (h) Quorum. – A majority of the North Carolina Parks and Recreation Authority shall
 27 constitute a quorum for the transaction of business.

28 (i) Staff. – All clerical and other services required by the North Carolina Parks and
 29 Recreation Authority shall be provided by the Secretary of ~~Environment and~~ Environment and
 30 Cultural Resources."

31 **SECTION 14.30.(p)** Part 39 of Article 2 of Chapter 143B of the General Statutes,
 32 as recodified by subsection (i) of this section, reads as rewritten:

33 "Part 39. North Carolina Zoological Park Council.

34 "**§ 143B-135.205. North Carolina Zoological Park Council – creation; powers and duties.**

35 There is hereby created the North Carolina Zoological Park Council of the Department of
 36 ~~Environment and~~ Environment and Cultural Resources. The North Carolina Zoological Park Council
 37 shall have the following functions and duties:

38 (1) To advise the Secretary on the basic concepts of and for the Zoological Park,
 39 approve conceptual plans for the Zoological Park and its ~~buildings;~~buildings.

40 (2) To advise on the construction, furnishings, equipment and operations of the
 41 North Carolina Zoological ~~Park;~~Park.

42 ~~(2a)~~(3) To establish and set admission fees with the approval of the Secretary of
 43 ~~Environment and~~ Environment and Cultural Resources as provided in
 44 ~~G.S. 143-177.3(b);~~G.S. 143B-135.213.

45 ~~(3)~~(4) To recommend programs to promote public appreciation of the North
 46 Carolina Zoological ~~Park;~~Park.

47 ~~(4)~~(5) To disseminate information on animals and the park as deemed
 48 ~~necessary;~~necessary.

49 ~~(5)~~(6) To develop effective public support of the North Carolina Zoological Park
 50 through whatever means are desirable and ~~necessary;~~necessary.

1 ~~(6)~~(7) To solicit financial and material support from various private sources within
2 and without the State of North ~~Carolina~~; and Carolina.

3 ~~(7)~~(8) To advise the Secretary of ~~Environment and Natural~~ and Cultural Resources
4 upon any matter the Secretary may refer to it.

5 "**§ 143B-135.207. North Carolina Zoological Park Council – members; selection;
6 removal; chairman; compensation; quorum; services.**

7 The North Carolina Zoological Park Council of the Department of ~~Environment and~~
8 Natural and Cultural Resources shall consist of 15 members appointed by the Governor, one of
9 whom shall be the Chairman of the Board of Directors of the North Carolina Zoological
10 Society.

11 ~~The initial members of the Council shall be the members of the Board of Directors of the~~
12 ~~North Carolina Zoo Authority who shall serve for a period equal to the remainder of their~~
13 ~~current terms on the Board of Directors of the North Carolina Zoological Authority, all of~~
14 ~~whose terms expire July 15, 1975.~~ At the end of the respective terms of office of the initial
15 members of the Council, the Governor, to achieve staggered terms, shall appoint five members
16 for terms of two years, five members for terms of four years and five members for terms of six
17 years. Thereafter, the appointment of their successors shall be for terms of six years and until
18 their successors are appointed and qualify. Any appointment to fill a vacancy on the Council
19 created by the resignation, dismissal, death or disability of a member shall be for the balance of
20 the unexpired term.

21 The Governor shall have the power to remove any member of the Council from office in
22 accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

23 The Governor shall designate a member of the Council to serve as chairman at his pleasure.

24 Members of the Council shall receive per diem and necessary travel and subsistence
25 expenses in accordance with the provisions of G.S. 138-5.

26 A majority of the Council shall constitute a quorum for the transaction of business.

27 All clerical and other services required by the Council shall be supplied by the Secretary of
28 ~~Environment and Natural~~ and Cultural Resources.

29 "**§ 143B-135.209. Special North Carolina Zoo Fund.**

30 ~~A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created.~~
31 ~~The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal~~
32 ~~year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be~~
33 ~~used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor~~
34 ~~services facilities, construction of visitor services facilities and support facilities such as~~
35 ~~greenhouses and temporary animal holding areas, for the replacement of tram equipment as~~
36 ~~required to maintain adequate service to the public, and for marketing the Zoological Park. The~~
37 ~~Special Zoo Fund may also be used to match private funds that are raised for these purposes.~~
38 ~~Funds may be expended for these purposes by the Department of Environment and Natural~~
39 ~~Resources on the advice of the North Carolina Zoological Park Council and with the approval~~
40 ~~of the Office of State Budget and Management. The Department of Environment and Natural~~
41 ~~Resources shall provide a report on or before October 1 of each year to the Office of State~~
42 ~~Budget and Management, the Fiscal Research Division of the General Assembly, and to the~~
43 ~~Joint Legislative Commission on Governmental Operations on the use of fees collected~~
44 ~~pursuant to this section.~~

45 (a) Fund. – The North Carolina Zoo Fund is created as a special fund. The North
46 Carolina Zoo Fund shall be used for the following types of projects at the North Carolina
47 Zoological Park and to match private funds raised for these types of projects:

48 (1) Repair, renovation, expansion, maintenance, and educational exhibit
49 construction.

1 (2) Renovations of exhibits in habitat clusters, visitor services facilities, and
2 support facilities (including greenhouses and temporary animal holding
3 areas).

4 (3) The acquisition, maintenance, or replacement of tram equipment as required
5 to maintain adequate service to the public.

6 (b) Disposition of Fees. – All fee receipts shall be credited to the North Carolina
7 Zoological Park's General Fund operating budget. In each fiscal year, the Secretary may
8 transfer fee receipts from the North Carolina Zoological Park's General Fund to the North
9 Carolina Zoo Fund in an amount not to exceed one million dollars (\$1,000,000).

10 (c) Approval. – The Secretary may approve the use of the North Carolina Zoo Fund for
11 repair and renovation projects at the North Carolina Zoological Park recommended by the
12 Council that comply with the following:

13 (1) The total project cost is less than two hundred fifty thousand dollars
14 (\$250,000).

15 (2) The project meets the requirements of G.S. 143C-4-3(b).

16 (d) Report. – The Department shall submit to the House and Senate appropriations
17 committees with jurisdiction over natural and economic resources and the Fiscal Research
18 Division by September 30 of each year a report on the North Carolina Zoo Fund that shall
19 include the source and amounts of all funds credited to the Fund and the purpose and amount of
20 all expenditures from the Fund during the prior fiscal year."

21 **SECTION 14.30.(q)** G.S. 143B-135.210 through G.S. 143B-135.213, as recodified
22 by subsection (j) of this section, read as rewritten:

23 "**§ 143-135.210. Right to receive gifts.**

24 In order to carry out the purposes of this ~~Article, Part~~, the ~~Board~~-Council is authorized to
25 acquire by gift or will, absolutely or in trust, from individuals, corporations, or any other source
26 money or other property, or any interests in property, which may be retained, sold or otherwise
27 used to promote the purposes of this ~~Article, Part~~. The use of gifts shall be subject to such
28 limitations as may be imposed thereon by donors, notwithstanding any other provisions of this
29 ~~Article, Part~~.

30 "**§ 143-135.211. Tax exemption for gifts to North Carolina Zoological Park ~~Fund, Park~~.**

31 All gifts made to the North Carolina Zoological Park for the purposes of this ~~Article, Part~~
32 shall be exempt from every form of taxation including, but not by the way of limitation, ad
33 valorem, intangible, gift, inheritance and income taxation. Proceeds from the sale of any
34 property acquired under the provisions of this ~~Article, Part~~ shall be deposited in the North
35 Carolina State treasury and shall be credited to the North Carolina Zoological Park.

36 "**§ 143-135.212. Cities and counties.**

37 Cities and counties are hereby authorized to expend funds derived from nontax sources and
38 to make gifts of surplus property, to assist in carrying out the purposes of this ~~Article, Part~~.

39 "**§ 143-135.213. Sources of funds.**

40 (a) It is the intent of this ~~Article, Part~~ that the funds for the creation, establishment,
41 construction, operation and maintenance of the North Carolina Zoological Park shall be
42 obtained primarily from private sources; however, the Council under the supervision and
43 approval and with the assistance of the Secretary of ~~Environment and Natural and Cultural~~
44 Resources is hereby authorized to receive and expend such funds as may from time to time
45 become available by appropriation or otherwise from the State of North Carolina; provided,
46 that the ~~North Carolina Zoological Park~~-Council shall not in any manner pledge the faith and
47 credit of the State of North Carolina for any of its purposes.

48 (b) The Council with the approval of the Secretary of ~~Environment and Natural and~~
49 Cultural Resources is authorized to establish and set admission fees which are reasonable and
50 consistent with the purpose and function of the North Carolina Zoological Park."

1 **SECTION 14.30.(r)** Part 40 of Article 2 of Chapter 143B of the General Statutes,
2 as recodified by subsection (k) of this section, reads as rewritten:

3 "Part 40. ~~Advisory Commission for~~ North Carolina State Museum of Natural Sciences.

4 "**§ 143B-135.215. Commission created; membership.**

5 There is created an Advisory Commission for the North Carolina State Museum of Natural
6 Sciences which shall determine its own organization. It shall consist of at least nine members,
7 which shall include the Director of the North Carolina State Museum of Natural Sciences, the
8 Commissioner of Agriculture, the State Geologist and Secretary of ~~Environment and~~ Environment and
9 and Cultural Resources, the Director of the Institute of Fisheries Research of the University of
10 North Carolina, the Director of the Wildlife Resources Commission, the Superintendent of
11 Public Instruction, or qualified representative of any or all of the above-named members, and at
12 least three persons representing the East, the Piedmont, and the Western areas of the State.
13 Members appointed by the Governor shall serve for four-year staggered terms. Terms shall
14 begin on 1 September. Members appointed by the Governor shall not serve more than three
15 consecutive four-year terms. Any member may be removed by the Governor for cause.

16 ...

17 "**§ 143B-135.221. Reports to General Assembly.**

18 The Commission shall prepare and submit a report outlining the needs of the North
19 Carolina State Museum of Natural Sciences and recommendations for improvement of the
20 effectiveness of the North Carolina State Museum of Natural Sciences for the purpose
21 hereinabove set forth to ~~the 1995 General Assembly, and to each succeeding the~~ the General
22 Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint
23 Legislative Commission on Governmental Operations on or before October 1 of each year.

24 "**§ 143B-135.223. Museum of Natural Sciences; disposition of objects.**

25 Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any
26 other law pertaining to surplus State property, the Department of ~~Environment and~~ Environment and
27 Cultural Resources may sell or exchange any object from the collection of the Museum of
28 Natural Sciences when it would be in the best interest of the Museum to do so. Sales or
29 exchanges shall be conducted in accordance with generally accepted practices for accredited
30 museums. If an object is sold, the net proceeds of the sale shall be deposited in the State
31 treasury to the credit of a special fund to be used for the improvement of the Museum's
32 collections or exhibits.

33 "**§ 143B-135.225. Museum of Natural Sciences; fees; fund.**

34 (a) Fund. – The North Carolina Museum of Natural Sciences Fund is created as a
35 special fund. The North Carolina Museum of Natural Sciences Fund shall be used for repair,
36 renovation, expansion, maintenance, and educational exhibit construction at the North Carolina
37 Museum of Natural Sciences and to match private funds raised for these projects.

38 (b) Disposition of Fees. – All fee receipts shall be credited to the North Carolina
39 Museum of Natural Sciences' General Fund operating budget. In each fiscal year, the Secretary
40 may transfer fee receipts from the North Carolina Museum of Natural Sciences' General Fund
41 to the North Carolina Museum Fund in an amount not to exceed one million dollars
42 (\$1,000,000).

43 (c) Approval. – The Secretary may approve the use of the North Carolina Museum of
44 Natural Sciences Fund for repair and renovation projects at the North Carolina Museum of
45 Natural Sciences recommended by the Advisory Council that comply with the following:

46 (1) The total project cost is less than two hundred fifty thousand dollars
47 (\$250,000).

48 (2) The project meets the requirements of G.S. 143C-4-3(b).

49 (d) Report. – The Department shall submit to the House and Senate appropriations
50 committees with jurisdiction over natural and economic resources and the Fiscal Research
51 Division by September 30 of each year a report on the North Carolina Museum Fund that shall

1 include the source and amounts of all funds credited to the Fund and the purpose and amount of
2 all expenditures from the Fund during the prior fiscal year.

3 "**§ 143B-135.229. North Carolina Museum of Forestry; Museum of Natural Sciences at**
4 **Whiteville; satellite museum.**

5 The Department of ~~Environment and Natural~~ and Cultural Resources shall establish and
6 administer the North Carolina Museum of ~~Forestry~~ Museum of Natural Sciences at Whiteville
7 in Columbus County as a satellite museum of the North Carolina State Museum of Natural
8 Sciences."
9

10 **CHANGES TO STATUTORY REFERENCES TO DEPARTMENTS**

11 **SECTION 14.30.(s)** The following statutes are amended by deleting the language
12 "Department of Cultural Resources" wherever it appears and substituting "Department of
13 Natural and Cultural Resources": G.S. 7A-343.1, G.S. 7B-3000, G.S. 8-6, G.S. 8-7, G.S. 8-34,
14 G.S. 14-76.1, G.S. 15C-7, G.S. 20-79.4, G.S. 20-81.12, G.S. 62-102, G.S. 65-85, G.S. 70-2,
15 G.S. 70-13, G.S. 70-13.1, G.S. 70-16, G.S. 70-18, G.S. 70-19, G.S. 70-20, G.S. 70-28,
16 G.S. 70-31, G.S. 70-48, G.S. 70-49, G.S. 70-50, G.S. 70-51, G.S. 70-52, G.S. 75D-5,
17 G.S. 97-24, G.S. 100-2, G.S. 102-17, G.S. 105-129.36A, G.S. 105-256, G.S. 111-28,
18 G.S. 111-47.2, G.S. 115C-218.25, G.S. 120-37, G.S. 121-2, G.S. 121-3, G.S. 121-4,
19 G.S. 121-4.1, G.S. 121-5, G.S. 121-5.1, G.S. 121-6, G.S. 121-7, G.S. 121-7.1, G.S. 121-7.2,
20 G.S. 121-7.3, G.S. 121-7.4, G.S. 121-7.5, G.S. 121-7.6, G.S. 121-8, G.S. 121-9, G.S. 121-9.1,
21 G.S. 121-10, G.S. 121-11, G.S. 121-12, G.S. 121-12.1, G.S. 121-12.2, G.S. 121-13,
22 G.S. 121-14, G.S. 121-15, G.S. 121-16, G.S. 121-18, G.S. 121-20, G.S. 121-23, G.S. 121-24,
23 G.S. 121-25, G.S. 121-25.1, G.S. 121-26, G.S. 121-27, G.S. 125-1, G.S. 125-2, G.S. 125-5,
24 G.S. 125-7, G.S. 125-8, G.S. 125-10, G.S. 125-11.8, G.S. 125-14, G.S. 126-5, G.S. 130A-93,
25 G.S. 132-3, G.S. 132-4, G.S. 132-8, G.S. 132-8.1, G.S. 132-8.2, G.S. 136-42.1, G.S. 136-42.2,
26 G.S. 136-42.3, G.S. 136-43.1, G.S. 140-5.12, G.S. 140-5.13, G.S. 140-5.14, G.S. 142-13,
27 G.S. 143-138, G.S. 143-268, G.S. 143-300, G.S. 143-406, G.S. 143-410, G.S. 143-411,
28 G.S. 143-431, G.S. 143-432, G.S. 143-640, G.S. 143-641, G.S. 143-642, G.S. 143-675,
29 G.S. 143-676, G.S. 143-677, G.S. 143B-2, G.S. 143B-6, G.S. 143B-49, G.S. 143B-51,
30 G.S. 143B-53.1, G.S. 143B-53.2, G.S. 143B-53.3, G.S. 143B-62, G.S. 143B-63, G.S. 143B-67,
31 G.S. 143B-68, G.S. 143B-71, G.S. 143B-72, G.S. 143B-73, G.S. 143B-73.1, G.S. 143B-74,
32 G.S. 143B-74.2, G.S. 143B-79, G.S. 143B-85, G.S. 143B-87.2, G.S. 143B-90, G.S. 143B-95,
33 G.S. 143B-111, G.S. 143B-121, G.S. 143B-123, G.S. 143B-124, G.S. 143B-125,
34 G.S. 143B-126, G.S. 143B-127, G.S. 143B-131.1, G.S. 143B-131.2, G.S. 143B-131.8A,
35 G.S. 143B-131.9, G.S. 143B-133, G.S. 143B-135, G.S. 143B-181, G.S. 143B-417,
36 G.S. 143B-948, G.S. 150B-1, G.S. 153A-266, G.S. 153A-373, G.S. 160A-400.4,
37 G.S. 160A-400.6, G.S. 160A-433, G.S. 161-11.5, G.S. 163-82.10, G.S. 163-278.22,
38 G.S. 163-278.30. In any other instances in the General Statutes in which there is a reference to
39 the Department of Cultural Resources or a derivative thereof, the Revisor of Statutes may
40 replace that reference with a reference to the Department of Natural and Cultural Resource, as
41 appropriate.

42 **SECTION 14.30.(t)** The following statutes are amended by deleting the language
43 "Secretary of Cultural Resources" wherever it appears and substituting "Secretary of Natural
44 and Cultural Resources": G.S. 20-79.5, G.S. 47-16.5, G.S. 116B-70, G.S. 121-2, G.S. 121-9,
45 G.S. 121-10, G.S. 121-12.2, G.S. 125-2, G.S. 125-9, G.S. 125-11.11, G.S. 132-8,
46 G.S. 136-43.1, G.S. 140-5.14, G.S. 140-5.15, G.S. 143-200, G.S. 143-201, G.S. 143-204.8,
47 G.S. 143-675, G.S. 143-676, G.S. 143B-52, G.S. 143B-62, G.S. 143B-63, G.S. 143B-72,
48 G.S. 143B-74, G.S. 143B-74.1, G.S. 143B-79, G.S. 143B-80, G.S. 143B-83, G.S. 143B-84,
49 G.S. 143B-87, G.S. 143B-88, G.S. 143B-90, G.S. 143B-91, G.S. 143B-97, G.S. 143B-98,
50 G.S. 143B-99, G.S. 143B-101, G.S. 143B-102, G.S. 143B-105, G.S. 143B-106,
51 G.S. 143B-109, G.S. 143B-110, G.S. 143B-114, G.S. 143B-115, G.S. 143B-131.2,

1 G.S. 143B-133, G.S. 143B-135, G.S. 147-54.3, G.S. 153A-267. In any other instances in the
2 General Statutes in which there is a reference to the Secretary of Cultural Resources or a
3 derivative thereof, the Revisor of Statutes may replace that reference with a reference to the
4 Secretary of Natural and Cultural Resources, as appropriate.

5 **SECTION 14.30.(u)** The following statutes are amended by deleting the language
6 "Department of Environment and Natural Resources" wherever it appears and substituting
7 "Department of Environmental Quality": G.S. 14-86.2, G.S. 14-137, G.S. 15A-1343,
8 G.S. 18B-902, G.S. 20-85, G.S. 20-128, G.S. 20-183.7, G.S. 62-102, G.S. 62-110.1,
9 G.S. 62-133.6, G.S. 62-133.8, G.S. 62-302.1, G.S. 69-25.5, G.S. 74-38, G.S. 74-49, G.S. 74-53,
10 G.S. 74-76, G.S. 75A-17, G.S. 76-40, G.S. 77-90, G.S. 77-95, G.S. 77-114, G.S. 77-125,
11 G.S. 77-127, G.S. 77-141, G.S. 77-142, G.S. 87-85, G.S. 87-95, G.S. 87-97, G.S. 87-98.2,
12 G.S. 90A-21, G.S. 90A-25, G.S. 90A-47.3, G.S. 95-225, G.S. 100-2, G.S. 104E-7,
13 G.S. 104E-15, G.S. 104E-24, G.S. 105-122, G.S. 105-129.81, G.S. 105-130.10,
14 G.S. 105-187.24, G.S. 105-187.63, G.S. 105-259, G.S. 105-275, G.S. 105-277.13,
15 G.S. 105-449.107, G.S. 106-24, G.S. 106-143, G.S. 106-678, G.S. 106-762, G.S. 106-805,
16 G.S. 106-806, G.S. 106-860, G.S. 110-92, G.S. 110-142.2, G.S. 113-1, G.S. 113-3, G.S. 113-8,
17 G.S. 113-8.01, G.S. 113-14.1, G.S. 113-14.3, G.S. 113-16, G.S. 113-17, G.S. 113-18,
18 G.S. 113-19, G.S. 113-20, G.S. 113-21, G.S. 113-25, G.S. 113-26.1, G.S. 113-128,
19 G.S. 113-168, G.S. 113-174, G.S. 113-251, G.S. 113-300.6, G.S. 113-378, G.S. 113-389,
20 G.S. 113-425, G.S. 113A-52, G.S. 113A-103, G.S. 113A-104, G.S. 113A-113, G.S. 113A-118,
21 G.S. 113A-129.2, G.S. 113A-134.11, G.S. 113A-134.12, G.S. 113A-153, G.S. 113A-164.12,
22 G.S. 113A-167, G.S. 113A-168, G.S. 113A-169, G.S. 113A-170, G.S. 113A-221,
23 G.S. 113A-230, G.S. 113A-231, G.S. 113A-232, G.S. 113A-235, G.S. 113A-253,
24 G.S. 113A-255, G.S. 113B-2, G.S. 113B-6, G.S. 113B-11, G.S. 113B-30, G.S. 115C-522,
25 G.S. 120-70.43, G.S. 120-76, G.S. 121-4, G.S. 126-5, G.S. 128-1.1, G.S. 130A-1.1,
26 G.S. 130A-4, G.S. 130A-24, G.S. 130A-26.1, G.S. 130A-33.50, G.S. 130A-47,
27 G.S. 130A-131.7, G.S. 130A-290, G.S. 130A-295.9, G.S. 130A-301, G.S. 130A-309.14,
28 G.S. 130A-309.140, G.S. 130A-310.60, G.S. 130A-313, G.S. 130A-336, G.S. 130A-481,
29 G.S. 136-21, G.S. 136-28.8, G.S. 136-44.7B, G.S. 136-44.7D, G.S. 136-44.36D, G.S. 136-123,
30 G.S. 136-202, G.S. 139-8, G.S. 139-46, G.S. 143-58.2, G.S. 143-58.4, G.S. 143-64.11,
31 G.S. 143-64.12, G.S. 143-64.17F, G.S. 143-64.17G, G.S. 143-64.17H, G.S. 143-138,
32 G.S. 143-166.13, G.S. 143-211, G.S. 143-212, G.S. 143-214.7A, G.S. 143-214.8,
33 G.S. 143-214.13, G.S. 143-214.25A, G.S. 143-215.8D, G.S. 143-215.9B, G.S. 143-215.9C,
34 G.S. 143-215.73A, G.S. 143-215.77, G.S. 143-215.94I, G.S. 143-215.94L,
35 G.S. 143-215.94HH, G.S. 143-215.107B, G.S. 143-215.107C, G.S. 143-228.10, G.S. 143-240,
36 G.S. 143-252, G.S. 143-253, G.S. 143-286.1, G.S. 143-289, G.S. 143-320, G.S. 143-323,
37 G.S. 143-350, G.S. 143-355, G.S. 143-355.2, G.S. 143-436, G.S. 143-439, G.S. 143B-2,
38 G.S. 143B-6, G.S. 143B-131.2, G.S. 143B-181, G.S. 143B-279.1, G.S. 143B-279.2,
39 G.S. 143B-279.3, G.S. 143B-279.4, G.S. 143B-279.5, G.S. 143B-279.7, G.S. 143B-279.8,
40 G.S. 143B-279.9, G.S. 143B-279.10, G.S. 143B-279.11, G.S. 143B-279.12, G.S. 143B-279.13,
41 G.S. 143B-279.14, G.S. 143B-279.15, G.S. 143B-279.16, G.S. 143B-279.17, G.S. 143B-281.1,
42 G.S. 143B-282, G.S. 143B-282.1, G.S. 143B-283, G.S. 143B-284, G.S. 143B-285,
43 G.S. 143B-285.22, G.S. 143B-289.50, G.S. 143B-289.51, G.S. 143B-289.52,
44 G.S. 143B-289.61, G.S. 143B-290, G.S. 143B-293.1, G.S. 143B-298, G.S. 143B-299,
45 G.S. 143B-300, G.S. 143B-301, G.S. 143B-301.1, G.S. 143B-301.10, G.S. 143B-324.1,
46 G.S. 143B-324.2, G.S. 143B-344.34, G.S. 143B-344.35, G.S. 143B-344.36, G.S. 143B-344.37,
47 G.S. 143B-344.38, G.S. 143B-344.44, G.S. 143B-344.50, G.S. 143B-344.55, G.S. 143B-417,
48 G.S. 143B-431.01, G.S. 143B-437, G.S. 143B-437.01, G.S. 146-8, G.S. 147-33.104A,
49 G.S. 148-10, G.S. 150B-1, G.S. 150B-19.3, G.S. 153A-136, G.S. 153A-226, G.S. 153A-421,
50 G.S. 156-59, G.S. 156-74, G.S. 156-76, G.S. 156-83, G.S. 159G-20, G.S. 159C-7, G.S. 159D-7,
51 G.S. 159G-70, G.S. 159I-3, G.S. 162A-23, G.S. 162A-24, G.S. 162A-25, G.S. 162A-29,

1 G.S. 162A-30, G.S. 162A-33, G.S. 162A-35, G.S. 166A-19.3, G.S. 166A-26. In any other
2 instances in the General Statutes in which there is a reference to the Department of
3 Environment and Natural Resources or a derivative thereof, the Revisor of Statutes may replace
4 that reference with a reference to the Department of Environmental Quality, as appropriate.

5 **SECTION 14.30.(v)** The following statutes are amended by deleting the language
6 "Secretary of Environment and Natural Resources" wherever it appears and substituting
7 "Secretary of Environmental Quality": G.S. 7A-29, G.S. 20-79.5, G.S. 47C-3-122,
8 G.S. 47F-3-122, G.S. 58-78-1, G.S. 62-133.6, G.S. 68-43, G.S. 77-95, G.S. 77-114,
9 G.S. 77-130, G.S. 87-94, G.S. 87-95, G.S. 87-98.2, G.S. 90A-21, G.S. 90A-22, G.S. 90A-23,
10 G.S. 90A-24, G.S. 90A-25.1, G.S. 90A-28, G.S. 90A-30, G.S. 90A-37, G.S. 90A-38,
11 G.S. 90A-39, G.S. 90A-43, G.S. 104E-5, G.S. 104E-17, G.S. 105-129.83, G.S. 105-187.84,
12 G.S. 105-259, G.S. 106-744, G.S. 113-1, G.S. 113-128, G.S. 113-182.1, G.S. 113-221.4,
13 G.S. 113-300.7, G.S. 113A-24, G.S. 113A-52, G.S. 113A-103, G.S. 113A-107,
14 G.S. 113A-115.1, G.S. 113A-164.3, G.S. 113A-166, G.S. 113A-208, G.S. 113A-212,
15 G.S. 113A-221, G.S. 113A-234, G.S. 113A-241, G.S. 113A-258, G.S. 113A-259, G.S. 113B-2,
16 G.S. 113B-3, G.S. 120-150, G.S. 130A-4, G.S. 130A-17, G.S. 130A-18, G.S. 130A-19,
17 G.S. 130A-20, G.S. 130A-22, G.S. 130A-23, G.S. 130A-27, G.S. 130A-47, G.S. 130A-290,
18 G.S. 130A-301, G.S. 130A-313, G.S. 130A-334, G.S. 136-102.3, G.S. 143-58.4, G.S. 143-212,
19 G.S. 143-215.8D, G.S. 143-215.18, G.S. 143-215.22L, G.S. 143-215.40, G.S. 143-215.70,
20 G.S. 143-215.77, G.S. 143-215.86, G.S. 143-215.94HH, G.S. 143-215.107D,
21 G.S. 143-215.126, G.S. 143-243, G.S. 143-320, G.S. 143-726, G.S. 143B-86, G.S. 143B-115,
22 G.S. 143B-279.4, G.S. 143B-279.5, G.S. 143B-279.7, G.S. 143B-279.8, G.S. 143B-281.1,
23 G.S. 143B-282.1, G.S. 143B-283, G.S. 143B-285.23, G.S. 143B-289.50, G.S. 143B-289.53,
24 G.S. 143B-291, G.S. 143B-293.2, G.S. 143B-300, G.S. 143B-301, G.S. 143B-324.1,
25 G.S. 143B-407, G.S. 143B-411.1, G.S. 143B-426.25, G.S. 143B-431.01, G.S. 148-26,
26 G.S. 153A-301, G.S. 158-7.3, G.S. 159G-20, G.S. 159I-7, G.S. 160A-515.1, G.S. 162A-33,
27 G.S. 162A-35. In any other instances in the General Statutes in which there is a reference to the
28 Secretary of Environment and Natural Resources or a derivative thereof, the Revisor of Statutes
29 may replace that reference with a reference to the Secretary of Environmental Quality, as
30 appropriate.

31 **SECTION 14.30.(w)** The following statutes are amended by deleting the language
32 "Department of Environment and Natural Resources" wherever it appears and substituting
33 "Department of Natural and Cultural Resources": G.S. 100-11, G.S. 100-12, G.S. 100-13,
34 G.S. 100-14, G.S. 146-30. In any other instances in the General Statutes in which there is a
35 reference to the Department of Environment and Natural Resources or a derivative thereof, the
36 Revisor of Statutes may replace that reference with a reference to the Department of Natural
37 and Cultural Resources, as appropriate.

38 **SECTION 14.30.(x)** The following statutes are amended by deleting the language
39 "Secretary of the Department of Cultural Resources" wherever it appears and substituting
40 "Secretary of Natural and Cultural Resources": G.S. 70-1, G.S. 70-3, G.S. 70-4,
41 G.S. 113A-259, G.S. 116-37.1, G.S. 116-65, G.S. 121-13, G.S. 132-5.1, G.S. 143-640,
42 G.S. 143B-53.2, G.S. 143B-131.1, G.S. 143B-131.2, G.S. 143B-131.6, G.S. 143B-131.9. In
43 any other instances in the General Statutes in which there is a reference to the Secretary of the
44 Department of Cultural Resources or a derivative thereof, the Revisor of Statutes may replace
45 that reference with a reference to the Secretary of Natural and Cultural Resources, as
46 appropriate.

47 **SECTION 14.30.(y)** The following statutes are amended by deleting the language
48 "Secretary of the Department of Environment and Natural Resources" wherever it appears and
49 substituting "Secretary of Environmental Quality": G.S. 113-173.1, G.S. 127C-2. In any other
50 instances in the General Statutes in which there is a reference to the Secretary of the
51 Department of Environment and Natural Resources or a derivative thereof, the Revisor of

1 Statutes may replace that reference with a reference to the Secretary of Environmental Quality,
2 as appropriate.

4 CONFORMING CHANGES

5 **SECTION 14.30.(z)** The following statutes are amended by deleting the language
6 "Article 2C of Chapter 113" wherever it appears and substituting "Part 32 of Article 7 of
7 Chapter 143B": G.S. 20-81.12, G.S. 143-260.10, G.S. 143B-260.10C, G.S. 143B-260.10D,
8 G.S. 143B-260.10E.

9 **SECTION 14.30.(aa)** The following statutes are amended by deleting the language
10 "G.S. 113-44.14" wherever it appears and substituting "G.S. 143B-135.54": G.S. 143-260.10,
11 G.S. 143B-260.10C, G.S. 143B-260.10D, G.S. 143B-260.10G.

12 **SECTION 14.30.(bb)** G.S. 14-131 reads as rewritten:

13 "§ 14-131. Trespass on land under option by the federal government.

14 On lands under option which have formally or informally been offered to and accepted by
15 either the North Carolina Department of Environment and Natural and Cultural Resources or
16 the Department of Environmental Quality by the acquiring federal agency and tentatively
17 accepted by ~~said a~~ Department for administration as State forests, State parks, State game
18 refuges or for other public purposes, it shall be unlawful to cut, dig, break, injure or remove any
19 timber, lumber, firewood, trees, shrubs or other plants; or any fence, house, barn or other
20 structure; or to pursue, trap, hunt or kill any bird or other wild animals or take fish from streams
21 or lakes within the boundaries of such areas without the written consent of the local official of
22 the United States having charge of the acquisition of such lands.

23 Any person, firm or corporation convicted of the violation of this section shall be guilty of a
24 Class 3 misdemeanor.

25 The Department of ~~Environment and Natural Resources~~ Environmental Quality through its
26 legally appointed forestry, fish and game wardens is hereby authorized and empowered to assist
27 the county law-enforcement officers in the enforcement of this section."

28 **SECTION 14.30.(cc)** G.S. 14-415.11(c1) reads as rewritten:

29 "(c1) Any person who has a concealed handgun permit may carry a concealed handgun on
30 the grounds or waters of a park within the State Parks System as defined in
31 ~~G.S. 113-44.9~~ G.S. 143B-135.44."

32 **SECTION 14.30.(dd)** G.S. 20-79.7(b) reads as rewritten:

33 "(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate
34 and Cultural Attraction Plate Account are established within the Highway Fund. The Division
35 must credit the additional fee imposed for the special registration plates listed in subsection (a)
36 of this section among the Special Registration Plate Account (SRPA), the Collegiate and
37 Cultural Attraction Plate Account (CCAPA), the Clean Water Management Trust Fund
38 (CWMTF), which is established under G.S. 113A-253, and the Parks and Recreation Trust
39 Fund, which is established under ~~G.S. 113-44.15~~, G.S. 143B-135.56, as follows:
40"

41 **SECTION 14.30.(ee)** G.S. 20-125(b) reads as rewritten:

42 "(b) Every vehicle owned or operated by a police department or by the Department of
43 Public Safety including the State Highway Patrol or by the Wildlife Resources Commission or
44 the Division of Marine ~~Fisheries~~, Fisheries of the Department of Environmental Quality, or by
45 the Division of Parks and Recreation of the Department of ~~Environment and Natural and~~
46 Cultural Resources, or by the North Carolina Forest Service of the Department of Agriculture
47 and Consumer Services, and used exclusively for law enforcement, firefighting, or other
48 emergency response purposes, or by the Division of Emergency Management, or by a fire
49 department, either municipal or rural, or by a fire patrol, whether such fire department or patrol
50 be a paid organization or a voluntary association, vehicles used by an organ procurement
51 organization or agency for the recovery and transportation of human tissues and organs for

1 transplantation, and every ambulance or emergency medical service emergency support vehicle
2 used for answering emergency calls, shall be equipped with special lights, bells, sirens, horns or
3 exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

4 The operators of all such vehicles so equipped are hereby authorized to use such equipment
5 at all times while engaged in the performance of their duties and services, both within their
6 respective corporate limits and beyond.

7 In addition to the use of special equipment authorized and required by this subsection, the
8 chief and assistant chiefs of any police department or of any fire department, whether the same
9 be municipal or rural, paid or voluntary, county fire marshals, assistant fire marshals, transplant
10 coordinators, and emergency management coordinators, are hereby authorized to use such
11 special equipment on privately owned vehicles operated by them while actually engaged in the
12 performance of their official or semiofficial duties or services either within or beyond their
13 respective corporate limits.

14 And vehicles driven by law enforcement officers of the North Carolina Division of Motor
15 Vehicles shall be equipped with a bell, siren, or exhaust whistle of a type approved by the
16 Commissioner, and all vehicles owned and operated by the State Bureau of Investigation for
17 the use of its agents and officers in the performance of their official duties may be equipped
18 with special lights, bells, sirens, horns or exhaust whistles of a type approved by the
19 Commissioner of Motor Vehicles.

20 Every vehicle used or operated for law enforcement purposes by the sheriff or any salaried
21 deputy sheriff or salaried rural policeman of any county, whether owned by the county or not,
22 may be, but is not required to be, equipped with special lights, bells, sirens, horns or exhaust
23 whistles of a type approved by the Commissioner of Motor Vehicles. Such special equipment
24 shall not be operated or activated by any person except by a law enforcement officer while
25 actively engaged in performing law enforcement duties.

26 In addition to the use of special equipment authorized and required by this subsection, the
27 chief and assistant chiefs of each emergency rescue squad which is recognized or sponsored by
28 any municipality or civil preparedness agency, are hereby authorized to use such special
29 equipment on privately owned vehicles operated by them while actually engaged in their
30 official or semiofficial duties or services either within or beyond the corporate limits of the
31 municipality which recognizes or sponsors such organization."

32 **SECTION 14.30.(ff)** G.S. 20-130.1(b)(18) reads as rewritten:

33 "(b) The provisions of subsection (a) of this section do not apply to the following:

34 ...

35 (18) A vehicle operated by the Division of Marine Fisheries of the Department of
36 Environmental Quality or the Division of Parks and Recreation of the
37 Department of ~~Environment and Natural and Cultural Resources~~ that is used
38 for law enforcement, firefighting, or other emergency response purpose."

39 **SECTION 14.30.(gg)** G.S. 20-145 reads as rewritten:

40 **"§ 20-145. When speed limit not applicable.**

41 The speed limitations set forth in this Article shall not apply to vehicles when operated with
42 due regard for safety under the direction of the police in the chase or apprehension of violators
43 of the law or of persons charged with or suspected of any such violation, nor to fire department
44 or fire patrol vehicles when traveling in response to a fire alarm, nor to public or private
45 ambulances and rescue squad emergency service vehicles when traveling in emergencies, nor
46 to vehicles operated by county fire marshals and civil preparedness coordinators when traveling
47 in the performances of their duties, nor to any of the following when either operated by a law
48 enforcement officer in the chase or apprehension of violators of the law or of persons charged
49 with or suspected of any such violation, when traveling in response to a fire alarm, or for other
50 emergency response purposes: (i) a vehicle operated by the Division of Marine Fisheries of the
51 Department of Environmental Quality or the Division of Parks and Recreation of the

1 Department of ~~Environment and~~ Natural and Cultural Resources or (ii) a vehicle operated by
2 the North Carolina Forest Service of the Department of Agriculture and Consumer Services.
3 This exemption shall not, however, protect the driver of any such vehicle from the consequence
4 of a reckless disregard of the safety of others."

5 **SECTION 14.30.(hh)** G.S. 20-156(b) reads as rewritten:

6 "(b) The driver of a vehicle upon the highway shall yield the right-of-way to police and
7 fire department vehicles and public and private ambulances, vehicles used by an organ
8 procurement organization or agency for the recovery or transportation of human tissues and
9 organs for transplantation or a vehicle operated by a transplant coordinator who is an employee
10 of an organ procurement organization or agency when the transplant coordinator is responding
11 to a call to recover or transport human tissues or organs for transplantation, and to rescue squad
12 emergency service vehicles and vehicles operated by county fire marshals and civil
13 preparedness coordinators, and to a vehicle operated by the Division of Marine Fisheries of the
14 Department of Environmental Quality or the Division of Parks and Recreation of the
15 Department of ~~Environment and~~ Natural and Cultural Resources when used for law
16 enforcement, firefighting, or other emergency response purpose, and to a vehicle operated by
17 the North Carolina Forest Service of the Department of Agriculture and Consumer Services
18 when used for a law enforcement, firefighting, or other emergency response purpose, when the
19 operators of said vehicles are giving a warning signal by appropriate light and by bell, siren or
20 exhaust whistle audible under normal conditions from a distance not less than 1,000 feet. When
21 appropriate warning signals are being given, as provided in this subsection, an emergency
22 vehicle may proceed through an intersection or other place when the emergency vehicle is
23 facing a stop sign, a yield sign, or a traffic light which is emitting a flashing strobe signal or a
24 beam of steady or flashing red light. This provision shall not operate to relieve the driver of a
25 police or fire department vehicle, or a vehicle owned or operated by the Department of
26 Environment and Natural Resources, or the Department of Agriculture and Consumer Services,
27 or public or private ambulance or vehicles used by an organ procurement organization or
28 agency for the recovery or transportation of human tissues and organs for transplantation or a
29 vehicle operated by a transplant coordinator who is an employee of an organ procurement
30 organization or agency when the transplant coordinator is responding to a call to recover or
31 transport human tissues or organs for transplantation, or rescue squad emergency service
32 vehicle or county fire marshals or civil preparedness coordinators from the duty to drive with
33 due regard for the safety of all persons using the highway, nor shall it protect the driver of any
34 such vehicle or county fire marshal or civil preparedness coordinator from the consequence of
35 any arbitrary exercise of such right-of-way."

36 **SECTION 14.30.(ii)** G.S. 20-157(a) reads as rewritten:

37 "(a) Upon the approach of any law enforcement or fire department vehicle or public or
38 private ambulance or rescue squad emergency service vehicle, or a vehicle operated by the
39 Division of Marine ~~Fisheries,~~ Fisheries of the Department of Environmental Quality, or the
40 Division of Parks and Recreation of the Department of ~~Environment and~~ Natural and Cultural
41 Resources, or the North Carolina Forest Service of the Department of Agriculture and
42 Consumer Services when traveling in response to a fire alarm or other emergency response
43 purpose, giving warning signal by appropriate light and by audible bell, siren or exhaust
44 whistle, audible under normal conditions from a distance not less than 1000 feet, the driver of
45 every other vehicle shall immediately drive the same to a position as near as possible and
46 parallel to the right-hand edge or curb, clear of any intersection of streets or highways, and
47 shall stop and remain in such position unless otherwise directed by a law enforcement or traffic
48 officer until the law enforcement or fire department vehicle, or the vehicle operated by the
49 Division of Marine ~~Fisheries,~~ Fisheries of the Department of Environmental Quality, or the
50 Division of Parks and Recreation of the Department of ~~Environment and~~ Natural and Cultural
51 Resources, or the North Carolina Forest Service of the Department of Agriculture and

1 Consumer Services, or the public or private ambulance or rescue squad emergency service
 2 vehicle shall have passed. Provided, however, this subsection shall not apply to vehicles
 3 traveling in the opposite direction of the vehicles herein enumerated when traveling on a
 4 four-lane limited access highway with a median divider dividing the highway for vehicles
 5 traveling in opposite directions, and provided further that the violation of this subsection shall
 6 be negligence per se. Violation of this subsection is a Class 2 misdemeanor."

7 **SECTION 14.30.(jj)** G.S. 66-58 reads as rewritten:

8 "**§ 66-58. Sale of merchandise or services by governmental units.**

9 ...
 10 (b) The provisions of subsection (a) of this section shall not apply to:

11 ...
 12 (9) The Department of ~~Environment and Natural Resources~~, ~~except that the~~
 13 ~~Department shall not construct, maintain, operate or lease a hotel or tourist~~
 14 ~~inn in any park over which it has jurisdiction.~~Environmental Quality. The
 15 North Carolina Wildlife Resources Commission may sell wildlife
 16 memorabilia as a service to members of the public interested in wildlife
 17 conservation.

18 ...
 19 (9b) The Department of Natural and Cultural Resources for the sale of food
 20 pursuant to G.S. 111-47.2 and the sale of books, crafts, gifts, and other
 21 tourism-related items and revenues from public and private special events,
 22 activities, and programming at historic sites and museums administered by
 23 the Department, provided that the resulting profits are used to support the
 24 operation of historic sites or ~~museums~~museums and provided further that
 25 the Department shall not construct, maintain, operate, or lease a hotel or
 26 tourist inn in any park over which it has jurisdiction.

27 ...
 28 (c) The provisions of subsection (a) shall not prohibit:

29 ...
 30 (2) The sale of learned journals, works of art, books or publications of the
 31 Department of Natural and Cultural Resources or other agencies, or the
 32 Supreme Court Reports or Session Laws of the General Assembly.

33 ...
 34 (9b) The Department of Natural and Cultural Resources for the sale of food
 35 pursuant to G.S. 111-47.2 and the sale of books, crafts, gifts, and other
 36 tourism-related items and revenues from public and private special events,
 37 activities, and programming at historic sites and museums administered by
 38 the Department, provided that the resulting profits are used to support the
 39 operation of historic sites or ~~museums~~museums and provided further that
 40 the Department shall not construct, maintain, operate, or lease a hotel or
 41 tourist inn in any park over which it has jurisdiction.

42"

43 **SECTION 14.30.(kk)** G.S. 74-50(b3) reads as rewritten:

44 "(b3) When the Department receives an application for a new mining permit or for a
 45 modification of a mining permit to add land to the permitted area, the Department shall send a
 46 notice of the application to each of the following agencies with a request that each agency
 47 review and provide written comment on the application within 30 days of the date on which the
 48 request is made:

49 (1) Division of Air Quality, Department of ~~Environment and Natural~~
 50 ~~Resources~~Environmental Quality.

- 1 (2) Division of Parks and Recreation, Department of ~~Environment and Natural~~
2 ~~and Cultural~~ Resources.
- 3 (3) Repealed by Session Laws 2013-413, s. 57(b), effective August 23, 2013.
- 4 (4) Division of Water Resources, Department of ~~Environment and Natural~~
5 ~~Resources~~.Environmental Quality.
- 6 (5) North Carolina Geological Survey, Division of Energy, Mineral, and Land
7 Resources, Department of ~~Environment and Natural~~
8 ~~Resources~~.Environmental Quality.
- 9 (6) Wildlife Resources Commission, Department of ~~Environment and Natural~~
10 ~~Resources~~.Environmental Quality.
- 11 (7) Office of Archives and History, Department of Cultural Resources.
- 12 (8) United States Fish and Wildlife Service, United States Department of the
13 Interior.
- 14 (9) Any other federal or State agency that the Department determines to be
15 appropriate, including the Division of Coastal Management, ~~Department of~~
16 ~~Environment and Natural Resources~~; the Division of Marine Fisheries,
17 ~~Department of Environment and Natural Resources~~; and the Division of
18 Waste Management, Management of the Department of Environment and
19 Natural Resources; Environmental Quality; and the Department of
20 Transportation."

21 **SECTION 14.30.(ll)** G.S. 106-202.17(b) reads as rewritten:

22 "(b) The Scientific Committee shall consist of the Directors of The University of North
23 Carolina at Chapel Hill Herbarium, the North Carolina State University Herbarium, the North
24 Carolina Botanical Garden of The University of North Carolina at Chapel Hill, the North
25 Carolina State Museum of Natural Sciences of the Department of Natural and Cultural
26 Resources, and the North Carolina Natural Heritage Program of the Department of
27 ~~Environment and Natural Resources~~Environmental Quality or their designees, a representative
28 of the North Carolina Association of Nurserymen, Inc., appointed by the Commissioner, and a
29 representative of a conservation organization, appointed by the Commissioner. Members shall
30 serve for three-year terms and may succeed themselves."

31 **SECTION 14.30.(mm)** G.S. 106-803(a) reads as rewritten:

32 **"§ 106-803. Siting requirements for swine houses, lagoons, and land areas onto which**
33 **waste is applied at swine farms.**

34 (a) A swine house or a lagoon that is a component of a swine farm shall be located:

- 35 (1) At least 1,500 feet from any occupied residence.
- 36 (2) At least 2,500 feet from any school; hospital; church; outdoor recreational
37 facility; national park; State Park, as defined in ~~G.S. 113-44.9~~;
38 G.S. 143B-135.44; historic property acquired by the State pursuant to
39 G.S. 121-9 or listed in the North Carolina Register of Historic Places
40 pursuant to G.S. 121-4.1; or child care center, as defined in G.S. 110-86, that
41 is licensed under Article 7 of Chapter 110 of the General Statutes.
- 42 (3) At least 500 feet from any property boundary.
- 43 (4) At least 500 feet from any well supplying water to a public water system, as
44 defined in G.S. 130A-313.
- 45 (5) At least 500 feet from any other well that supplies water for human
46 consumption. This subdivision does not apply to a well located on the same
47 parcel or tract of land on which the swine house or lagoon is located and that
48 supplies water only for use on that parcel or tract of land or for use on
49 adjacent parcels or tracts of land all of which are under common ownership
50 or control."

51 **SECTION 14.30.(nn)** G.S. 113-8 reads as rewritten:

1 **"§ 113-8. Powers and duties of the Department.**

2 The Department shall make investigations of the natural resources of the State, and take
3 such measures as it may deem best suited to promote the conservation and development of such
4 resources.

5 It shall have the protection of lands and water supplies; it shall also have the care of ~~State~~
6 ~~parks, and other~~ recreational areas now owned or to be acquired by the State, including the
7 lakes referred to in G.S. 146-7.

8 It shall make such examination, survey and mapping of the geology, mineralogy and
9 topography of the State, including their industrial and economic utilization, as it may consider
10 necessary; make investigations of water supplies and water powers, prepare and maintain a
11 general inventory of the water resources of the State, and take such measures as it may consider
12 necessary to promote their development.

13 It shall have the duty of enforcing all laws relating to the conservation of marine and
14 estuarine resources.

15 The Department may take such other measures as it may deem advisable to obtain and
16 make public a more complete knowledge of the State and its resources, and it is authorized to
17 cooperate with other departments and agencies of the State in obtaining and making public such
18 information.

19 The Department may acquire such real and personal property as may be found desirable and
20 necessary for the performance of the duties and functions of the Department and pay for same
21 out of any funds appropriated for the Department or available unappropriated revenues of the
22 Department, when such acquisition is approved by the Governor and Council of State. The title
23 to any real estate acquired shall be in the name of the State of North Carolina for the use and
24 benefit of the Department."

25 **SECTION 14.30.(oo)** G.S. 113-28.1 reads as rewritten:

26 **"§ 113-28.1. Designated employees commissioned special peace officers by Governor.**

27 Upon application by either the Secretary of ~~Environment and Natural Resources, Natural~~
28 ~~and Cultural Resources~~ or the Secretary of Environmental Quality, the Governor is hereby
29 authorized and empowered to commission as special peace officers such of the employees of
30 the ~~Department of Environment and Natural Resources~~ Departments as the Secretary may
31 designate for the purpose of enforcing the laws and rules enacted or adopted for the protection,
32 preservation and government of State parks, lakes, reservations and other lands or waters under
33 the control or supervision of the ~~Department of Environment and Natural Resources~~ respective
34 Departments."

35 **SECTION 14.30.(pp)** G.S. 113-28.2 reads as rewritten:

36 **"§ 113-28.2. Powers of arrest.**

37 Any employee of either the Department of ~~Environment and Natural~~ and Cultural
38 Resources or the Department of Environmental Quality commissioned as a special peace
39 officer shall have the right to arrest with warrant any person violating any law or rule on or
40 relating to the State parks, lakes, reservations and other lands or waters under the control or
41 supervision of the ~~Department of Environment and Natural Resources~~, employee's respective
42 Department, and shall have the power to pursue and arrest without warrant any person violating
43 in his presence any law or rule on or relating to said parks, lakes, reservations and other lands
44 or waters under the control or supervision of the ~~Department of Environment and Natural~~
45 ~~Resources~~ employee's respective Department."

46 **SECTION 14.30.(qq)** G.S. 113-28.2A reads as rewritten:

47 **"§ 113-28.2A. Cooperation between law enforcement agencies.**

48 Special peace officers employed by either the Department of ~~Environment and Natural~~ and
49 Cultural Resources or the Department of Environmental Quality are officers of a "law
50 enforcement agency" for purposes of G.S. 160A-288, and ~~the~~ each Department shall have the

1 same authority as a city or county governing body to approve cooperation between law
2 enforcement agencies under that section."

3 **SECTION 14.30.(rr)** G.S. 113-28.4 reads as rewritten:

4 **"§ 113-28.4. Oaths required.**

5 Before any employee of either the Department of Environment and Natural and Cultural
6 Resources or the Department of Environmental Quality commissioned as a special peace
7 officer shall exercise any power of arrest under this ~~Article~~ Article, the employee shall take
8 the oaths required of public officers before an officer authorized to administer oaths."

9 **SECTION 14.30.(ss)** G.S. 113-307.1(a) reads as rewritten:

10 "(a) The consent of the General Assembly of North Carolina is hereby given to the
11 making by the Congress of the United States, or under its authority, of all such rules and
12 regulations as the federal government shall determine to be needful in respect to game animals,
13 game and nongame birds, and fish on such lands in the western part of North Carolina as shall
14 have been, or may hereafter be, purchased by the United States under the terms of the act of
15 Congress of March 1, 1911, entitled "An act to enable any state to cooperate with any other
16 state or states, or with the United States, for the protection of the watersheds of navigable
17 streams, and to appoint a commission for the acquisition of lands for the purposes of
18 conserving the navigability of navigable rivers" (36 Stat. 961), and acts of Congress
19 supplementary thereto and amendatory thereof, and in or on the waters thereon.

20 Nothing in this subsection shall be construed as conveying the ownership of wildlife from
21 the State of North Carolina or permit the trapping, hunting, or transportation of any game
22 animals, game or nongame birds, or fish by any person, including any agency, department, or
23 instrumentality of the United States or agents thereof, on the lands in North Carolina, as shall
24 have been or may hereafter be purchased by the United States under the terms of any act of
25 Congress, except in accordance with the provisions of this Subchapter and its implementing
26 regulations. Provided, that the provisions of ~~G.S. 113-39~~ G.S. 143B-135.20 apply with respect
27 to licenses.

28 Any person, including employees or agents of any department or instrumentality of the
29 United States, violating the provisions of this subsection is guilty of a Class 1 misdemeanor."

30 **SECTION 14.30.(tt)** G.S. 120-306(a)(1)c. is repealed.

31 **SECTION 14.30.(uu)** G.S. 121-7.7(c) reads as rewritten:

32 "(c) Reports. – The Department of Natural and Cultural Resources must submit to the
33 Joint Legislative Commission on Governmental Operations, the chairs of the House of
34 Representatives and Appropriations Committee on Agriculture and Natural and Environmental
35 Resources, the Chairs of the Senate Appropriations Subcommittees Committee on General
36 Government, Natural and Economic Resources, and the Fiscal Research Division by September
37 30 of each year a report on the Fund that includes the source and amounts of all funds credited
38 to the Fund and the purpose and amount of all expenditures from the Fund during the prior
39 fiscal year."

40 **SECTION 14.30.(vv)** G.S. 121-21.1(c) reads as rewritten:

41 "(c) The Tryon Palace Commission shall submit to the Joint Legislative Commission on
42 Governmental Operations, the House ~~and of Representatives~~ Appropriations Committee on
43 Agriculture and Natural and Economic Resources, the Senate Appropriations Subcommittees
44 Committee on General Government, Natural and Economic Resources, and the Fiscal Research
45 Division by September 30 of each year a report on the Tryon Palace Historic Sites and Gardens
46 Fund that shall include the source and amounts of all funds credited to the Fund and the
47 purpose and amount of all expenditures from the Fund during the prior fiscal year."

48 **SECTION 14.30.(ww)** G.S. 136-44.12 reads as rewritten:

49 **"§ 136-44.12. Maintenance of roads and parking lots in areas administered by the**
50 **Division of Parks and Recreation.**

1 The Department of Transportation shall maintain all roads and parking lots which are not
2 part of the State Highway System, leading into and located within the boundaries of all areas
3 administered by the Division of Parks and Recreation of the Department of ~~Environment and~~
4 Natural and Cultural Resources.

5 All such roads and parking lots shall be planned, designed, and engineered through joint
6 action between the Department of Transportation and the Division of Parks and Recreation of
7 the Department of ~~Environment and~~ Natural and Cultural Resources. This joint action shall
8 encompass all accepted park planning and design principles. Particular concern shall be given
9 to traffic counts and vehicle weight, minimal cutting into or through any natural and scenic
10 areas, width of shoulders, the cutting of natural growth along roadways, and the reduction of
11 any potential use of roads or parking lots for any purpose other than by park users. All State
12 park roads and parking lots shall conform to the standards regarding width and other roadway
13 specifications as agreed upon by the Division of Parks and Recreation of the Department of
14 ~~Environment and~~ Natural and Cultural Resources and the Department of Transportation.

15 The State park road systems may be closed to the public in accordance with approved park
16 practices that control the use of State areas so as to protect these areas from overuse and abuse
17 and provide for functional use of the park areas, or for any other purpose considered in the best
18 interest of the public by the Division of Parks and Recreation of the Department of
19 ~~Environment and~~ Natural and Cultural Resources.

20 Nothing herein shall be construed to include the transfer to the Department of
21 Transportation the powers now vested in the Division of Parks and Recreation of the
22 Department of ~~Environment and~~ Natural and Cultural Resources relating to the patrol and
23 safeguarding of State park roads or State park parking lots."

24 **SECTION 14.30.(xx)** G.S. 143-116.8 reads as rewritten:

25 **"§ 143-116.8. Motor vehicle laws applicable to State parks and forests road system.**

26 (a) Except as otherwise provided in this section, all the provisions of Chapter 20 of the
27 General Statutes relating to the use of highways and public vehicular areas of the State and the
28 operation of vehicles thereon are made applicable to the State parks and forests road system.
29 For the purposes of this section, the term "State parks and forests road system" shall mean the
30 streets, alleys, roads, public vehicular areas and driveways of the State parks, State forests,
31 State recreation areas, State lakes, and all other lands administered by the Department of
32 ~~Environment and~~ Natural and Cultural Resources or the Department of Agriculture and
33 Consumer Services. This term shall not be construed, however, to include streets that are a part
34 of the State highway system. Any person violating any of the provisions of Chapter 20 of the
35 General Statutes hereby made applicable in the State parks and forests road system shall, upon
36 conviction, be punished in accordance with Chapter 20 of the General Statutes. Nothing herein
37 contained shall be construed as in any way interfering with the ownership and control of the
38 State parks road system by the Department of ~~Environment and~~ Natural and Cultural Resources
39 and the forests road system by the Department of Agriculture and Consumer Services.

40 (b) (1) It shall be unlawful for a person to operate a vehicle in the State parks road
41 system at a speed in excess of twenty-five miles per hour (25 mph). When
42 the Secretary of ~~Environment and~~ Natural and Cultural Resources
43 determines that this speed is greater than reasonable and safe under the
44 conditions found to exist in the State parks road system, the Secretary may
45 establish a lower reasonable and safe speed limit. No speed limit established
46 by the Secretary pursuant to this provision shall be effective until posted in
47 the part of the system where the limit is intended to apply.

48 ...

49 (c) The Secretary of ~~Environment and~~ Natural and Cultural Resources may, by rule,
50 regulate parking and establish parking areas, and provide for the removal of illegally parked
51 motor vehicles on the State parks road system, and the Commissioner of Agriculture may, by

1 rule, regulate and establish parking areas and provide for the removal of illegally parked motor
2 vehicles on the State forests road system. Any rule of the Secretary or the Commissioner shall
3 be consistent with the provisions of G.S. 20-161, 20-161.1, and 20-162. Any removal of
4 illegally parked motor vehicles shall be in compliance with Article 7A of Chapter 20 of the
5 General Statutes.

6 (d) A violation of the rules issued by the Secretary of ~~Environment and Natural~~ and
7 Cultural Resources or the Commissioner of Agriculture under subsection (c) of this section is
8 an infraction pursuant to G.S. 20-162.1, and shall be punished as therein provided. These rules
9 may be enforced by the Commissioner of Motor Vehicles, the Highway Patrol, forest law
10 enforcement officers, or other law enforcement officers of the State, counties, cities or other
11 municipalities having authority under Chapter 20 of the General Statutes to enforce laws or
12 rules on travel or use or operation of vehicles or the use or protection of the highways of the
13 State.

14 ...
15 (f) Notwithstanding any other provision of this section, a person may petition the
16 Department of ~~Environment and Natural~~ and Cultural Resources for a waiver authorizing the
17 person to operate a vehicle in the State parks road system at a speed in excess of 25 miles per
18 hour in connection with a special event. The Secretary may impose any conditions on a waiver
19 that the Secretary determines to be necessary to protect public health, safety, welfare, and the
20 natural resources of the State park. These conditions shall include a requirement that the person
21 receiving the waiver execute an indemnification agreement with the Department and obtain
22 general liability insurance in an amount not to exceed three million dollars (\$3,000,000)
23 covering personal injury and property damage that may result from driving in excess of 25
24 miles per hour in the State parks road system subject to the conditions determined by the
25 Secretary.

26"

27 **SECTION 14.30.(yy)** G.S. 143-129.8A(a) reads as rewritten:

28 "(a) Exemption. – The North Carolina Zoological Park is a State entity whose primary
29 purpose is the attraction of, interaction with, and education of the public regarding issues of
30 global conservation, ecological preservation, and scientific exploration, and that purpose
31 presents unique challenges requiring greater flexibility and faster responsiveness in meeting the
32 needs of and creating the attractions for the Park. Accordingly, the Department of ~~Environment~~
33 ~~and Natural~~ and Cultural Resources may use the procedure set forth in this section, in addition
34 to or instead of any other procedure available under North Carolina law, to contract with a
35 non-State entity on behalf of the Park for the acquisition of goods and services where: (i) the
36 contract directly results in the generation of revenue for the State of North Carolina or (ii) the
37 use of the acquired goods and services by the Park results in increased revenue or decreased
38 expenditures for the State of North Carolina."

39 **SECTION 14.30.(zz)** G.S. 143-135.9(e) reads as rewritten:

40 "(e) North Carolina Zoological Park. – The acquisition of goods and services under a
41 contract entered pursuant to the exemption of G.S. 143-129.8A(a) by the Department of
42 ~~Environment and Natural~~ and Cultural Resources on behalf of the North Carolina Zoological
43 Park may be conducted using the Best Value procurement method. For acquisitions which the
44 procuring agency deems to be highly complex, the use of Government-Vendor partnership is
45 authorized."

46 **SECTION 14.30.(aaa)** G.S. 143-215.31(e) reads as rewritten:

47 "(e) The minimum streamflow in the length of the stream affected by a dam to which
48 subsections (c) and (d) of this section do not apply shall be established as provided in
49 subsection (b) of this section. Subsections (c) and (d) of this section do not apply if the length
50 of the stream affected:

- 1 (1) Receives a discharge of waste from a treatment works for which a permit is
 2 required under Part 1 of this Article; or
 3 (2) Includes any part of a river or stream segment that:
 4 a. Is designated as a component of the State Natural and Scenic Rivers
 5 System by ~~G.S. 113A-35.1~~ G.S. 143B-135.152 or
 6 ~~G.S. 113A-35.2~~ G.S. 143B-135.154.
 7 b. Is designated as a component of the national Wild and Scenic Rivers
 8 System by 16 U.S.C. § 1273 and 1274."

9 **SECTION 14.30.(bbb)** G.S. 143-215.73F reads as rewritten:

10 **"§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake Maintenance**
 11 **Fund.**

12 The Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund is
 13 established as a special revenue fund. The Fund consists of fees credited to it under G.S. 75A-3,
 14 75A-38, and 105-449.126. Revenue in the Fund may only be used to provide the State's share
 15 of the costs associated with any dredging project designed to keep shallow draft navigation
 16 channels located in State waters or waters of the state located within lakes navigable and safe,
 17 or for aquatic weed control projects in waters of the State located within lakes under Article 15
 18 of Chapter 113A of the General Statutes. Funding for aquatic weed control projects is limited to
 19 five hundred thousand dollars (\$500,000) in each fiscal year. Any project funded by revenue
 20 from the Fund must be cost-shared with non-State dollars on a one-to-one basis, provided that
 21 the cost-share for a lake located within a component of the State Parks System shall be
 22 provided by the Division of Parks and Recreation of the Department of ~~Environment and~~
 23 ~~Natural and Cultural Resources~~ and Cultural Resources. The Division of Parks and Recreation may use funds allocated
 24 to the State Parks System for capital projects under ~~G.S. 113-44.15~~ G.S. 143B-135.56 for the
 25 cost-share. For purposes of this section, "shallow draft navigation channel" means (i) a
 26 waterway connection with a maximum depth of 16 feet between the Atlantic Ocean and a bay
 27 or the Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean through which
 28 tidal and other currents flow, or (iii) other interior coastal waterways. "Shallow draft navigation
 29 channel" includes the Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor,
 30 Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout Back, channels
 31 connected to federal navigation channels, Lockwoods Folly River, Manteo/Shallowbag Bay,
 32 including Oregon Inlet, Masonboro Inlet, New River, New Topsail Inlet, Rodanthe, Rollinson,
 33 Shallotte River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and Beaufort
 34 Harbor."

35 **SECTION 14.30.(ccc)** G.S. 147-12(b) reads as rewritten:

36 "(b) The Department of Transportation, the Division of Adult Correction of the
 37 Department of Public Safety, the State Highway Patrol, the Wildlife Resources Commission,
 38 the Division of Parks and Recreation in the Department of ~~Environment and~~ Natural and
 39 Natural Resources, and the Division of Marine Fisheries in the Department of ~~Environment and~~
 40 ~~Natural Resources~~ Environmental Quality shall deliver to the Governor by February 1 of each
 41 year detailed information on the agency's litter enforcement, litter prevention, and litter removal
 42 efforts. The Administrative Office of the Courts shall deliver to the Governor, by February 1 of
 43 each year, detailed information on the enforcement of the littering laws of the State, including
 44 the number of charges and convictions under the littering laws of the State. The Governor shall
 45 gather the information submitted by the respective agencies and deliver a consolidated annual
 46 report, on or before March 1 of each year, to the Environmental Review Commission, the Joint
 47 Legislative Transportation Oversight Committee, and the House of Representatives and the
 48 Senate ~~Appropriations Subcommittees on Natural and Economic Resources~~ appropriations
 49 committees with jurisdiction over natural and economic resources."

50 **SECTION 14.30.(ddd)** The title of Article 2 of Chapter 143B of the General
 51 Statutes reads as rewritten:

1 "Article 2.

2 Department of Natural and Cultural Resources."

3 **SECTION 14.30.(eee)** The title of Article 7 of Chapter 143B of the General
4 Statutes is rewritten to read:

5 "Article 7.

6 Department of Environmental Quality."

7 **SECTION 14.30.(fff)** G.S. 143B-50 reads as rewritten:

8 "**§ 143B-50. Duties of the Department.**

9 It shall be the duty of the Department to do the following:

10 (1) To provide the necessary management, development of policy and
11 establishment and enforcement of standards for the furtherance of resources,
12 services and programs involving the arts and the historical and cultural
13 aspects of the lives of the citizens of North Carolina.

14 (2) To provide and keep a museum or collection of the natural history of the
15 State and to maintain the North Carolina Biological Survey."

16 **SECTION 14.30.(ggg)** G.S. 143B-53 reads as rewritten:

17 "**§ 143B-53. Organization of the Department.**

18 (a) The Department of Cultural Resources shall be organized initially to include the Art
19 Commission, the Art Museum Building Commission, the North Carolina Historical
20 Commission, the Tryon Palace Commission, the U.S.S. North Carolina Battleship Commission,
21 the Sir Walter Raleigh Commission, the Executive Mansion Fine Arts Committee, the
22 American Revolution Bicentennial Committee, the North Carolina Awards Committee, the
23 America's Four Hundredth Anniversary Committee, the North Carolina Arts Council, the
24 Public Librarian Certification Commission, the State Library Commission, the North Carolina
25 Symphony Society, Inc., and the Division of the State Library, the Division of Archives and
26 History, the Division of the Arts, and such other divisions as may be established under the
27 provisions of the Executive Organization Act of 1973.

28 (b) The Department of Natural and Cultural Resources shall include the currently
29 existing entities listed in subsection (a) of this section and the following additional entities:

30 (1) The Parks and Recreation Division.

31 (2) The State Parks System, including Mount Mitchell State Park.

32 (3) The North Carolina Aquariums Division.

33 (4) The North Carolina Zoological Park.

34 (5) The Museum of Natural Sciences.

35 (6) North Carolina Parks and Recreation Authority.

36 (7) North Carolina Trails Committee.

37 (8) North Carolina Zoological Park Council.

38 (9) Advisory Commission for North Carolina State Museum of Natural
39 Sciences."

40 **SECTION 14.30.(hhh)** G.S. 143B-53.3(c) reads as rewritten:

41 "(c) Reports. – The Department of Natural and Cultural Resources shall submit a report
42 by September 30 of each year to the Joint Legislative Commission on Governmental
43 Operations, the chairs of the House of Representatives Appropriations Subcommittee
44 Committee on General Government, Agriculture and Natural and Economic Resources, the
45 chairs of the Senate Appropriations Committee on General Government and Information
46 Technology, Natural and Economic Resources, and the Fiscal Research Division. This report
47 shall include the source and amount of all funds credited to the Fund and the purpose and
48 amount of all expenditures from the Fund during the prior fiscal year."

49 **SECTION 14.30.(iii)** G.S. 143B-87.2(c) reads as rewritten:

50 "(c) Reports. – The Department shall submit a report to the Joint Legislative
51 Commission on Governmental Operations, the House of Representatives Appropriations

1 ~~Subcommittee~~ Committee on General Government, Agriculture and Natural and Economic
 2 Resources, the Senate Appropriations Committee on ~~General Government and Information~~
 3 ~~Technology, Natural and Economic Resources~~, and the Fiscal Research Division by September
 4 30 of each year that includes the source and amount of all funds credited to the Fund and the
 5 purpose and amount of all expenditures from the Fund during the prior fiscal year."

6 **SECTION 14.30.(jjj)** G.S. 143B-131.4 reads as rewritten:

7 **"§ 143B-131.4. Commission reports.**

8 The Commission shall submit a quarterly report to the Chairs of the House of Representatives
 9 Appropriations Subcommittee ~~Committee on General Government and~~
 10 Agriculture and Natural and Economic Resources, the Chairs of the Senate Appropriations
 11 Committee on General Government and Information Technology Natural and Economic
 12 Resources, and to the Fiscal Research Division of the General Assembly. The report shall
 13 include:

- 14 (1) A summary of actions taken by the Commission consistent with the powers
 15 and duties of the Commission set forth in G.S. 143B-131.2.
- 16 (2) Recommendations for legislation and administrative action to promote and
 17 develop the Elizabeth II State Historic Site and Visitor Center.
- 18 (3) An accounting of funds received and expended."

19 **SECTION 14.30.(kkk)** G.S. 143B-279.2(2a) is repealed.

20 **SECTION 14.30.(lll)** Subdivisions (9) and (12) of subsection (a) and subdivisions
 21 (17), (19), and (22) of subsection (b) of G.S. 143B-279.3 are repealed.

22 **SECTION 14.30.(mmm)** G.S. 143B-344.49 reads as rewritten:

23 **"§ 143B-344.49. Definitions.**

24 The following definitions apply to this Part:

- 25 (1) Applicant. – A member of the family residing in the dwelling unit, the
 26 owner, or designated agent of the owner of a dwelling unit applying for
 27 program services.
- 28 (2) Department. – The ~~Environment and Natural Resources~~ Department of
 29 Environmental Quality.
- 30 (3) Secretary. – The Secretary of ~~the Department of Environment and Natural~~
 31 ~~Resources~~ Environmental Quality.
- 32 (4) Subgrantee. – An entity managing a weatherization project that receives a
 33 federal grant of funds awarded pursuant to 10 C.F.R. § 440 (1 January 2006
 34 edition) from this State or other entity named in the Notification of Grant
 35 Award and otherwise referred to as the grantee.
- 36 (5) Weatherization. – The modification of homes and home heating and cooling
 37 systems to improve heating and cooling efficiency by caulking and weather
 38 stripping, as well as insulating ceilings, attics, walls, and floors."

39 **SECTION 14.30.(nnn)** G.S. 146-29.2(e) reads as rewritten:

40 "(e) Land in the State Parks System, as defined in ~~G.S. 113-449.9~~, G.S. 143B-135.44,
 41 may only be leased or conveyed for the purposes of this section upon the approval of the
 42 Secretary of ~~the Department of Environment and Natural~~ and Cultural Resources. Lease or
 43 conveyance of land in the State Parks System for the purposes of this section shall comply with
 44 the requirements of ~~Articles 2 and 2C of Chapter 113-Parts 31 and 32 of Article 7 of Chapter~~
 45 143B of the General Statutes. When selecting a location for a communications tower or antenna
 46 in the State Parks System, the State shall choose a location that minimizes the visual impact on
 47 the surrounding landscape. No land acquired or developed using funds from the Federal Land
 48 and Water Conservation Fund shall be leased or conveyed for the purposes of this section."

49
 50 **LIMITED AUTHORITY TO RECLASSIFY AND ELIMINATE CERTAIN POSITIONS**

1 **SECTION 14.30.(ooo)** Notwithstanding any other provision of law, subject to the
2 approval of the Director of the Budget, the Office of State Budget and Management or the
3 Secretary of the Department of Natural and Cultural Resources may reclassify or eliminate
4 existing administrative positions that are not specifically addressed in this act as needed for the
5 efficient operation of the Department.

6 7 **BUDGETARY TRANSITION PROVISIONS**

8 **SECTION 14.30.(ppp)** The Office of State Budget and Management shall ensure
9 that future budget documents show the Department of Natural and Cultural Resources, as
10 renamed and reorganized by this section, in the Natural and Economic Resources section of the
11 budget.

12 **SECTION 14.30.(qqq)** The Department of Natural and Cultural Resources shall
13 transfer to the Department of Environmental Quality any funds necessary to cover outstanding
14 liabilities of the attractions, divisions, or entities transferred by this section that come due to the
15 Department of Environmental Quality on or after August 1, 2016.

16 **SECTION 14.30.(rrr)** The Department of Environmental Quality shall transfer to
17 the Department of Natural and Cultural Resources any funds remaining after covering
18 outstanding liabilities of the attractions, divisions, or entities transferred by this section.

19 20 **REPORTING AND EFFECTIVE DATE**

21 **SECTION 14.30.(sss)** The Office of State Budget and Management, in
22 consultation with the Department of Environment and Natural Resources and the Department
23 of Cultural Resources, shall make the following reports on progress implementing this section
24 to the Environmental Review Commission, the Senate and the House of Representatives
25 appropriations committees with jurisdiction over natural and cultural resources, and the Fiscal
26 Research Division:

27 (1) An interim report on or before October 1, 2015.

28 (2) A final report on or before January 15, 2016.

29 These reports shall include (i) the proposed new organization structure, including
30 proposed movement of positions or funds between fund codes, and (ii) information about any
31 reclassifications of positions or reductions in force pursuant to subsection (ooo) of this section,
32 and may include any recommendations for changes to the statutes revised or recodified by this
33 section.

34 **SECTION 14.30.(ttt)** Other than subsection (sss) of this section, this section
35 becomes effective August 1, 2015. Any references in this act to any program, office, section,
36 division, council, or committee transferred under this section shall be construed to be consistent
37 with the transfers under this section.

38 39 **STUDY FURTHER EFFICIENCIES IN ORGANIZATION OF DEPARTMENT OF** 40 **NATURAL AND CULTURAL RESOURCES AND DEPARTMENT OF** 41 **ENVIRONMENTAL QUALITY**

42 **SECTION 14.31.(a)** The Department of Cultural Resources, in consultation with
43 the Department of Environment and Natural Resources and the Wildlife Resources
44 Commission, shall study and report on the potential for efficiency, cost savings, and alignment
45 of core mission and values that would be created from the transfer of the following agencies,
46 divisions, or programs to the reorganized Department of Natural and Cultural Resources
47 created by Section 14.30 of this act:

48 (1) Albemarle-Pamlico National Estuary Partnership.

49 (2) Coastal Reserves Program.

50 (3) Office of Land and Water Stewardship.

- 1 (4) All or a portion of the Office of Environmental Education and Public
2 Affairs.
3 (5) Division of Marine Fisheries.
4 (6) Wildlife Resources Commission.

5 **SECTION 14.31.(b)** The Department shall report as required by subsection (a) of
6 this section no later than April 1, 2016, to the chairs of the Senate Appropriations Committee
7 on Natural and Economic Resources, the chairs of the House Appropriations Committee on
8 Agriculture and Natural and Economic Resources, and the Fiscal Research Division.
9

10 **TECHNICAL CORRECTION RELATING TO ROANOKE ISLAND COMMISSION**
11 **LEGAL COUNSEL**

12 **SECTION 14.33.** G.S. 143B-131.7 is repealed.
13

14 **PART XV. DEPARTMENT OF COMMERCE**
15

16 **EDPNC STATE BUDGET ACT EXEMPTION**

17 **SECTION 15.1.** G.S. 143B-431.01(b) reads as rewritten:

18 "(b) Contract. – The Department of Commerce is authorized to contract with a North
19 Carolina nonprofit corporation to perform one or more of the Department's functions, powers,
20 duties, and obligations set forth in G.S. 143B-431, except as provided in this subsection. The
21 contract entered into pursuant to this section between the Department and the Economic
22 Development Partnership of North Carolina is exempt from Articles 3 and 3C of Chapter 143
23 of the General Statutes. ~~Statutes and G.S. 143C-6-23.~~ If the Department contracts with a North
24 Carolina nonprofit corporation to promote and grow the travel and tourism industries, then all
25 funds appropriated to the Department for tourism marketing purposes shall be used for a
26 research-based, comprehensive marketing program directed toward consumers in key markets
27 most likely to travel to North Carolina and not for ancillary activities, such as statewide
28 branding and business development marketing. The Department may not contract with a North
29 Carolina nonprofit corporation regarding any of the following:

- 30 (1) The obligation or commitment of funds under this Article, such as the One
31 North Carolina Fund, the Job Development Investment Grant Program, the
32 Industrial Development Fund, or the Job Maintenance and Capital
33 Development Fund.
34 (2) The Division of Employment Security, including the administration of
35 unemployment insurance.
36 (3) The functions set forth in G.S. 143B-431(a)(2).
37 (4) The administration of funds or grants received from the federal government
38 or its agencies."
39

40 **COMMERCE STUDY TIME SPENT ADMINISTERING PROGRAMS SUPPORTED**
41 **BY FEDERAL FUNDS**

42 **SECTION 15.3.(a)** The Department of Commerce shall study the amount of time
43 all persons in General Fund-supported positions spend performing duties related to the
44 operation and administration of programs that receive federal funds, including the Division of
45 Employment Security and the Division of Workforce Solutions, to determine whether some or
46 all of the costs related to the performance of these duties should be supported by federal
47 indirect cost receipts and, therefore, should be paid for with federal funds instead of General
48 Fund appropriations.

49 **SECTION 15.3.(b)** No later than March 1, 2016, the Department of Commerce
50 shall report the findings of the study required under subsection (a) of this section to the chairs
51 of the House of Representatives Appropriations Committee on Agriculture and Natural and

1 Economic Resources, the Senate Appropriations Committee on Natural and Economic
2 Resources, and the Fiscal Research Division.

3
4 **DEPARTMENT OF COMMERCE/CONFORMING STATUTORY CHANGES**

5 **SECTION 15.4.(a)** G.S. 20-81.12 reads as rewritten:

6 **"§ 20-81.12. Collegiate insignia plates and certain other special plates.**

7 ...

8 (b124) Travel and Tourism. – The Division must receive 300 or more applications for the
9 "Travel and Tourism" plate before the plate may be developed. The Division shall transfer
10 quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the
11 sale of "Travel and Tourism" plates to the ~~Division of Tourism, Film, and Sports~~
12 ~~Development~~Department of Commerce to be used for programs in support of travel and
13 tourism in North Carolina.

14"

15 **SECTION 15.4.(b)** G.S. 143B-434.2 reads as rewritten:

16 **"§ 143B-434.2. Travel and Tourism Policy Act.**

17 ...

18 (d) The Department of Commerce, and the ~~Division of Tourism, Film, and Sports~~
19 ~~Development~~ within that Department, nonprofit corporation with whom the Department
20 contracts pursuant to G.S. 143B-431.01(b) to promote and market tourism, shall implement the
21 policies set forth in this section. The ~~Division of Tourism, Film, and Sports~~
22 ~~Development~~nonprofit corporation shall make an annual report to the General Assembly
23 regarding the status of the travel and tourism industry in North Carolina; the report shall be
24 submitted to the General Assembly by October 15 of each year beginning ~~October 15,~~
25 2011.October 15, 2015. The duties and responsibilities of the ~~Department of Commerce~~
26 ~~through the Division of Tourism, Film, and Sports Development~~ nonprofit corporation shall be
27 to:

- 28 (1) Organize and coordinate programs designed to promote tourism within the
29 State and to the State from other states and foreign countries.
- 30 (2) Measure and forecast tourist volume, receipts, and impact, both social and
31 economic.
- 32 (3) Develop a comprehensive plan to promote tourism to the State.
- 33 (4) Encourage the development of the State's tourism infrastructure, facilities,
34 services, and attractions.
- 35 (5) Cooperate with neighboring states and the federal government to promote
36 tourism to the State from other countries.
- 37 (6) Develop opportunities for professional education and training in the tourism
38 industry.
- 39 (7) Provide advice and technical assistance to local public and private tourism
40 organizations in promoting tourism to the State.
- 41 (8) Encourage cooperation between State agencies and private individuals and
42 organizations to advance the State's tourist interests and seek the views of
43 these agencies and the private sector in the development of State tourism
44 programs and policies.
- 45 (9) Give leadership to all concerned with tourism in the State.
- 46 (10) Perform other functions necessary to the orderly growth and development of
47 tourism.
- 48 (11) Develop informational materials for visitors which, among other things,
49 shall:

- a. Describe the State's travel and tourism resources and the State's history, economy, political institutions, cultural resources, outdoor recreational facilities, and principal festivals.
 - b. Urge visitors to protect endangered species, natural resources, archaeological artifacts, and cultural treasures.
 - c. Instill the ethic of stewardship of the State's natural resources.
- (12) Foster an understanding among State residents and civil servants of the economic importance of hospitality and tourism to the State.
- (13) Work with local businesses, including banks and hotels, with educational institutions, and with the United States Travel and Tourism Administration, to provide special services for international visitors, such as currency exchange facilities.
- (14) Encourage the reduction of architectural and other barriers which impede travel by physically handicapped persons."

SECTION 15.4.(c) G.S. 143B-472.35 reads as rewritten:

"§ 143B-472.35. Establishment of fund; use of funds; application for grants; disbursal; repayment; inspections; rules; reports.

...
 (a2) Definitions. – For purposes of this section, the following definitions shall apply:

...
 (9) Main Street Center. – The agency within the North Carolina Department of ~~Commercee, Office of Urban Development,~~ Commerce which receives applications and makes decisions with respect to Main Street Solutions Fund grant applications from eligible local governments.

...."

SECTION 15.4.(d) The Department of Commerce shall, in accordance with Article 2A of Chapter 150B of the General Statutes, amend its rules to reflect the division name changes provided for in this section.

SECTION 15.4.(e) The Revisor of Statutes may conform names and titles changed by this section, and may correct statutory references as required by this section, throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

NER BLOCK GRANTS/2016 AND 2017 PROGRAM YEARS

SECTION 15.5.(a) Appropriations from federal block grant funds are made for the fiscal years ending June 30, 2016, and June 30, 2017, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$ 1,037,500
02. Economic Development	15,737,500
03. Infrastructure	26,725,000

TOTAL COMMUNITY DEVELOPMENT

BLOCK GRANT – 2016 Program Year	\$ 43,500,000
2017 Program Year	\$ 43,500,000

SECTION 15.5.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified in this section 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.

1 **SECTION 15.5.(c)** Increases in Federal Fund Availability. – Any block grant
2 funds appropriated by the Congress of the United States in addition to the funds specified in
3 this section shall be expended as follows: each program category under the Community
4 Development Block Grant shall be increased by the same percentage as the increase in federal
5 funds.

6 **SECTION 15.5.(d)** Limitations on Community Development Block Grant Funds. –
7 Of the funds appropriated in this section for the Community Development Block Grant, the
8 following shall be allocated in each category for each program year: up to one million
9 thirty-seven thousand five hundred dollars (\$1,037,500) may be used for State Administration;
10 up to fifteen million seven hundred thirty-seven thousand five hundred dollars (\$15,737,500)
11 may be used for Economic Development; and up to twenty-six million seven hundred
12 twenty-five thousand dollars (\$26,725,000) may be used for Infrastructure. If federal block
13 grant funds are reduced or increased by the Congress of the United States after the effective
14 date of this act, then these reductions or increases shall be allocated in accordance with
15 subsection (b) or (c) of this section, as applicable.

16 **SECTION 15.5.(e)** The Department of Commerce shall consult with the Joint
17 Legislative Commission on Governmental Operations prior to reallocating Community
18 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever
19 the Director of the Budget finds that:

- 20 (1) A reallocation is required because of an emergency that poses an imminent
21 threat to public health or public safety, the Director of the Budget may
22 authorize the reallocation without consulting the Commission. The
23 Department of Commerce shall report to the Commission on the reallocation
24 no later than 30 days after it was authorized and shall identify in the report
25 the emergency, the type of action taken, and how it was related to the
26 emergency.
- 27 (2) The State will lose federal block grant funds or receive less federal block
28 grant funds in the next fiscal year unless a reallocation is made, the
29 Department of Commerce shall provide a written report to the Commission
30 on the proposed reallocation and shall identify the reason that failure to take
31 action will result in the loss of federal funds. If the Commission does not
32 hear the issue within 30 days of receipt of the report, the Department may
33 take the action without consulting the Commission.

34 **SECTION 15.5.(f)** By September 1, 2015, and September 1, 2016, the Department
35 of Commerce shall report to the Joint Legislative Commission on Governmental Operations
36 and the Fiscal Research Division on the use of Community Development Block Grant Funds
37 appropriated in the prior fiscal year. The report shall include the following:

- 38 (1) A discussion of each of the categories of funding and how the categories
39 were selected, including information on how a determination was made that
40 there was a statewide need in each of the categories.
- 41 (2) Information on the number of applications that were received in each
42 category and the total dollar amount requested in each category.
- 43 (3) A list of grantees, including the grantee's name, county, category under
44 which the grant was funded, the amount awarded, and a narrative description
45 of the project.

46 **SECTION 15.5.(g)** For purposes of this section, eligible activities under the
47 category of Infrastructure in subsection (a) of this section shall be defined as provided in the
48 HUD State Administered Community Development Block Grant definition of the term
49 "infrastructure". Notwithstanding the provisions of subsection (e) of this section, funds
50 allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated
51 to any other category.

1
2 **USE OF DEOBLIGATED COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**
3 **AND SURPLUS FEDERAL ADMINISTRATIVE FUNDS**

4 **SECTION 15.6.(a)** Throughout each year, deobligated funds arise in the various
5 funding categories and program years of the Community Development Block Grant (CDBG)
6 program as a result of (i) projects coming in under budget, (ii) projects being cancelled, or (iii)
7 projects being required to repay funds. Surplus federal administrative funds in the CDBG
8 program may vary from year-to-year based upon the amount of State-appropriated funds
9 allocated and the amount of eligible in-kind funds identified.

10 **SECTION 15.6.(b)** To allow the Department of Commerce and the Department of
11 Environment and Natural Resources to quickly deploy deobligated CDBG funds and surplus
12 federal administrative funds as they are identified throughout the program year, the following
13 shall apply to the use of deobligated CDBG funds and surplus federal administrative funds:

- 14 (1) The Department of Commerce may use the sum of five million nine hundred
15 eight thousand four hundred ninety-seven dollars (\$5,908,497) in
16 deobligated CDBG funds as follows:
- 17 a. Four million nine hundred eight thousand four hundred ninety-seven
18 dollars (\$4,908,497) for:
 - 19 1. Providing public services and public facilities. The category
20 of public services includes providing substance abuse
21 services and employment services, including job training for
22 veterans in high unemployment areas in the State.
 - 23 2. If House Bill 108, 2015 Regular Session, becomes law,
24 providing up to one million dollars (\$1,000,000) in the
25 2016-2017 fiscal year to be used to fund a loan fund for site,
26 infrastructure, and building development. Program income
27 generated from awards made from the loan fund shall be
28 captured in the existing CDBG revolving loan fund.
 - 29 b. Five hundred thousand dollars (\$500,000) for existing CDBG
30 programs that encounter cost overruns.
 - 31 c. Five hundred thousand dollars (\$500,000) for providing training and
32 guidance to local governments relative to the CDBG program, its
33 management, and administration requirements.
- 34 (2) All deobligated CDBG funds remaining after the provisions of subdivision
35 (1) of this subsection have been met and all surplus federal administrative
36 funds shall be divided equally between the Department of Commerce and
37 the Department of Environment and Natural Resources and shall be used as
38 provided in subdivisions (3) and (4) of this subsection.
- 39 (3) The Department of Commerce may use the funds provided for in subdivision
40 (2) of this subsection for the following:
- 41 a. To issue grants in the CDBG economic development program
42 category.
 - 43 b. For providing training and guidance to local governments relative to
44 the CDBG program, its management, and administrative
45 requirements.
- 46 (4) The Department of Environment and Natural Resources may use the funds
47 provided for in subdivision (2) of this subsection to issue grants in the
48 CDBG infrastructure program category.
- 49

50 **RURAL INFRASTRUCTURE AUTHORITY/ECONOMIC DEVELOPMENT GRANTS**
51 **& LOANS**

1 **SECTION 15.6A.** G.S. 143B-472.127 reads as rewritten:

2 "**§ 143B-472.127. Programs administered.**

3 (a) The Rural Economic Development Division shall be responsible for administering
 4 the program whereby economic development grants or loans are awarded by the Rural
 5 Infrastructure Authority as provided in G.S. 143B-472.128 to local government units. The
 6 Rural Infrastructure Authority shall, in awarding economic development grants or loans under
 7 the provisions of this subsection, give priority to (i) local government units of the counties that
 8 have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment of that
 9 section-section and (ii) local government units located in a rural census tract in a development
 10 tier three area. For purposes of this section, the term "rural census tract" means a census tract
 11 having a population density of less than 500 people per square mile according to the most
 12 recent decennial federal census. The development tier designation of a county shall be
 13 determined as provided in G.S. 143B-437.08. The funds available for grants or loans under this
 14 program may be used as follows:

15 (1) To construct critical water and wastewater facilities or to provide other
 16 infrastructure needs, including, but not limited to, natural gas, broadband,
 17 and rail to sites where these facilities will generate private job-creating
 18 investment. The grants under this subdivision shall not be subject to the
 19 provisions of G.S. 143-355.4.

20 (2) To provide matching grants or loans to local government units ~~located in~~
 21 ~~either (i) a development tier one or tier two area or (ii) a rural census tract in~~
 22 ~~a development tier three area~~ that will productively reuse or demolish
 23 buildings and properties or construct or expand rural health care facilities,
 24 with priority given to towns or communities with populations of less than
 25 5,000. ~~The development tier designation of a county shall be determined as~~
 26 ~~provided in G.S. 143B-437.08. For purposes of this section, the term "rural~~
 27 ~~census tract" means a census tract having a population density of less than~~
 28 ~~500 people per square mile according to the most recent decennial federal~~
 29 ~~eensus.~~

30 "

31
 32 **FUNDS TO CERTAIN COUNTIES FOR APPALACHIAN REGIONAL COMMISSION**
 33 **MATCH**

34 **SECTION 15.8.(a)** Of the funds appropriated in this act to the Department of
 35 Commerce for the Rural Grant Program Expansion for the 2015-2016 fiscal year, the sum of
 36 two hundred fifty-three thousand nine hundred fifty-six dollars (\$253,956) in nonrecurring
 37 funds shall be allocated to the following counties to be used for the Appalachian Regional
 38 Commission match requirement:

39 (1)	Cherokee	\$63,606
40 (2)	Graham	103,450
41 (3)	Rutherford	43,450
42 (4)	Swain	43,450.

43 **SECTION 15.8.(b)** The match funds provided for in subsection (a) of this section
 44 shall be used for infrastructure projects only.

45
 46 **MAIN STREET SOLUTIONS FUND ALLOCATION**

47 **SECTION 15.8A.(a)** Of the funds appropriated by this act to the Department of
 48 Commerce for the Main Street Solutions Fund for the 2015-2016 fiscal year, the Department
 49 shall allocate one million dollars (\$1,000,000) in nonrecurring funds for the 2015-2016 fiscal
 50 year for a downtown revitalization project that will stimulate economic growth along the main
 51 street corridor of a municipality meeting all of the following:

- 1 (1) The municipality had a population, as of July 2013, of not fewer than
2 105,000 and not in excess of 110,000.
- 3 (2) The municipality is located, in whole or in part, in a county that moved from
4 a development tier three area status to development tier two area status in the
5 annual ranking performed by the Department of Commerce pursuant to
6 G.S. 143B-437.08 for the 2015 calendar year.
- 7 (3) The municipality provides no less than one dollar forty-three cents (\$1.43)
8 for every one dollar (\$1.00) allocated from the Fund.

9 **SECTION 15.8A.(b)** Of the funds appropriated in this act to the Department of
10 Commerce for the Main Street Solutions Fund for the 2015-2016 fiscal year, the Department
11 shall allocate one hundred thousand dollars (\$100,000) in nonrecurring funds for the 2015-2016
12 fiscal year to Renaissance West Community Initiative to provide quality housing, education,
13 health, wellness, and opportunity.

14 **WANCHESE MARINE INDUSTRIAL PARK**

15 **SECTION 15.8B.(a)** The Department of Commerce shall transfer the cash balance
16 remaining in fund code 14600-1561 on June 30, 2015, to an enterprise fund created for the
17 North Carolina Marine Industrial Park. Thereafter, the enterprise fund shall be used for the
18 operations, maintenance, repair, and capital improvements of the Wanchese Marine Industrial
19 Park.

20 **SECTION 15.8B.(b)** This section becomes effective June 30, 2015.

21 **MODIFY ECONOMIC DEVELOPMENT GRANT REPORT**

22 **SECTION 15.10.(a)** G.S. 143B-437.07 reads as rewritten:

23 **"§ 143B-437.07. Economic development grant reporting.**

24 (a) Report. – The Department of Commerce must publish on or before October 1 of
25 each year the information required by this subsection, itemized by business entity, for each
26 business or joint private venture to which the State has, in whole or in part, granted one or more
27 economic development incentives during the ~~previous fiscal year~~ relevant time period. The
28 relevant time period ends June 30 preceding the publication date of this subsection and begins
29 (i) for incentives not awarded under Part 2G of this Article with the 2007 calendar year and (ii)
30 for incentives awarded under Part 2G of this Article with the 2002 calendar year. The
31 information in the report must include all of the following:

- 32 ...
- 33 (3) The name, mailing address, telephone number, and Web site of the business
34 recipient, or recipients if a joint venture, and the physical location of the site
35 receiving the incentive. If the physical location of the site is undecided, then
36 the name of the county in which the site will be located. The information
37 regarding the physical location must indicate whether the physical location is
38 a new or expanded facility.
- 39 (3a) A determination of whether the award is to a business that is new to the State
40 or an expansion of an existing business within the State.

41"

42 **SECTION 15.10.(b)** This section is effective for reports published for fiscal years
43 beginning on or after July 1, 2015.

44 **WORKFORCE DEVELOPMENT BOARDS/CHANGES TO CONFORM WITH** 45 **FEDERAL LAW**

46 **SECTION 15.11.(a)** G.S. 143B-438.10 reads as rewritten:

47 **"§ 143B-438.10. ~~Commission on Workforce Development~~ NCWorks Commission.**

1 (a) Creation and Duties. – There is created within the Department of Commerce the
2 ~~North Carolina Commission on Workforce Development.~~ NCWorks Commission (hereinafter
3 "Commission"). The Commission shall have the following powers and duties:

4 ...

5 (9) To serve as the State's Workforce Investment Board for purposes of the
6 federal ~~Workforce Investment Act of 1998.~~ Workforce Innovation and
7 Opportunity Act.

8 ...

9 (13) To develop performance accountability measures for local workforce
10 development boards consistent with the requirements of section 116 of the
11 Workforce Innovation and Opportunity Act and to recommend to the
12 Governor sanctions against local workforce development boards that fail to
13 meet the performance accountability measures.

14 (14) To develop fiscal control and fund accounting procedures for local
15 workforce development boards consistent with the requirements of section
16 184 of the Workforce Innovation and Opportunity Act and to recommend to
17 the Governor sanctions against local workforce development boards that fail
18 to meet the fiscal control and fund accounting procedures.

19 (b) ~~Membership; Terms.~~ Effective January 1, 2013, the Membership. – The
20 ~~Commission on Workforce Development~~ shall consist of ~~25~~ 33 members appointed as follows:

21 (1) By virtue of their offices, the following ~~department and agency heads or~~
22 ~~their respective designees~~ persons, or their designees, shall serve on the
23 Commission: ~~the~~

24 a. The Governor.

25 b. The Secretary of the Department of Administration, ~~the~~
26 Administration.

27 c. The Secretary of the Department of Commerce.

28 d. The Secretary of the Department of Health and Human Services, ~~the~~
29 Services.

30 e. The Superintendent of Public Instruction, ~~the~~ Instruction.

31 f. The President of the Community Colleges System Office, ~~the~~
32 Commissioner of the Department of Labor, and the Secretary of the
33 Department of Commerce Office.

34 g. The President of The University of North Carolina system.

35 (2) ~~The~~ Pursuant to the provisions of section 101 of the Workforce Innovation
36 and Opportunity Act, the Governor shall appoint ~~49~~ 26 members as follows:

37 a. ~~Two~~ Seventeen members representing ~~public, postsecondary, and~~
38 ~~vocational education.~~ business and industry in the State.

39 b. ~~One~~ Seven members representing ~~community-based~~
40 ~~organizations.~~ the workforce in the State.

41 c. ~~Three~~ members representing labor. One member representing local
42 elected city officials in the State.

43 d. ~~Thirteen~~ members representing business and industry. One member
44 representing local elected county officials in the State.

45 (3) ~~The terms of the members appointed by the Governor shall be for four years.~~

46 (b1) Terms. – The persons listed in subdivision (1) of subsection (b) of this section shall
47 serve on the Commission while they hold their respective offices. The terms of the members
48 appointed by the Governor pursuant to subdivision (2) of subsection (b) of this section shall be
49 for four years, except as provided in this subsection. The terms shall be staggered and shall
50 begin on August 1 and expire on July 31. Upon the expiration of the term of each member in
51 subdivision (2) of subsection (b) of this section, the Governor shall fill the vacancy by

1 reappointing the member or appointing another person of like qualification to serve a four-year
 2 term. If a vacancy occurs for any reason other than the expiration of the member's term, the
 3 Governor shall appoint a person of like qualification to serve for the remainder of the unexpired
 4 term.

5 In order to provide for staggered terms, six persons appointed to the positions designated in
 6 sub-subdivision a. of subdivision (2) of subsection (b) of this section and three persons
 7 appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b)
 8 of this section shall be appointed for initial terms ending on July 31, 2019. Five persons
 9 appointed to the positions designated in sub-subdivision a. of subdivision (2) of subsection (b)
 10 of this section, two persons appointed to the positions designated in sub-subdivision b. of
 11 subdivision (2) of subsection (b) of this section, and one person appointed to the position
 12 designated in sub-subdivision c. of subdivision (2) of subsection (b) of this section shall be
 13 appointed for initial terms ending on July 31, 2017. Six persons appointed to the positions
 14 designated in sub-subdivision a. of subdivision (2) of subsection (b) of this section, two persons
 15 appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b)
 16 of this section, and one person appointed to the position designated in sub-subdivision d. of
 17 subdivision (2) of subsection (b) of this section shall be appointed for initial terms ending on
 18 July 31, 2016.

19 "...."

20 **SECTION 15.11.(b)** The terms of office of the Commissioner of the Department
 21 of Labor and the 19 public members appointed by the Governor and currently serving on the
 22 North Carolina Commission on Workforce Development shall expire on July 31, 2015.

23 **SECTION 15.11.(c)** G.S. 143B-438.11 reads as rewritten:

24 "**§ 143B-438.11. Local Workforce Development Boards.**

25 (a) Duties. – Local Workforce Development Boards shall have the following powers
 26 and duties:

27 ...

28 (7) To serve as the Workforce Investment Board for the designated substate area
 29 for the purpose of the federal Workforce ~~Investment Act of 1998.~~Innovation
 30 and Opportunity Act.

31 (7a) To designate through a competitive selection process, by no later than July 1,
 32 2014, the providers of adult and dislocated worker services authorized in the
 33 Workforce ~~Investment Act of 1998.~~Innovation and Opportunity Act.

34 (8) To provide the appropriate guidance and information to Workforce
 35 ~~Investment–Innovation and Opportunity Act~~ consumers to ensure that they
 36 are prepared and positioned to make informed choices in selecting a training
 37 provider. Each local Workforce Development Board shall ensure that
 38 consumer choice is properly maintained in the one-stop centers and that
 39 consumers are provided the full array of public and private training provider
 40 information.

41 ...

42 (10) To comply with the performance accountability measures established by the
 43 NCWorks Commission pursuant to section 116 of the Workforce Innovation
 44 and Opportunity Act.

45 (11) To comply with the fiscal control and fund accounting procedures
 46 established by the NCWorks Commission pursuant to Section 184 of the
 47 Workforce Innovation and Opportunity Act.

48 (b) Members. – Members of local Workforce Development Boards shall be appointed
 49 by local elected officials in accordance with criteria established by the Governor and with
 50 provisions of the federal Workforce ~~Investment–Innovation and Opportunity Act.~~ The local
 51 Workforce Development Boards shall have a majority of business members and shall also

1 include representation of workforce and education providers, labor organizations,
2 community-based organizations, and economic development boards as determined by local
3 elected officials. The Chairs of the local Workforce Development Boards shall be selected from
4 among the business members.

5 (c) Assistance. – ~~The North Carolina Commission on Workforce Development~~
6 NCWorks Commission and the Department of Commerce shall provide programmatic,
7 technical, and other assistance to any local Workforce Development Board that realigns its
8 service area with the boundaries of a local regional council of governments established
9 pursuant to G.S. 160A-470."

10 **SECTION 15.11.(d)** G.S. 96-32 reads as rewritten:

11 **"§ 96-32. Common follow-up information management system created.**

12 ...
13 (d) The LEAD shall do the following:

14 (1) Collaborate with the ~~Commission on Workforce Development~~NCWorks
15 Commission to develop common performance measures across workforce
16 programs in the Department of Commerce, the Department of Health and
17 Human Services, the Community Colleges System Office, the Department of
18 Administration, and the Department of Public Instruction that can be tracked
19 through the CFS in order to assess and report on workforce development
20 program performance.

21"

22 **SECTION 15.11.(e)** G.S. 143B-157 reads as rewritten:

23 **"§ 143B-157. Commission for the Blind – creation, powers and duties.**

24 There is recreated the Commission for the Blind of the Department of Health and Human
25 Services with the power and duty to adopt rules governing the conduct of the State's
26 rehabilitative programs for the blind that are necessary to carry out the provisions and purposes
27 of this Article.

28 ...

29 (3e) The Commission shall coordinate with other councils within the State,
30 including the statewide Independent Living Council established under
31 section 705 of the federal Rehabilitation Act, 29 U.S.C. § 720, et seq., the
32 advisory panel established under section 612(a)(21) of the Individuals with
33 Disabilities Education Act, 20 U.S.C. § 1413(A)(12), the Council on
34 Developmental Disabilities described in section 124 of the Developmental
35 Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6024, the State
36 Mental Health Planning Council established pursuant to section 1916(e) of
37 the Public Health Service Act, 42 U.S.C. § 300x-4(e), and the ~~Commission~~
38 ~~on Workforce Development~~NCWorks Commission;

39"

40 **SECTION 15.11.(f)** G.S. 143B-158 reads as rewritten:

41 **"§ 143B-158. Commission for the Blind.**

42 (a) The Commission for the Blind of the Department of Health and Human Services
43 shall consist of 19 members as follows:

44 ...

45 (12) One representative of the ~~Commission on Workforce~~
46 ~~Development~~NCWorks Commission.

47"

48 **SECTION 15.11.(g)** G.S. 143B-438.12 reads as rewritten:

49 **"§ 143B-438.12. Federal Program Administration.**

50 (a) Federal Workforce ~~Investment~~Innovation and Opportunity Act. – In accordance
51 with the federal Workforce ~~Investment~~Innovation and Opportunity Act, the ~~Commission on~~

1 ~~Workforce Development~~ NCWorks Commission shall develop a ~~Five-Year Strategic Plan~~
2 ~~Four-Year Unified State Plan~~ to be submitted to the U.S. Secretary of Labor. The ~~Strategic Plan~~
3 ~~Unified State Plan~~ shall describe the ~~workforce development activities to be undertaken in the~~
4 ~~State to implement the federal Workforce Investment Act and how special populations shall be~~
5 ~~served.~~ State's strategic vision and goals for preparing an educated and skilled workforce as
6 required in section 102 of the federal Workforce Innovation and Opportunity Act.

7 (b) Other Workforce Grant Applications. – The ~~Commission on Workforce~~
8 ~~Development~~ NCWorks Commission may submit grant applications for workforce
9 development initiatives and may manage the initiatives and demonstration projects."

10 **SECTION 15.11.(h)** G.S. 143B-438.13 reads as rewritten:

11 "**§ 143B-438.13. Employment and Training Grant Program.**

12 (a) Employment and Training Grant Program. – There is established in the Department
13 of Commerce, Division of ~~Employment and Training~~, Workforce Solutions, an Employment
14 and Training Grant Program. Grant funds shall be allocated to local Workforce Development
15 Boards for the purposes of enabling recipient agencies to implement local employment and
16 training programs in accordance with existing resources, local needs, local goals, and selected
17 training occupations. The State program of workforce performance standards shall be used to
18 measure grant program outcomes.

19 (b) Use of Grant Funds. – Local agencies may use funds received under this section for
20 the purpose of providing services, such as training, education, placement, and supportive
21 services. Local agencies may use grant funds to provide services only to individuals who are (i)
22 18 years of age or older and meet the federal Workforce ~~Investment~~ Innovation and
23 Opportunity Act, title I adult eligibility definitions, or meet the federal Workforce ~~Investment~~
24 Innovation and Opportunity Act, title I dislocated worker eligibility definitions, or (ii)
25 incumbent workers with annual family incomes at or below two hundred percent (200%) of
26 poverty guidelines established by the federal Department of Health and Human Services.

27 (c) Allocation of Grants. – The Department of Commerce may reserve and allocate up
28 to ten percent (10%) of the funds available to the Employment and Training Grant Program for
29 State and local administrative costs to implement the Program. The Division of ~~Employment~~
30 ~~and Training~~ Workforce Solutions shall allocate employment and training grant funds to local
31 Workforce Development Boards serving federal Workforce ~~Investment~~ Innovation and
32 Opportunity Act local workforce ~~investment~~ development areas based on the following
33 formula:

34 (1) One-half of the funds shall be allocated on the basis of the relative share of
35 the local workforce ~~investment~~ development area's share of federal
36 Workforce ~~Investment~~ Innovation and Opportunity Act, title I adult funds as
37 compared to the total of all local areas adult shares under the federal
38 Workforce ~~Investment~~ Innovation and Opportunity Act, title I.

39 (2) One-half of the funds shall be allocated on the basis of the relative share of
40 the local workforce ~~investment~~ development area's share of federal
41 Workforce ~~Investment~~ Innovation and Opportunity Act, title I dislocated
42 worker funds as compared to the total of all local areas dislocated worker
43 shares under the federal Workforce ~~Investment~~ Innovation and Opportunity
44 Act, title I.

45 (3) Local workforce ~~investment~~ development area adult and dislocated shares
46 shall be calculated using the current year's allocations to local areas under
47 the federal Workforce ~~Investment~~ Innovation and Opportunity Act, title I.

48 (d) Repealed by Session Laws 2009-451, s. 14.5(d), effective July 1, 2009.

49 (e) Nonreverting Funds. – Funds appropriated to the Department of Commerce for the
50 Employment and Training Grant Program that are not expended at the end of the fiscal year

1 shall not revert to the General Fund, but shall remain available to the Department for the
2 purposes established in this section."

3 **SECTION 15.11.(i)** G.S. 143B-438.14 reads as rewritten:

4 **"§ 143B-438.14. "No Adult Left Behind" Initiative.**

5 (a) ~~The Commission on Workforce Development,~~ NCWorks Commission, acting as the
6 lead agency, with the cooperation of other participating agencies, including the Department of
7 Labor, the Department of Commerce, the Employment Security Commission, the North
8 Carolina Community College System, The University of North Carolina, and the North
9 Carolina Independent Colleges and Universities shall initiate the "No Adult Left Behind"
10 Initiative (Initiative) geared toward achievement of major statewide workforce development
11 goals. The Initiative may also include community-based nonprofit organizations that provide
12 services or assistance in the areas of worker training, workforce development, and transitioning
13 North Carolinians between industries in the current global labor market.

14 (b) The first goal of the Initiative is to increase dramatically to forty percent (40%) the
15 percentage of North Carolinians who earn associate degrees, other two-year educational
16 credentials, and baccalaureate degrees. Specific fields of study may be selected for the most
17 intense efforts. ~~The Commission on Workforce Development~~ NCWorks Commission shall, as
18 the lead agency along with the North Carolina Community College System and The University
19 of North Carolina as key cooperating institutions, do all of the following:

20 ...

21 (c) ~~The Commission on Workforce Development~~ NCWorks Commission and the other
22 lead participating institutions may enter into contracts with other qualified organizations,
23 especially community-based nonprofits, to carry out components of the Initiative set forth in
24 subsection (b) of this section.

25 (d) ~~The Commission on Workforce Development~~ NCWorks Commission shall submit
26 to the Governor and to the General Assembly by May 1, 2012, and annually thereafter, details
27 of its implementation of this section that shall include at least the following:

28"

29 **SECTION 15.11.(j)** The Revisor of Statutes may conform names and titles
30 changed by this section, and may correct statutory references as required by this section,
31 throughout the General Statutes. In making the changes authorized by this section, the Revisor
32 may also adjust subject and verb agreement and the placement of conjunctions.

33
34 **REPEAL STATUTES AUTHORIZING TRADE JOBS FOR SUCCESS/INITIATIVE**
35 **ENDED JUNE 30, 2013**

36 **SECTION 15.12.** Part 3C of Article 10 of Chapter 143B of the General Statutes is
37 repealed.

38
39 **REPEAL APPRENTICESHIP FEE**

40 **SECTION 15.13.** G.S. 94-12 is repealed.

41
42 **INDUSTRIAL COMMISSION STUDY IMPLEMENTING DRUG FORMULARY IN**
43 **WORKERS' COMPENSATION CLAIMS**

44 **SECTION 15.13A.(a)** The Industrial Commission shall study the implementation
45 of a drug formulary in workers' compensation claims filed by State employees. The study shall
46 consider (i) the pharmacy-related expenses incurred by the State on an annual basis in workers'
47 compensation claims; (ii) the savings, if any, that would result from the use of a drug formulary
48 in workers' compensation claims; (iii) whether the use of a drug formulary would result in the
49 more efficient delivery of medications, provide workers with reasonable and necessary care,
50 and provide a disincentive for health care providers to utilize costly name brand drugs and
51 habit-forming opioids and narcotics; and (iv) the adoption of an appeals process that would

1 allow health care providers and injured workers to seek approval for the use of drugs that are
2 not on the formulary's approved list. The Industrial Commission may consider any other issues
3 relevant to the implementation of a drug formulary in workers' compensation claims.

4 **SECTION 15.13A.(b)** By April 1, 2016, the Industrial Commission shall report its
5 findings, including any recommendations on the implementation of a drug formulary in
6 workers' compensation claims filed by State employees, to the chairs of the House of
7 Representatives Health Committee and the Senate Health Care Committee and the Fiscal
8 Research Division.

9
10 **INDUSTRIAL COMMISSION/REIMBURSEMENT FOR PRESCRIPTION DRUGS**
11 **AND PROFESSIONAL PHARMACEUTICAL SERVICES**

12 **SECTION 15.13B.(a)** G.S. 97-26.2 reads as rewritten:

13 "**§ 97-26.2. Reimbursement for prescription ~~drugs~~drugs, prescribed over-the-counter**
14 **drugs, and professional pharmaceutical services.**

15 (a) The reimbursement amount for prescription ~~drugs~~drugs, prescribed
16 over-the-counter drugs, and professional pharmaceutical services shall be limited to the lesser
17 of ninety-five percent (95%) of the average wholesale price (AWP) of the product, calculated
18 on a per unit basis, as of the date of ~~dispensing~~ or the reimbursement amount
19 provided for in an agreement between the dispensing health care provider and the payor
20 employer or workers' compensation insurance carrier.

21 (b) All of the following shall apply to the reimbursement for prescription drugs and
22 professional pharmaceutical services:

23 (1) A health care provider seeking reimbursement for ~~drugs dispensed by a~~
24 ~~physician~~health care provider-dispensed prescription drugs, prescribed
25 over-the-counter drugs, and pharmaceutical services shall include the
26 original manufacturer's National Drug Code (NDC) number, as assigned by
27 the United States Food and Drug Administration, on ~~the bills and reports~~
28 ~~required by this section~~any billing documents or invoices issued.

29 (2) In no event may a ~~physician~~health care provider receive reimbursement in
30 excess of ninety-five percent (95%) of the AWP of the drugs dispensed by a
31 ~~physician,~~health care provider, as determined by reference to the original
32 manufacturer's NDC number.

33 (3) A repackaged NDC number may not be individually used on any billing
34 documents or invoices issued, and will not be considered the original
35 manufacturer's NDC number. A repackaged NDC number may only appear
36 in conjunction with the manufacturer's NDC number. If a health care
37 provider seeking reimbursement for drugs dispensed by a ~~physician~~health
38 care provider does not include the original manufacturer's NDC number on
39 ~~the bills and reports required by this section,~~any billing documents or
40 invoices issued, reimbursement shall be limited to one hundred percent
41 (100%) of the AWP of the least expensive clinically equivalent drug,
42 calculated on a per unit basis.

43 (4) No outpatient health care provider, other than a licensed pharmacy, may
44 receive reimbursement for a Schedule II controlled substance, as defined in
45 G.S. 90-90, ~~or~~ a Schedule III controlled substance, as defined in G.S. 90-91,
46 a Schedule IV controlled substance, as defined in G.S. 90-92, or a Schedule
47 V controlled substance, as defined in G.S. 90-93, dispensed in excess of an
48 initial five-day supply, commencing upon the employee's initial treatment
49 following injury. Reimbursement under this subdivision shall be made for
50 the five-day supply at the rates provided in this section.

(5) For purposes of this section, the term "clinically equivalent" means a drug has chemical equivalents which, when administered in the same amounts, will provide essentially the same therapeutic effect as measured by the control of a symptom or disease."

SECTION 15.13B.(b) This section becomes effective September 1, 2015.

INDUSTRIAL COMMISSION/USE OF IT FUNDS

SECTION 15.14. In each year of the 2015-2017 fiscal biennium, the Industrial Commission, in consultation with the State Chief Information Officer, may use available funds in Budget Code 24611 (Fund 2200) to maintain its Consolidated Case Management System, including, but not limited to, covering the costs of related service contracts and information technology personnel.

UTILITIES COMMISSION/PUBLIC STAFF REALIGN CERTIFIED BUDGET WITH ANTICIPATED AGENCY REQUIREMENTS

SECTION 15.15.(a) No later than November 1, 2015, the Utilities Commission and Public Staff, in conjunction with the Department of Commerce and the Office of State Budget and Management, shall realign the certified budget for the following funds for each year of the 2015-2017 fiscal biennium to reflect the anticipated spending requirements for the Utilities Commission and Public Staff for each year of the 2015-2017 biennium:

Budget Code	Fund	Description
54600	5211	Utilities – Commission Staff
54600	5217	Utilities – Gas Pipelines
54600	5218	PUC Capacity Grant – ARRA
54600	5221	Utilities – Public Staff
64605	6431	Utility and Public Staff.

SECTION 15.15.(b) In realigning the certified budget for the funds described in subsection (a) of this section, the Utilities Commission and Public Staff shall prioritize eliminating unnecessary vacant positions and making line-item modifications that reflect anticipated agency requirements. The Utilities Commission and Public Staff shall not expend any funds unless they are appropriated in this act for fiscal year 2015-2016 and fiscal year 2016-2017.

SET REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 15.16.(a) G.S. 62-302(a) reads as rewritten:

"(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public-public and to maintain a reasonable margin for a reserve fund. The amount of the reserve may not exceed one-half of the cost of operating the Commission and the Public Staff as reflected in the certified budget for the previous fiscal year.

It is also the policy of the State to provide limited oversight of certain electric membership corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as provided in this section."

1 **SECTION 15.16.(b)** Subdivisions 14.19(e1)(4), (5), (6), and (10) of S.L. 2009-451
2 are repealed.

3 **SECTION 15.16.(c)** G.S. 62-302, as amended by subsection (a) of this section,
4 reads as rewritten:

5 "(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair
6 regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of
7 regulating public utilities is a burden incident to the privilege of operating as a public utility.
8 Therefore, for the purpose of defraying the cost of regulating public utilities, every public
9 utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in
10 addition to all other fees and taxes, as provided in this section. The fees collected shall be used
11 only to pay the expenses of the Commission and the Public Staff in regulating public utilities in
12 the interest of the public and to maintain a reasonable margin for a reserve fund. The amount of
13 the reserve may not exceed one-half of the cost of operating the Commission and the Public
14 Staff as reflected in the certified budget for the previous fiscal year.

15 It is also the policy of the State to provide limited oversight of certain electric membership
16 corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of
17 providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each
18 electric membership corporation whose principal purpose is to furnish or cause to be furnished
19 bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as
20 provided in this section.

21 (b) Public Utility Rate. –

22 (1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

23 (2) Unless adjusted under subdivision (3) of this subsection, the public utility
24 fee is a percentage of a utility's jurisdictional revenues as follows:

25 <u>Noncompetitive jurisdictional revenues</u>	<u>0.148%</u>
26 <u>Subsection (h) competitive jurisdictional revenues</u>	<u>0.06%</u>
27 <u>Subsection (m) competitive jurisdictional revenues</u>	<u>0.05%</u>

28 ~~For noncompetitive jurisdictional revenues as defined in sub-subdivision~~
29 ~~(4)a. of this subsection, the public utility regulatory fee for each~~
30 ~~fiscal year is the greater of (i) a percentage rate, established by the~~
31 ~~General Assembly, of each public utility's noncompetitive~~
32 ~~jurisdictional revenues for each quarter or (ii) six dollars and~~
33 ~~twenty five cents (\$6.25) each quarter. For subsection (h)~~
34 ~~competitive jurisdictional revenues as defined in sub-subdivision~~
35 ~~(4)b. of this subsection, and subsection (m) competitive jurisdictional~~
36 ~~revenues as defined in sub-subdivision (4)c. of this subsection, the~~
37 ~~public utility regulatory fee for each fiscal year is a percentage rate~~
38 ~~established by the General Assembly of each public utility's~~
39 ~~competitive jurisdictional revenues for each quarter.~~

40 ~~When the Commission prepares its budget request for the upcoming~~
41 ~~fiscal year, the Commission shall propose a percentage rate of the public~~
42 ~~utility regulatory fee. For fiscal years beginning in an odd-numbered year,~~
43 ~~that proposed rate shall be included in the budget message the Governor~~
44 ~~submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years~~
45 ~~beginning in an even-numbered year, that proposed rate shall be included in~~
46 ~~a special budget message the Governor shall submit to the General~~
47 ~~Assembly. The General Assembly shall set the percentage rate of the public~~
48 ~~utility regulatory fee by law.~~

49 ~~The percentage rate may not exceed the amount necessary to generate~~
50 ~~funds sufficient to defray the estimated cost of the operations of the~~
51 ~~Commission and the Public Staff for the upcoming fiscal year, including a~~

1 reasonable margin for a reserve fund. The amount of the reserve may not
2 exceed the estimated cost of operating the Commission and the Public Staff
3 for the upcoming fiscal year. In calculating the amount of the reserve, the
4 General Assembly shall consider all relevant factors that may affect the cost
5 of operating the Commission or the Public Staff or a possible unanticipated
6 increase or decrease in North Carolina jurisdictional revenues.

7 (3) In the first half of each calendar year, the Commission shall review the
8 estimated cost of operating the Commission and the Public Staff for the next
9 fiscal year, including a reasonable margin for the reserve fund allowed under
10 this section. In making this determination, the Commission shall consider all
11 relevant factors that may affect the cost of operating the Commission or the
12 Public Staff or a possible unanticipated change in competitive and
13 noncompetitive jurisdictional revenues. If the estimated receipts provided for
14 under this section are less than the estimated cost of operating the
15 Commission and the Public Staff for the next fiscal year, including the
16 reasonable margin for the reserve fund, then ~~If the Commission, the Public~~
17 ~~Staff, or both experience a revenue shortfall, the Commission shall~~ may
18 implement a temporary increase the public utility regulatory fee surcharge on
19 noncompetitive jurisdictional revenues effective for the next fiscal year to
20 avert the deficiency that would otherwise occur. In no event may the total
21 percentage rate of the public utility regulatory fee on noncompetitive
22 jurisdictional revenues plus any surcharge established by the Commission
23 exceed twenty five hundredths percent (0.25%).seventeen and one-half
24 hundredths of one percent (0.175%). If the estimated receipts provided for
25 under this section are more than the estimated cost of operating the
26 Commission and the Public Staff for the next fiscal year, including the
27 reasonable margin for the reserve fund, then the Commission shall decrease
28 the public utility regulatory fee on noncompetitive jurisdictional revenues
29 effective for the next fiscal year.

30 (4) As used in this section:

- 31 a. "Noncompetitive jurisdictional revenues" means all revenues derived
32 or realized from intrastate tariffs, rates, and charges approved or
33 allowed by the Commission or collected pursuant to Commission
34 order or rule, but not including tap-on fees or any other form of
35 contributions in aid of construction.
- 36 b. "Subsection (h) competitive jurisdictional revenues" means all
37 revenues derived from retail services provided by local exchange
38 companies and competing local providers that have elected to operate
39 under G.S. 62-133.5(h).
- 40 c. "Subsection (m) competitive jurisdictional revenues" means all
41 revenues derived from retail services provided by local exchange
42 companies and competing local providers that have elected to operate
43 under G.S. 62-133.5(m).

44 (b1) Electric Membership Corporation Rate. – The electric membership corporation
45 regulatory fee for each fiscal year ~~shall be a dollar amount as established by the General~~
46 ~~Assembly by law~~ is two hundred thousand dollars (\$200,000).

47 ~~When the Commission prepares its budget request for the upcoming fiscal year, the~~
48 ~~Commission shall propose the amount of the electric membership corporation regulatory fee.~~
49 ~~For fiscal years beginning in an odd-numbered year, the proposed amount shall be included in~~
50 ~~the budget message the Governor submits to the General Assembly pursuant to G.S. 143C 3-5.~~

1 For fiscal years beginning in an even-numbered year, the proposed amount shall be included in
 2 a special budget message the Governor shall submit to the General Assembly.

3 ~~The amount of the electric membership corporation regulatory fee proposed by the~~
 4 ~~Commission may not exceed the amount necessary to defray the estimated cost of the~~
 5 ~~operations of the Commission and the Public Staff for the regulation of the electric membership~~
 6 ~~corporations in the upcoming fiscal year, including a reasonable margin for a reserve fund. The~~
 7 ~~amount of the reserve may not exceed the estimated cost of the Commission and the Public~~
 8 ~~Staff for the regulation of the electric membership corporations for the upcoming fiscal year.~~

9 ...

10 (e) ~~Recovery of fee increase.~~ Fee Changes. – If a utility's regulatory fee obligation is
 11 ~~increased, changed,~~ the Commission shall either adjust the utility's rates to reflect the change
 12 ~~allow for the recovery of the increased fee obligation,~~ or approve the utility's request for an
 13 accounting order allowing deferral of the increase change in the fee obligation."

14 **SECTION 15.16.(d)** G.S. 62-302(b)(2), as amended by subsection (c) of this
 15 section, reads as rewritten:

16 "(2) Unless adjusted under subdivision (3) of this subsection, the public utility
 17 fee is a percentage of a utility's jurisdictional revenues as follows:

18 Noncompetitive jurisdictional revenues	0.148%
19 Subsection (h) competitive jurisdictional revenues	0.06% <u>0.04%</u>
20 Subsection (m) competitive jurisdictional revenues	0.05% <u>0.02%</u>

21 **SECTION 15.16.(e)** Subsection (c) of this section is effective July 1, 2015, and
 22 applies to jurisdictional revenues earned in each quarter that begins on or after July 1, 2015.
 23 Subsection (d) of this section is effective July 1, 2016, and applies to jurisdictional revenues
 24 earned in each quarter that begins on or after July 1, 2016. The remainder of this section is
 25 effective on the date this section becomes law.

26 **UTILITY COMMISSION FEES AND CHARGES**

27 **SECTION 15.16A.(a)** The Utilities Commission and Public Staff shall jointly
 28 review all fees and charges provided for in G.S. 62-300 to determine (i) whether the fees and
 29 charges are sufficient to cover the costs of processing the applications and filings required by
 30 G.S. 62-300 and (ii) whether new categories should be established to impose fees or charges on
 31 persons or entities who make applications or filings to the Utilities Commission but are not
 32 expressly included in any of the current categories listed in G.S. 62-300. The review may also
 33 include any other relevant matters related to fees and charges for applications and filings made
 34 to the Utilities Commission.

35 **SECTION 15.16A.(b)** By April 1, 2016, the Utilities Commission and Public Staff
 36 shall report their findings, including any recommendations on amending the fees and charges
 37 for applications and filings under G.S. 62-300, to the Joint Legislative Commission on Energy
 38 Policy, the chairs of the House of Representatives Appropriations Committee on Agriculture
 39 and Natural and Economic Resources and the Senate Appropriations Committee on Natural and
 40 Economic Resources, and the Fiscal Research Division.

41 **MUNICIPAL SERVICE DISTRICTS/CONTRACTS & REFERENDUM AUTHORITY**

42 **SECTION 15.16B.(a)** G.S. 160A-536 reads as rewritten:

43 **"§ 160A-536. Purposes for which districts may be established.**

44 ...

45 (d) **Contracts.** – A city may provide services, facilities, functions, or promotional and
 46 developmental activities in a service district with its own forces, through a contract with
 47 another governmental agency, through a contract with a private agency, or by any combination
 48 thereof. Any contracts entered into pursuant to this ~~paragraph~~ subsection shall (i) specify the
 49 purposes for which city moneys are to be ~~used and shall~~ used, (ii) require specific approval by
 50
 51

1 the city council for all expenditures of moneys pursuant to the contract, and (iii) require an
2 appropriate accounting for those moneys at the end of each fiscal year or other appropriate
3 period.

4"

5 **SECTION 15.16B.(b)** G.S. 160A-541 reads as rewritten:

6 "**§ 160A-541. Abolition of service ~~districts~~ districts by city council.**

7 Upon finding that there is no longer a need for a particular service district, the city council
8 may by resolution abolish that district. The council shall hold a public hearing before adopting
9 a resolution abolishing a district. Notice of the hearing shall state the date, hour and place of the
10 hearing, and its subject, and shall be published at least once not less than one week before the
11 date of the hearing. The abolition of any service district shall take effect at the end of a fiscal
12 year following passage of the resolution, as determined by the council."

13 **SECTION 15.16B.(c)** Article 23 of Chapter 160A of the General Statutes is
14 amended by adding a new section to read as follows:

15 "**§ 160A-541.1. Abolition of service districts by referendum.**

16 (a) A petition seeking the abolition of any service district established under
17 G.S. 160A-536 shall be filed with the city clerk, who shall immediately forward the petition to
18 the county board of elections that conducts elections for the city. The petition shall bear the
19 signatures equal in number to at least fifteen percent (15%) of the registered voters of the
20 service district, as shown by the registration records of the last preceding general municipal
21 election, each voter's residence address, and each voter's date of birth.

22 (b) The county board of elections shall verify the petition signatures. If a sufficient
23 petition is submitted, the county board of elections shall certify its sufficiency to the city
24 council, and the city council shall adopt a resolution setting the date for the referendum. The
25 city council shall notify the county board of elections of the date set for the referendum and
26 shall provide the board with a legible map and clear written description of the affected service
27 district. The referendum may be called only if there are no outstanding general obligation
28 bonds of the service district. No referendum shall be held in a service district in which there are
29 no voters.

30 (c) The county board of elections shall cause legal notice of the election to be
31 published. The notice shall include the general statement of the referendum. The referendum
32 shall be conducted, returned, and the results declared as in other municipal elections in the city.
33 Only registered voters of the affected service district shall be allowed to vote on the
34 referendum. The city shall reimburse the county board of elections for the cost incurred in
35 conducting the election, as required by G.S. 163-284.

36 (d) The referendum of the proposed abolition of more than one service district may be
37 submitted at the same election, but, as to the proposed abolition of each service district, there
38 shall be an entirely separate ballot question.

39 (e) The ballots used in a referendum shall submit the following proposition:

40 " FOR AGAINST

41 The abolition of (name of the service district)."

42 (f) If a majority of the votes cast are in favor of abolishing the service district, the
43 abolition of the service district shall take effect at the end of the fiscal year immediately
44 following the date the county board of elections certifies the results of the election, and the city
45 council shall thereafter have no authority to levy a tax under G.S. 160A-542 within the
46 abolished service district. If a majority of the votes cast are against abolishing the service
47 district, the service district shall remain in effect until amended or abolished as provided for in
48 this Article."

49 **SECTION 15.16B.(d)** This section is effective when this act becomes law.

50
51 **GRASSROOTS SCIENCE PROGRAM**

1 **SECTION 15.18.(a)** Of the funds appropriated in this act to the Department of
 2 Commerce for State-Aid, the sum of two million two hundred fifty thousand dollars
 3 (\$2,250,000) is allocated as grants-in-aid for the 2015-2016 fiscal year:

	2015-2016
4	
5 Aurora Fossil Museum	\$60,526
6 Cape Fear Museum	\$60,488
7 Carolina Raptor Center	\$60,483
8 Catawba Science Center	\$93,328
9 Colburn Earth Science Museum, Inc.	\$58,640
10 Core Sound Waterfowl Museum	\$59,430
11 Cowan Museum of History and Science	\$58,514
12 Dan Nicholas Park (Rowan County)	\$58,000
13 Discovery Place	\$94,939
14 Discovery Place KIDS (Rockingham)	\$58,000
15 Eastern NC Regional Science Center	\$59,637
16 Fascinate-U	\$65,792
17 Granville County Museum Commission,	
18 Inc. – Harris Gallery	\$61,068
19 Greensboro Children's Museum	\$79,322
20 Greensboro Science Center	\$115,410
21 Hands On! – A Child's Gallery	\$58,534
22 Highlands Nature Center	\$62,887
23 Imagination Station	\$65,349
24 The Iredell Museums, Inc.	\$58,360
25 Kidsenses	\$64,967
26 Marbles Kids Museum	\$70,582
27 Museum of Coastal Carolina	\$59,117
28 North Carolina Estuarium	\$62,359
29 North Carolina Museum of Life	
30 and Science	\$77,040
31 Pisgah Astronomical Research Institute	\$83,281
32 Port Discover: Northeastern	
33 North Carolina's Center for	
34 Hands-On Science, Inc.	\$60,248
35 Rocky Mount Children's Museum	\$67,464
36 Schiele Museum of Natural History	
37 and Planetarium, Inc.	\$107,868
38 Sci Works Science Center and	
39 Environmental Park of Forsyth County	\$61,943
40 Sylvan Heights Waterfowl Park	
41 and Eco-Center	\$68,981
42 The Rankin Museum, Inc.	\$58,000
43 Western North Carolina Nature Center	\$59,893
44 Wilmington Children's Museum	\$59,550
45 Total	\$2,250,000.

46

47 **SECTION 15.18.(b)** No later than March 1, 2016, the Department of Commerce
 48 shall report to the Fiscal Research Division all of the following information for each museum
 49 that receives funds under this section:

- 1 (1) For museums that operate on a fiscal year, the actual operating budget for
- 2 the 2014-2015 fiscal year. For museums that operate on a calendar year, the
- 3 actual operating budget for the 2014 calendar year.
- 4 (2) The proposed operating budget for the 2015-2016 fiscal year.
- 5 (3) The total attendance at the museum during the 2015 calendar year.

6 **SECTION 15.18.(c)** As a condition for qualifying to receive funding under this
7 section, all of the following documentation shall, no later than November 1, 2015, be submitted
8 for each museum under this section to the Department of Commerce for the fiscal year that
9 most recently ended and only those costs that are properly documented under this subsection
10 are allowed by the Department in calculating the distribution of funds under this section:

- 11 (1) Each museum under this section shall submit its IRS (Internal Revenue
12 Service) Form 990 to show its annual operating expenses, its annual report,
13 and a reconciliation that explains any differences between expenses as
14 shown on the IRS Form 990 and the annual report.
- 15 (2) Each friends association of a museum under this section shall submit its IRS
16 Form 990 to show its reported expenses for the museum, its annual report,
17 and a reconciliation that explains any differences between expenses as
18 shown on the IRS Form 990 and the annual report, unless the association
19 does not have both an IRS Form 990 and an annual report available; in
20 which case, it shall submit either an IRS Form 990 or an annual report.
- 21 (3) The chief financial officer of each county or municipal government that
22 provides funds for the benefit of the museum shall submit a detailed signed
23 statement of documented costs spent for the benefit of the museum that
24 includes documentation of the name, address, title, and telephone number of
25 the person making the assertion that the museum receives funds from the
26 county or municipality for the benefit of the museum.
- 27 (4) The chief financial officer of each county or municipal government or each
28 friends association that provides indirect or allocable costs that are not
29 directly charged to a museum under this section but that benefit the museum
30 shall submit in the form of a detailed statement enumerating each cost by
31 type and amount that is verified by the financial officer responsible for the
32 completion of the documentation and that includes the name, address, title,
33 and telephone number of the person making the assertion that the county,
34 municipality, or association provides indirect or allocable costs to the
35 museum.

36 **SECTION 15.18.(d)** As used in subsection (c) of this section, "friends association"
37 means a nonprofit corporation established for the purpose of supporting and assisting a
38 museum that receives funding under this section.

39 **SECTION 15.18.(e)** Each museum listed in subsection (a) of this section shall do
40 the following:

- 41 (1) By September 1, 2015, and more frequently as requested, report to the Joint
42 Legislative Commission on Governmental Operations and the Fiscal
43 Research Division on prior State fiscal year program activities, objectives,
44 and accomplishments and prior State fiscal year itemized expenditures and
45 fund sources.
- 46 (2) Provide to the Fiscal Research Division a copy of the museum's annual
47 audited financial statement within 30 days of issuance of the statement.

49 **GRASSROOTS SCIENCE PROGRAM/COMPETITIVE GRANT PROGRAM**

50 **SECTION 15.18A.(a)** Effective July 1, 2016, the Grassroots Science Program
51 within the Department of Commerce is transferred to the North Carolina State Museum of

1 Natural Sciences in the Department of Natural and Cultural Resources, as enacted by Section
2 14.30 of this act.

3 **SECTION 15.18A.(b)** Part 40 of Article 2 of Chapter 143B of the General
4 Statutes, as enacted by Section 14.30 of this act, is amended by adding a new section to read as
5 follows:

6 **"§ 143B-135.227. Grassroots science competitive grant program.**

7 (a) The North Carolina State Museum of Natural Sciences (hereinafter "Museum of
8 Natural Sciences") shall administer the Grassroots Science Program as a competitive grant
9 program. Any museum in the State may apply for a grant under the program, including a
10 museum that has received a grant-in-aid as a grassroots science museum in prior fiscal years,
11 but grant funds shall be awarded only if the museum meets the criteria established in subsection
12 (c) of this section. No museum shall be guaranteed a grant under the competitive grant
13 program.

14 (b) For each fiscal year, the Museum of Natural Sciences shall reserve seven hundred
15 fifty thousand dollars (\$750,000) for the purpose of awarding grants to museums located in
16 development tier one counties and six hundred thousand dollars (\$600,000) for museums
17 located in development tier two counties. The development tier designation of a county shall be
18 determined as provided in G.S. 143B-437.08. If, after the initial awarding of grants to all
19 museum applicants who meet the eligibility criteria provided for in subsection (c) of this
20 section, there are funds remaining in any development tier category, the Museum of Natural
21 Sciences may reallocate those funds to another development tier category. The maximum
22 amount of each grant awarded in each fiscal year shall be (i) seventy-five thousand dollars
23 (\$75,000) for a museum in a development tier one county; (ii) sixty thousand dollars (\$60,000)
24 for a museum in a development tier two county; and (iii) fifty thousand (\$50,000) for a
25 museum in a development tier three county.

26 (c) To be eligible to receive a grant under the competitive grant program, a museum
27 shall demonstrate:

- 28 (1) That it is a science center or museum or a children's museum that is
29 physically located in the State.
- 30 (2) That it has been open, operating, and exhibiting science or Science,
31 Technology, Engineering, and Math (STEM) education objects to the
32 general public at least 120 days of each year for the past two or more years.
- 33 (3) That it is a nonprofit organization that is exempt from federal income taxes
34 pursuant to section 501(c)(3) of the Internal Revenue Code.
- 35 (4) That it has on its staff at least one full-time professional person.
- 36 (5) That its governing body has adopted a mission statement that includes
37 language that shows the museum has a concentration on science or STEM
38 education and that the adopted mission statement has been in effect for the
39 past two or more years.

40 (d) The Museum of Natural Sciences shall, in awarding grants under this section, give
41 priority to museums that:

- 42 (1) When compared to other museum applicants:
 - 43 a. Are located in counties that are more economically distressed
44 according to the annual rankings prepared by the Department of
45 Commerce pursuant to G.S. 143B-437.08(c).
 - 46 b. Generate a larger portion of their operating funds from non-State
47 revenue.
 - 48 c. Have a higher attendance to population ratio.
- 49 (2) Partner with other museums in the State to share exhibits, programs, or other
50 activities.

- 1 (1) Study the programs, organization, operations, and policies of the following
2 agencies:
 - 3 a. Department of Agriculture and Consumer Services.
 - 4 b. Department of Environmental Quality.
 - 5 c. Department of Natural and Cultural Resources.
 - 6 d. Wildlife Resources Commission.
 - 7 e. Department of Labor.
 - 8 f. Department of Commerce.
 - 9 g. Any other agency under the jurisdiction of the Senate and House of
10 Representatives appropriations committees on agriculture, natural, or
11 economic resources.
- 12 (2) Review compliance of budget actions directed by the General Assembly.
- 13 (3) Monitor expenditures, deviations, and changes made by the agencies set out
14 in subdivision (1) of subsection (a) of this section to the certified budget.
- 15 (4) Review policy changes as directed by law.
- 16 (5) Receive presentations of reports from agencies directed in the law, including
17 audits, studies, and other reports.
- 18 (6) Review any issues that arise during the interim period between sessions of
19 the General Assembly and provide a venue for any of these issues to be
20 heard in a public setting.
- 21 (7) Monitor the quality of services provided by cultural, natural, and economic
22 resources agencies to other agencies and the public.
- 23 (8) Identify opportunities for cultural, natural, and economic resources agencies
24 to coordinate and collaborate to eliminate duplicative functions.
- 25 (9) Have presentations and reports on any other matters that the Committee
26 considers necessary to fulfill its mandate.

27 (b) The Committee may make reports to the General Assembly. A report to the General
28 Assembly may contain legislation needed to implement a recommendation of the Committee.

29 **"§ 120-312. Organization of Committee.**

30 (a) The President Pro Tempore of the Senate and the Speaker of the House of
31 Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on
32 Natural and Economic Resources. The Committee shall meet upon the joint call of the cochairs.

33 (b) A quorum of the Committee is five members. No action may be taken except by a
34 majority vote at a meeting at which a quorum is present. While in the discharge of its official
35 duties, the Committee has the powers of a joint committee under G.S. 120-19 and
36 G.S. 120-19.1 through G.S. 120-19.4.

37 (c) Members of the Committee shall receive subsistence and travel expenses as
38 provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in
39 accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative
40 Services Officer, shall assign professional staff to assist the Committee in its work. Upon the
41 direction of the Legislative Services Commission, the Directors of Legislative Assistants of the
42 Senate and of the House of Representatives shall assign clerical staff to the Committee. The
43 expenses for clerical employees shall be borne by the Committee.

44 (d) The Committee cochairs may establish subcommittees for the purpose of examining
45 issues relating to services provided by particular divisions within the State's cultural, natural,
46 and economic resources departments.

47 **"§ 120-313. Reports to Committee.**

48 Whenever a department, office, or agency set out in subdivision (1) of subsection (a) of
49 G.S. 120-296 is required by law to report to the General Assembly or to any of its permanent
50 committees or subcommittees on matters affecting the services the department or agency

1 provides, the department or agency shall transmit a copy of the report to the cochairs of the
2 Joint Legislative Oversight Committee on Natural and Economic Resources."

3 **SECTION 15.24.(b)** This section is effective August 1, 2015.
4

5 **PART XVI. DEPARTMENT OF PUBLIC SAFETY**

6 **SUBPART XVI-A. GENERAL PROVISIONS**

7 **GRANT REPORTING AND MATCHING FUNDS**

8
9 **SECTION 16A.1.(a)** The Department of Public Safety, the Department of Justice,
10 and the Judicial Department shall report by May 1 of each year to the chairs of the House of
11 Representatives and Senate Appropriations Committees on Justice and Public Safety on grant
12 funds received or preapproved for receipt by those departments. The report shall include
13 information on the amount of grant funds received or preapproved for receipt by each
14 department, the use of the funds, the State match expended to receive the funds, and the period
15 to be covered by each grant. If the department intends to continue the program beyond the end
16 of the grant period, the department shall report on the proposed method for continuing the
17 funding of the program at the end of the grant period. Each department shall also report on any
18 information it may have indicating that the State will be requested to provide future funding for
19 a program presently supported by a local grant.
20

21 **SECTION 16A.1.(b)** Notwithstanding the provisions of G.S. 143C-6-9, the
22 Department of Public Safety may use up to the sum of one million two hundred thousand
23 dollars (\$1,200,000) during the 2015-2016 fiscal year from funds available to the Department
24 to provide the State match needed in order to receive grant funds. Prior to using funds for this
25 purpose, the Department shall report to the chairs of the House of Representatives and Senate
26 Appropriations Committees on Justice and Public Safety on the grants to be matched using
27 these funds.
28

29 **CHANGE RECIPIENTS OF VICTIMS' COMPENSATION REPORT**

30 **SECTION 16A.2.** G.S. 15B-21 reads as rewritten:

31 **"§ 15B-21. Annual report.**

32 The Commission shall, by March 15 each year, prepare and transmit to the ~~Governor and~~
33 ~~the General Assembly~~ chairs of the Joint Legislative Oversight Committee on Justice and Public
34 Safety and to the chairs of the House and Senate Appropriations Committees on Justice and
35 Public Safety a report of its activities in the prior fiscal year and the current fiscal year to date.
36 The report shall include:

- 37 (1) The number of claims filed;
- 38 (2) The number of awards made;
- 39 (2a) The number of pending cases by year received;
- 40 (3) The amount of each award;
- 41 (4) A statistical summary of claims denied and awards made;
- 42 (5) The administrative costs of the Commission, including the compensation of
43 commissioners;
- 44 (6) The current unencumbered balance of the North Carolina Crime Victims
45 Compensation Fund;
- 46 (7) The amount of funds carried over from the prior fiscal year;
- 47 (8) The amount of funds received in the prior fiscal year from the Division of
48 Adult Correction of the Department of Public Safety and from the
49 compensation fund established pursuant to the Victims Crime Act of 1984,
50 42 U.S.C. § 10601, et seq.; and

- 1 (9) The amount of funds expected to be received in the current fiscal year, as
2 well as the amount actually received in the current fiscal year on the date of
3 the report, from the Division of Adult Correction of the Department of
4 Public Safety and from the compensation fund established pursuant to the
5 Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.

6 The Attorney General and State Auditor shall assist the Commission in the preparation of
7 the report required by this section."
8

9 LIMITED AUTHORITY TO ELIMINATE AND RECLASSIFY CERTAIN POSITIONS

10 **SECTION 16A.3.** Notwithstanding any other provision of law, subject to the
11 approval of the Director of the Budget, the Secretary of the Department of Public Safety may
12 reclassify or eliminate existing positions in the Division of Administration that are not
13 specifically addressed in this act as needed for the efficient operation of the Department. No
14 position shall be reclassified pursuant to this section solely for the purpose of providing a
15 person in that position with a salary increase. The Secretary of the Department of Public Safety
16 shall report any position reclassification undertaken pursuant to this section to the chairs of the
17 House and Senate Appropriations Committees on Justice and Public Safety and the Fiscal
18 Research Division within 30 days of the reclassification. The report shall include the position
19 number, original title, original fund code, original budgeted salary, new title, new fund code,
20 and new budgeted salary for each reclassified position.
21

22 SAMARCAND TRAINING ACADEMY

23 **SECTION 16A.4.** The former juvenile detention facility known as Samarkand
24 Manor, located in Moore County, is redesignated a law enforcement and corrections training
25 facility and assigned to the Office of the Secretary of the Department of Public Safety. The
26 facility shall be renamed Samarcand Training Academy and shall be administered by a
27 Director. The operating budget for Samarcand Training Academy shall be funded by the
28 Department of Public Safety but shall be independent of the operating budget of any Division
29 within the Department and shall be managed and administered by the Director of the Academy
30 with oversight by the Office of the Secretary of the Department of Public Safety.
31

32 SENSITIVE PUBLIC SECURITY INFORMATION IS NOT A PUBLIC RECORD

33 **SECTION 16A.5.** G.S. 132-1.7 reads as rewritten:

34 "§ 132-1.7. Sensitive public security information.

35 (a) Public records, as defined in G.S. 132-1, shall not include information containing
36 specific details of public security plans and arrangements or the detailed plans and drawings of
37 public buildings and infrastructure ~~facilities-facilities or plans, schedules, or other documents~~
38 that include information regarding patterns or practices associated with executive protection
39 and security.

40 (a1) Public records, as defined in G.S. 132-1, shall not include specific security
41 information or detailed plans, patterns, or practices associated with prison operations.

42 (a2) Public records, as defined in G.S. 132-1, shall not include specific security
43 information or detailed plans, patterns, or practices to prevent or respond to criminal, gang, or
44 organized illegal activity.

45 (b) Public records as defined in G.S. 132-1 do not include plans to prevent or respond to
46 terrorist activity, to the extent such records set forth vulnerability and risk assessments,
47 potential targets, specific tactics, or specific security or emergency procedures, the disclosure
48 of which would jeopardize the safety of governmental personnel or the general public or the
49 security of any governmental facility, building, structure, or information storage system.

50 (c) Information relating to the general adoption of public security plans and
51 arrangements, and budgetary information concerning the authorization or expenditure of public

1 funds to implement public security plans and arrangements, or for the construction, renovation,
2 or repair of public buildings and infrastructure facilities shall be public records."
3

4 **LAPSED SALARY SAVINGS**

5 **SECTION 16A.6.** Notwithstanding G.S. 143C-6-9, the Department of Public
6 Safety shall revert to the General Fund a minimum of seventeen million eight hundred ninety
7 thousand two hundred nine dollars (\$17,890,209) from lapsed salary savings by June 30, 2016.
8

9 **SUBPART XVI-B. DIVISION OF LAW ENFORCEMENT**

10 11 **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW** 12 **ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

13 **SECTION 16B.1.(a)** Seized and forfeited assets transferred to the Department of
14 Public Safety during the 2015-2017 fiscal biennium pursuant to applicable federal law shall be
15 credited to the budget of the department and shall result in an increase of law enforcement
16 resources for the department. The Department of Public Safety shall make the following reports
17 to the chairs of the House of Representatives and Senate Appropriations Committees on Justice
18 and Public Safety:

- 19 (1) A report upon receipt of any assets.
- 20 (2) A report that shall be made prior to use of the assets on their intended use
21 and the departmental priorities on which the assets may be expended.
- 22 (3) A report on receipts, expenditures, encumbrances, and availability of these
23 assets for the previous fiscal year, which shall be made no later than
24 September 1 of each year.

25 **SECTION 16B.1.(b)** The General Assembly finds that the use of seized and
26 forfeited assets transferred pursuant to federal law for new personnel positions, new projects,
27 acquisition of real property, repair of buildings where the repair includes structural change, and
28 construction of or additions to buildings may result in additional expenses for the State in
29 future fiscal periods. Therefore, the Department of Public Safety is prohibited from using these
30 assets for such purposes without the prior approval of the General Assembly.

31 **SECTION 16B.1.(c)** Nothing in this section prohibits North Carolina law
32 enforcement agencies from receiving funds from the United States Department of Justice, the
33 United States Department of the Treasury, and the United States Department of Health and
34 Human Services.
35

36 **VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER)** 37 **SYSTEM**

38 **SECTION 16B.2.** The Department of Public Safety shall report annually no later
39 than March 1 to the chairs of the Joint Legislative Oversight Committee on Justice and Public
40 Safety on the progress of the State's VIPER system.
41

42 **GANGNET REPORT AND RECOMMENDATIONS**

43 **SECTION 16B.3.(a)** Article 4 of Chapter 20 of the General Statutes is amended by
44 adding a new section to read:

45 **"§ 20-196.5. Report on gang prevention recommendations.**

46 The State Highway Patrol, in conjunction with the State Bureau of Investigation and the
47 Governor's Crime Commission, shall develop recommendations concerning the establishment
48 of priorities and needed improvements with respect to gang prevention and shall report those
49 recommendations to the chairs of the House of Representatives and Senate Appropriations
50 Committees on Justice and Public Safety and to the chairs of the Joint Legislative Oversight
51 Committee on Justice and Public Safety on or before March 1 of each year."

1 **SECTION 16B.3.(b)** G.S. 143B-1101(b) reads as rewritten:

2 "(b) The Governor's Crime Commission shall review the level of gang activity
3 throughout the State and assess the progress and accomplishments of the State, and of local
4 governments, in preventing the proliferation of gangs and addressing the needs of juveniles
5 who have been identified as being associated with gang activity.

6 ~~The Governor's Crime Commission shall develop recommendations concerning the~~
7 ~~establishment of priorities and needed improvements with respect to gang prevention and shall~~
8 ~~report those recommendations to the Chairs of the Senate Appropriations Committee on Justice~~
9 ~~and Public Safety, the Chairs of the House of Representatives Appropriations Subcommittee on~~
10 ~~Justice and Public Safety, and to the Chairs of the Joint Legislative Oversight Committee on~~
11 ~~Justice and Public Safety on or before March 1 of each year."~~

12 **STATE CAPITOL POLICE/RECEIPT-SUPPORTED POSITIONS**

13 **SECTION 16B.4.(a)** The State Capitol Police may contract with State agencies for
14 the creation of receipt-supported positions to provide security services to the buildings
15 occupied by those agencies.

16 **SECTION 16B.4.(b)** The State Capitol Police shall report the creation of any
17 position pursuant to this section to the chairs of the House of Representatives and Senate
18 Appropriations Committees on Justice and Public Safety and to the Fiscal Research Division
19 within 30 days of the position's creation.

20 **CHANGES TO EXPUNCTION AND METHAMPHETAMINE REPORTING** 21 **REQUIREMENTS**

22 **SECTION 16B.5.(a)** G.S. 15A-160 reads as rewritten:

23 "**§ 15A-160. Reporting requirement.**

24 The Department of Public Safety, in conjunction with the Department of Justice and the
25 Administrative Office of the Courts-Courts, shall report jointly to the Chairs of the Joint
26 Legislative Oversight Committee on Justice and Public Safety Oversight by September 1 of
27 each year regarding expunctions. The report shall include all of the following information:

- 28 (1) The number and types of expunctions granted during the fiscal year in which
29 the report is made.
30 (2) The number and type of expunctions granted each fiscal year for the five
31 fiscal years preceding the date of the report.
32 (3) A full accounting of how the agencies have spent the receipts generated by
33 the expunction fees received during the fiscal year in which the report is
34 made and for the five preceding fiscal years."
35

36 **SECTION 16B.5.(b)** G.S. 90-113.64 reads as rewritten:

37 "**§ 90-113.64. SBI annual report.**

38 Beginning with the 2011 calendar year, the State Bureau of Investigation shall determine
39 the number of methamphetamine laboratories discovered in the State each calendar year and
40 report its findings to the Joint Legislative Oversight Committee on Justice and Public Safety
41 and to the Legislative Commission on Methamphetamine Abuse by March 1, 2012, for the
42 2011 calendar year and each March 1 thereafter for the preceding calendar year. The State
43 Bureau of Investigation shall participate in the High Intensity Drug Trafficking Areas (HIDTA)
44 program, assist in coordinating the drug control efforts between local and State law
45 enforcement agencies, and monitor the implementation and effectiveness of the electronic
46 record-keeping requirements included in G.S. 90-113.52A and G.S. 90-113.56. The SBI shall
47 include its findings in the report to the Commission required by this section."
48

49 **CLARIFY BOXING COMMISSION FEE**

50 **SECTION 16B.6.(a)** G.S. 143-655(b1) reads as rewritten:
51

1 "(b1) Admission Fees. – The Branch shall collect a fee in the amount of two dollars
2 (\$2.00) per ~~each ticket sold~~ spectator to attend events regulated in this Article."

3 **SECTION 16B.6.(b)** This section is effective on July 1, 2015, and applies to fees
4 collected or assessed on or after that date.

5
6 **SBI/ALE ASHEVILLE REGIONAL OFFICE**

7 **SECTION 16B.7.** Section 17.1(aaaa) of S.L. 2014-100 reads as rewritten:

8 "**SECTION 17.1.(aaaa)** The Department of Public Safety shall consolidate ALE and SBI
9 Regions and Regional Offices. The Asheville Regional Office shall be operational ~~by July 1,~~
10 2015 upon completion of a new facility. All other Regional Offices shall be operational by
11 October 1, 2014."

12
13 **CLARIFY HAZARDOUS MATERIALS FEE**

14 **SECTION 16B.8.(a)** G.S. 166A-29.1 reads as rewritten:

15 "**§ 166A-29.1. Hazardous materials facility fee.**

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

- 17 (1) EPCRA. – The federal Emergency Planning and Community Right-to-Know
18 Act, P.L. No. 99-499 et. seq.
- 19 (2) Extremely hazardous substance. – Any substance, regardless of its state, set
20 forth in 40 C.F.R. Part 355, Appendix A or B.
- 21 (3) Hazardous chemical. – As defined in 29 C.F.R. 1910.1200(c), except that the
22 term does not include any of the following:
- 23 a. Any food, food additive, color additive, drug, or cosmetic regulated
24 by the Food and Drug Administration.
- 25 b. Any substance present as a solid in any manufactured item to the
26 extent exposure to the substance does not occur under normal
27 conditions of use.
- 28 c. Any substance to the extent that it is used for personal, family, or
29 household purposes or is present in the same form and concentration
30 as a product packaged for distribution and use by the public.
- 31 d. Any substance to the extent that it is used in a research laboratory or
32 a hospital or other medical facility under the direct supervision of a
33 technically qualified individual.
- 34 e. Any substance to the extent that it is used in routine agricultural
35 operations or is a fertilizer held for sale by a retailer to the ultimate
36 consumer.

37 (b) Annual Fee Shall Be Charged. – A person or business required under Section 302 or
38 312 of EPCRA to submit a notification or an annual inventory form to the Division shall be
39 required to pay to the Department an annual fee in the amount set forth in subsection (c) of this
40 section.

41 (c) Amount of Fee. – The amount of the annual fee charged pursuant to subsection (b)
42 of this section shall be calculated in accordance with the following, up to a maximum annual
43 amount of ~~five thousand dollars (\$5,000):~~ five thousand dollars (\$5,000) per reporting site:

- 44 (1) A fee of fifty dollars (\$50.00) shall be assessed for each substance at each
45 site reported by a ~~facility~~ person or business that is classified as a hazardous
46 chemical.
- 47 (2) A fee of ninety dollars (\$90.00) shall be assessed for each substance at each
48 site reported by a ~~facility~~ person or business that is classified as an extremely
49 hazardous substance.

50 (d) Late Fees. – The Division may impose a late fee against a person or business for
51 failure to submit a report or filing that substantially complies with the requirements of EPCRA

1 by the federal filing deadline or for failure to pay any fee, including a late fee. This fee shall be
2 in addition to the fee imposed pursuant to subsection (c) of this section. Prior to imposing a late
3 fee, the Division shall provide the person or business who will be assessed the late fee with
4 written notice that identifies the specific requirements that have not been met and informs the
5 person or business of its intent to assess a late fee. The assessment of a late fee shall be subject
6 to the following limitations:

- 7 (1) If the report filing or fee is submitted within 30 days after receipt of the
8 Division's notice that it intends to assess a late fee, no late fee shall be
9 assessed.
- 10 (2) If the report filing or fee has not been submitted by the end of the period set
11 forth in subdivision (1) of this subsection, the Division may impose a late fee
12 in an amount equal to the amount of the fee charged pursuant to subsection
13 (c) of this section.
- 14 (e) Exemptions. – No fee shall be charged under this section to any of the following:
- 15 (1) An owner or operator of a family farm enterprise, a facility owned by a State
16 or local government, or a nonprofit corporation.
- 17 (2) An owner or operator of a facility where motor vehicle fuels are stored and
18 from which such fuels are offered for retail sale. However, hazardous
19 chemicals or extremely hazardous substances at such a facility, other than
20 motor vehicle fuels for retail sale, shall not be subject to this exemption.
- 21 (3) A motor vehicle dealer, as that term is defined in G.S. 20-286(11).
- 22 (f) Use of Fee Proceeds. – The proceeds of fees assessed pursuant to this section shall
23 be used for the following:
- 24 (1) To ~~pay offset~~ costs associated with the establishment and maintenance of a
25 hazardous materials ~~database~~ database and a hazardous materials response
26 application.
- 27 (2) To ~~support the offset~~ costs associated with the operations of the regional
28 response program for hazardous materials emergencies and terrorist
29 incidents.
- 30 (3) To provide grants to counties for hazardous materials emergency response
31 planning, training, and related exercises.
- 32 (4) To offset Division costs that directly support hazardous materials emergency
33 preparedness and response."

34 **SECTION 16B.8.(b)** This section becomes effective on July 1, 2015, and applies
35 to fees assessed or collected on or after that date.

36 37 **AMEND NATIONAL GUARD FAMILY ASSISTANCE CENTERS ANNUAL REPORT** 38 **REQUIREMENTS**

39 **SECTION 16B.9.** G.S. 127A-64(b) reads as rewritten:

40 "(b) The Department of Public Safety shall report annually no later than September 1 to
41 the Chairs of the House of Representatives and Senate Appropriations ~~Subcommittees~~
42 Committees on Justice and Public Safety and to the House of Representatives Committee on
43 Homeland Security, Military, and Veterans Affairs on the activities of the National Guard
44 Family Assistance ~~Centers~~ Centers during the previous fiscal year. This report shall include
45 information on services provided as well as on the number and type of members of the active or
46 reserve components of the Armed Forces of the United States, veterans, and family members
47 served."

48 49 **SUBPART XVI-C. DIVISION OF ADULT CORRECTION** 50

1 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL**
2 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES**
3 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

4 **SECTION 16C.1.** Notwithstanding G.S. 143C-6-9, the Department of Public
5 Safety may use funds available to the Department for the 2015-2017 fiscal biennium to pay the
6 sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing
7 convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison
8 system, as provided in G.S. 148-29. The Department shall report annually by February 1 of
9 each year to the chairs of the Joint Legislative Oversight Committee on Justice and Public
10 Safety and the chairs of the House of Representatives and Senate Appropriations Committees
11 on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners
12 awaiting transfer.
13

14 **CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT**

15 **SECTION 16C.2.** The Department of Public Safety may continue to contract with
16 The Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison
17 beds for minimum security female inmates during the 2015-2017 fiscal biennium. The Center
18 for Community Transitions, Inc., shall report by February 1 of each year to the Chairs of the
19 House of Representatives and Senate Appropriations Committees on Justice and Public Safety
20 on the annual cost per inmate and the average daily inmate population compared to bed
21 capacity using the same methodology as that used by the Department of Public Safety.
22

23 **USE OF CLOSED FACILITIES**

24 **SECTION 16C.3.** In conjunction with the closing of prison facilities, youth
25 detention centers, and youth development centers, the Department of Public Safety shall
26 consult with the county or municipality in which the facility is located, with the elected State
27 and local officials, and with State and federal agencies about the possibility of converting that
28 facility to other use. The Department may also consult with any private for-profit or nonprofit
29 firm about the possibility of converting the facility to other use. In developing a proposal for
30 future use of each facility, the Department shall give priority to converting the facility to other
31 criminal justice use. Consistent with existing law and the future needs of the Department of
32 Public Safety, the State may provide for the transfer or the lease of any of these facilities to
33 counties, municipalities, State agencies, federal agencies, or private firms wishing to convert
34 them to other use. G.S. 146-29.1(f) through (g) shall not apply to a transfer made pursuant to
35 this section. The Department of Public Safety may also consider converting some of the
36 facilities recommended for closing from one security custody level to another, where that
37 conversion would be cost-effective. A prison unit under lease to a county pursuant to the
38 provisions of this section for use as a jail is exempt for the period of the lease from any of the
39 minimum standards adopted by the Secretary of Health and Human Services pursuant to
40 G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater
41 standards than those required of a unit of the State prison system.
42

43 **MEDICAL COSTS FOR INMATES AND JUVENILE OFFENDERS**

44 **SECTION 16C.4.** Article 13 of Chapter 143B of the General Statutes is amended
45 by adding a new section to read:

46 **"§ 143B-707.3. Medical costs for inmates and juvenile offenders.**

47 **(a) The Department of Public Safety shall reimburse those providers and facilities**
48 **providing approved medical services to inmates and juvenile offenders outside the correctional**
49 **or juvenile facility the lesser amount of either a rate of seventy percent (70%) of the provider's**
50 **then-current prevailing charge or two times the then-current Medicaid rate for any given**

1 service. The Department shall have the right to audit any given provider to determine the actual
2 prevailing charge to ensure compliance with this provision.

3 This section does apply to vendors providing services that are not billed on a fee-for-service
4 basis, such as temporary staffing. Nothing in this section shall preclude the Department from
5 contracting with a provider for services at rates that provide greater documentable cost
6 avoidance for the State than do the rates contained in this section or at rates that are less
7 favorable to the State but that will ensure the continued access to care.

8 (b) The Department of Public Safety shall make every effort to contain medical costs
9 for inmates and juvenile offenders by making use of its own hospital and health care facilities
10 to provide health care services to inmates and juvenile offenders. To the extent that the
11 Department of Public Safety must utilize other facilities and services to provide health care
12 services to inmates and juvenile offenders, the Department shall make reasonable efforts to
13 make use of hospitals or other providers with which it has a contract or, if none is reasonably
14 available, hospitals with available capacity or other health care facilities in a region to
15 accomplish that goal. The Department shall make reasonable efforts to equitably distribute
16 inmates and juvenile offenders among all hospitals or other appropriate health care facilities.

17 (c) The Department of Public Safety shall report quarterly to the Joint Legislative
18 Oversight Committee on Justice and Public Safety and the chairs of the House of
19 Representative and Senate Appropriations Committees on Justice and Public Safety on:

- 20 (1) The percentage of the total inmates and juvenile offenders requiring
21 hospitalization or hospital services who receive that treatment at each
22 hospital.
- 23 (2) The volume of services provided by community medical providers that can
24 be scheduled in advance and, of that volume, the percentage of those
25 services that are provided by contracted providers.
- 26 (3) The volume of services provided by community medical providers that
27 cannot be scheduled in advance and, of that volume, the percentage of those
28 services that are provided by contracted providers.
- 29 (4) The volume of services provided by community medical providers that are
30 emergent cases requiring hospital admissions and emergent cases not
31 requiring hospital admissions.
- 32 (5) The volume of inpatient medical services provided to Medicaid-eligible
33 inmates and juvenile offenders, the cost of treatment, and the estimated
34 savings of paying the nonfederal portion of Medicaid for the services.
- 35 (6) The hospital utilization, including the amount paid to individual hospitals,
36 the number of inmates and juvenile offenders served, and the number of
37 claims."

38 39 **STATEWIDE MISDEMEANANT CONFINEMENT FUND/MONTHLY AND ANNUAL** 40 **REPORTS**

41 **SECTION 16C.6.(a)** The North Carolina Sheriffs' Association shall report monthly
42 by the 15th day of each month to the Office of State Budget and Management and the Fiscal
43 Research Division on the Statewide Misdemeanant Confinement Program. Each monthly report
44 shall include the following:

- 45 (1) The daily population, delineated by misdemeanor or DWI monthly housing.
46 (2) The cost of housing prisoners under the Program.
47 (3) The cost of transporting prisoners under the Program.
48 (4) Personnel costs.
49 (5) Inmate medical care costs.
50 (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.

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 and Senate Appropriations Committees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the Statewide Misdemeanant Confinement Program. The annual 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 2015-2017 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.

MAINTENANCE OF PRISONS

SECTION 16C.8. The Department of Public Safety shall not expand private maintenance contracts to additional prison facilities or continue existing private contracts for prison maintenance unless authorized by the General Assembly. If the Department determines that expanding private maintenance contracts to additional prison facilities or continuing existing contracts is necessary, then it shall submit its request to the General Assembly by May 1, 2016, stating (i) the ways in which the State can realize savings by doing so and (ii) that safety can be maintained at the facilities where those contracts are expanded or continued.

REPORT ON CONTRACTS FOR HOUSING STATE PRISONERS/REPEAL AUTHORIZATION FOR LEASE-PURCHASE OF PRISON FACILITIES FROM PRIVATE FIRMS

SECTION 16C.10.(a) G.S. 148-37(i) reads as rewritten:

"(i) The Division of Adult Correction of the Department of Public Safety shall make a written report no later than March 1 of every ~~odd-numbered~~ year, beginning in 1997, on the substance of all outstanding contracts for the housing of State prisoners entered into under the authority of this section. The report shall be submitted to ~~the Council of State, the Department of Administration, the Joint Legislative Commission on Governmental Operations, and the~~ Joint Legislative Oversight Committee on Justice and Public Safety. ~~In addition to the report, the Division of Adult Correction of the Department of Public Safety shall provide information on contracts for the housing of State prisoners as requested by these groups."~~

SECTION 16C.10.(b) G.S. 148-37.2 is repealed.

ANNUAL REPORT ON SAFEKEEPERS

SECTION 16C.11. Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-707.4. Annual report on safekeepers.

1 The Department of Public Safety shall report by October 1 of each year to the chairs of the
2 House of Representatives and Senate Appropriations Committees on Justice and Public Safety
3 and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on
4 county prisoners housed in the State prison system pursuant to safekeeping orders under
5 G.S. 162-39. The report shall include:

- 6 (1) The number of safekeepers currently housed by the Department.
- 7 (2) A list of the facilities where safekeepers are housed and the population of
8 safekeepers by facility.
- 9 (3) The average length of stay by a safekeeper in one of those facilities.
- 10 (4) The amount paid by counties for housing and extraordinary medical care of
11 safekeepers.
- 12 (5) A list of the counties in arrears for safekeeper payments owed to the
13 Department at the end of the fiscal year."

15 **COLLECTION OF DELINQUENT SAFEKEEPER REIMBURSEMENTS**

16 **SECTION 16C.12.** G.S. 148-10.4 is amended by adding a new subsection to read:

17 "(f) Upon notification from the Division of Adult Correction that an amount owed by a
18 county for safekeeper reimbursements authorized under G.S. 162-39 is more than 120 days
19 overdue, the Sheriffs' Association shall withhold funds from any reimbursements due to a
20 county under this section and transmit those funds to the Division until that overdue safekeeper
21 reimbursement is satisfied."

23 **PRISON BEHAVIORAL HEALTH POSITIONS**

24 **SECTION 16C.13.** Notwithstanding any other provision of law, the Section of
25 Prisons of the Division of Adult Correction may post, advertise, accept applications for, and
26 interview for positions established or authorized by this act related to behavioral health
27 treatment prior to the effective date of the establishment of those positions.

29 **EVALUATION REQUIREMENT FOR ELECTRICAL DEVICES**

30 **SECTION 16C.13A.** G.S. 66-25 reads as rewritten:

31 "**§ 66-25. Acceptable listings as to safety of goods.**

32 (a) All electrical materials, devices, appliances, and equipment shall be evaluated for
33 safety and suitability for intended use. Except as provided in subsection (b) of this section, this
34 evaluation shall be conducted in accordance with nationally recognized standards and shall be
35 conducted by a qualified testing laboratory. The Commissioner of Insurance, through the
36 Engineering Division of the Department of Insurance, shall implement the procedures
37 necessary to approve suitable national standards and to approve suitable qualified testing
38 laboratories. The Commissioner may assign his authority to implement the procedures for
39 specific materials, devices, appliances, or equipment to other agencies or bodies when they
40 would be uniquely qualified to implement those procedures.

41 In the event that the Commissioner determines that electrical materials, devices, appliances,
42 or equipment in question cannot be adequately evaluated through the use of approved national
43 standards or by approved qualified testing laboratories, the Engineering Division of the
44 Department of Insurance shall specify any alternative evaluations which safety requires.

45 The Engineering Division of the Department of Insurance shall keep in file, where
46 practical, copies of all approved national standards and resumes of approved qualified testing
47 laboratories.

48 (b) Electrical devices, appliances, or equipment used by the Division of Adult
49 Correction of the Department of Public Safety ~~may be evaluated for safety and suitability by~~
50 ~~the Central Engineering Section of the Department of Public Safety. The evaluation shall be~~
51 ~~conducted in accordance with nationally recognized standards. Electrical devices, appliances,~~

1 and equipment used by the Division that are not evaluated by the Central Engineering Section
2 as provided by this subsection are subject to in institutional kitchens and manufacturing
3 equipment used by Correction Enterprises are exempt from the evaluation requirement of
4 subsection (a) of this section."

6 **PAROLE ELIGIBILITY REPORT**

7 **SECTION 16C.14.** Article 13 of Chapter 143B of the General Statutes is amended
8 by adding a new section to read:

9 **"§ 143B-721.1. Parole eligibility reports.**

10 (a) Each fiscal year the Post-Release Supervision and Parole Commission shall, with
11 the assistance of the North Carolina Sentencing and Policy Advisory Commission and the
12 Department of Public Safety, analyze the amount of time each inmate who is eligible for parole
13 on or before July 1 of the previous fiscal year has served compared to the time served by
14 offenders under Structured Sentencing for comparable crimes. The Commission shall
15 determine if the person has served more time in custody than the person would have served if
16 sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the
17 General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated
18 as set forth in subsection (b) of this section.

19 (b) For the purposes of this section, the following rules apply for the calculation of the
20 maximum sentence:

21 (1) The offense upon which the person was convicted shall be classified as the
22 same felony class as the offense would have been classified if committed
23 after the effective date of Article 81B of Chapter 15A of the General
24 Statutes.

25 (2) The minimum sentence shall be the maximum number of months in the
26 presumptive range of minimum durations in Prior Record Level VI of
27 G.S. 15A-1340.17(c) for the felony class determined under subdivision (1)
28 of this subsection. The maximum sentence shall be calculated using
29 G.S. 15A-1340.17(d), (e), or (e1).

30 (3) If a person is serving sentences for two or more offenses that are concurrent
31 in any respect, then the offense with the greater classification shall be used
32 to determine a single maximum sentence for the concurrent offenses. The
33 fact that the person has been convicted of multiple offenses may be
34 considered by the Commission in making its determinations under
35 subsection (a) of this section.

36 (c) The Commission shall reinitiate the parole review process for each offender who
37 has served more time than that person would have under Structured Sentencing as provided by
38 subsections (a) and (b) of this section.

39 (d) The Post-Release Supervision and Parole Commission shall report to the Chairs of
40 the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the
41 House of Representatives and Senate Appropriations Committees on Justice and Public Safety
42 by April 1 of each year. The report shall include the following: the class of the offense for
43 which each parole-eligible inmate was convicted and whether an inmate had multiple criminal
44 convictions. The Commission shall also report on the number of parole-eligible inmates
45 reconsidered in compliance with this section and the number who were actually paroled."

47 **INTERSTATE COMPACT FEES TO SUPPORT TRAINING PROGRAMS AND** 48 **EQUIPMENT PURCHASES**

49 **SECTION 16C.16.** Notwithstanding the provisions of G.S. 148-65.7, fees
50 collected for the Interstate Compact Fund during the 2015-2017 fiscal biennium may be used
51 by the Division of Adult Correction of the Department of Public Safety during the 2015-2017

1 fiscal biennium to provide training programs and equipment purchases for the Section of
2 Community Corrections, but only as long as sufficient funds remain available in the Fund to
3 support the mission of the Interstate Compact Program.
4

5 **OUR CHILDREN'S PLACE FUNDS**

6 **SECTION 16C.17.** Notwithstanding any other provision of law, funds remaining
7 from funds appropriated for the 2004-2005 fiscal year for Our Children's Place for planning and
8 design may be used by Our Children's Place for general operations.
9

10 **SUBPART XVI-D. DIVISION OF JUVENILE JUSTICE**

11 **LIMIT USE OF COMMUNITY PROGRAM FUNDS**

12 **SECTION 16D.1.(a)** Funds appropriated in this act to the Department of Public
13 Safety for the 2015-2017 fiscal biennium for community program contracts that are not
14 required for or used for community program contracts shall only be used for the following:
15

- 16 (1) Other statewide residential programs that provide Level 2 intermediate
17 dispositional alternatives for juveniles.
- 18 (2) Statewide community programs that provide Level 2 intermediate
19 dispositional alternatives for juveniles.
- 20 (3) Regional programs that are collaboratives of two or more Juvenile Crime
21 Prevention Councils which provide Level 2 intermediate dispositional
22 alternatives for juveniles.
- 23 (4) The Juvenile Crime Prevention Council funds to be used for the Level 2
24 intermediate dispositional alternatives for juveniles listed in
25 G.S. 7B-2506(13) through (23).

26 **SECTION 16D.1.(b)** Under no circumstances shall funds appropriated by this act
27 to the Department of Public Safety for the 2015-2017 fiscal biennium for community programs
28 be used for staffing, operations, maintenance, or any other expenses of youth development
29 centers or detention facilities.

30 **SECTION 16D.1.(c)** The Department of Public Safety shall submit an electronic
31 report by October 1, 2015, and a second electronic report by October 1, 2016, on all
32 expenditures made from the miscellaneous contract line in Fund Code 1230 to the chairs of the
33 House of Representatives and Senate Appropriations Committees on Justice and Public Safety
34 and the Fiscal Research Division. The report shall include all of the following: an itemized list
35 of the contracts that have been executed, the amount of each contract, the date the contract was
36 executed, the purpose of the contract, the number of juveniles that will be served and the
37 manner in which they will be served, the amount of money transferred to the Juvenile Crime
38 Prevention Council fund, and an itemized list of grants allocated from the funds transferred to
39 the Juvenile Crime Prevention Council fund.
40

41 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

42 **SECTION 16D.2.** Funds appropriated in this act to the Department of Public
43 Safety for the 2015-2016 fiscal year may be used as matching funds for the Juvenile
44 Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability
45 Incentive Block Grants or a notice of funds to be awarded, the Office of State Budget and
46 Management and the Governor's Crime Commission shall consult with the Department of
47 Public Safety regarding the criteria for awarding federal funds. The Office of State Budget and
48 Management, the Governor's Crime Commission, and the Department of Public Safety shall
49 report to the chairs of the House of Representatives and Senate Appropriations Committees on
50 Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public

1 Safety prior to allocation of the federal funds. The report shall identify the amount of funds to
2 be received for the 2015-2016 fiscal year and the allocation of funds by program and purpose.
3

4 **PART XVII. DEPARTMENT OF JUSTICE**

5 6 **NO HIRING OF SWORN STAFF POSITIONS FOR THE NORTH CAROLINA STATE** 7 **CRIME LABORATORY**

8 **SECTION 17.1.** The Department of Justice shall not hire sworn personnel to fill
9 vacant positions in the North Carolina State Crime Laboratory. Nothing in this section shall be
10 construed to require the termination of sworn personnel, but as vacant positions in the State
11 Crime Laboratory are filled, they shall be filled only with nonsworn personnel. Nothing in this
12 section shall be construed to affect North Carolina State Crime Laboratory personnel who are
13 sworn and employed by the Laboratory as of the effective date of this section and who continue
14 to meet the sworn status retention standards mandated by the North Carolina Criminal Justice
15 Education and Standards Commission.
16

17 **AMEND DNA DATABASE REPORTING REQUIREMENTS**

18 **SECTION 17.2.** G.S. 15A-266.5(c) reads as rewritten:

19 "(c) The Crime Laboratory shall report annually to ~~the Joint Legislative Commission on~~
20 ~~Governmental Operations and to the~~ Joint Legislative Oversight Committee on Justice and
21 Public Safety, on or before ~~February 1,~~September 1, with information for the previous ~~calendar~~
22 fiscal year, which shall include: a summary of the operations and expenditures relating to the
23 DNA Database and DNA Databank; the number of DNA records from arrestees entered; the
24 number of DNA records from arrestees that have been expunged; and the number of DNA
25 arrestee matches or hits that occurred with an unknown sample, and how many of those have
26 led to an arrest and conviction; and how many letters notifying defendants that a record and
27 sample have been expunged, along with the number of days it took to complete the expunction
28 and notification process, from the date of the receipt of the verification form from the State."
29

30 **STUDY COLLECTION OF DNA/ALL FELONY ARRESTS**

31 **SECTION 17.3.** The Joint Legislative Oversight Committee on Justice and Public
32 Safety shall study extending the collection of DNA samples to persons arrested for any felony
33 and shall report its findings and recommendations to the 2016 Regular Session of the 2015
34 General Assembly. The report shall include all of the following:

- 35 (1) A recommended time line for implementing a requirement that DNA
36 samples be collected for persons arrested for committing any felony.
- 37 (2) An estimate of initial nonrecurring costs and recurring operating costs
38 required of implementing such a requirement.
- 39 (3) Other costs and benefits of implementing such a requirement.
- 40 (4) An estimate of capital costs to the State of implementing such a requirement.
- 41 (5) Any other information that the Committee deems relevant.
42

43 **DEPARTMENT OF JUSTICE POSITIONS**

44 **SECTION 17.4.** Notwithstanding any other provision of law, the Department of
45 Justice may post, advertise, accept applications for, and interview for positions established or
46 authorized by this act in the Department of Justice prior to the effective date of the
47 establishment of those positions.
48

49 **PRIVATE LABS MUST COMPLY WITH CODIS**

50 **SECTION 17.6.(a)** Article 13 of Chapter 15A of the General Statutes is amended
51 by adding a new section to read:

1 **"§ 15A-270.2. Obtaining DNA analyses from entities other than the State Crime**
2 **Laboratory; use of local DNA databases prohibited.**

3 (a) Private Laboratories Shall Comply With CODIS Requirements. – A local law
4 enforcement agency shall not obtain DNA analysis from an entity other than the State Crime
5 Laboratory unless that entity meets the standards applicable to vendor laboratories as set forth
6 in the Federal Bureau of Investigation's Quality Assurance Standards for Forensic DNA Testing
7 and Databasing Laboratories. The State Crime Laboratory shall maintain a list of laboratories
8 that meet those standards and shall make the list available on its Web site.

9 (b) Private DNA Databases Prohibited. – A local law enforcement agency shall not
10 access or create any DNA database other than those that participate in the CODIS system."

11 **SECTION 17.6.(b)** This section becomes effective October 1, 2015.

12
13 **PART XVIII. JUDICIAL DEPARTMENT**

14
15 **SUBPART XVIII-A. ADMINISTRATIVE OFFICE OF THE COURTS**

16
17 **AOC ANNUAL REPORT**

18 **SECTION 18A.1.** G.S. 7A-343 reads as rewritten:

19 **"§ 7A-343. Duties of Director.**

20 The Director is the Administrative Officer of the Courts, and the Director's duties include
21 all of the following:

22 ...

- 23 (8) Prepare and submit an annual report on the work of the Judicial Department
24 to the Chief Justice, and transmit a copy by March 15 of each year to the
25 Chairs of the House of Representatives and Senate Appropriations
26 Subcommittee Committees on Justice and Public Safety and the Senate
27 Appropriations Committee on Justice and Public Safety and to the Chairs of
28 the Joint Legislative Oversight Committee on Justice and Public Safety.

29"

30
31 **ANNUAL REPORT ON CRIMINAL COURT COST WAIVERS**

32 **SECTION 18A.3.(a)** Article 29 of Chapter 7A of the General Statutes is amended
33 by adding a new section to read:

34 **"§ 7A-350. Annual report on criminal court cost waivers.**

35 The Administrative Office of the Courts shall maintain records of all cases in which a judge
36 makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a)
37 and shall report on those waivers to the chairs of the House of Representatives and Senate
38 Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative
39 Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall
40 aggregate the waivers by the district in which the waiver or waivers were granted and by the
41 name of each judge granting a waiver or waivers."

42 **SECTION 18A.3.(b)** The Administrative Office of the Courts shall make the
43 necessary modifications to its information systems to maintain the records required under
44 G.S. 7A-350, as enacted by subsection (a) of this section.

45
46 **GRANT FUNDS**

47 **SECTION 18A.4.** Notwithstanding G.S. 143C-6-9, the Administrative Office of
48 the Courts may use up to the sum of one million five hundred thousand dollars (\$1,500,000)
49 during the 2015-2016 fiscal year from funds available to the Department to provide the State
50 match needed in order to receive grant funds. Prior to using funds for this purpose, the
51 Department shall report to the chairs of the House of Representatives and Senate

1 Appropriations Committees on Justice and Public Safety on the grants to be matched using
2 these funds.

3 4 **COLLECTION OF WORTHLESS CHECK FUNDS**

5 **SECTION 18A.5.(a)** Notwithstanding the provisions of G.S. 7A-308(c), the
6 Judicial Department may use any balance remaining in the Collection of Worthless Checks
7 Fund on June 30, 2015, for the purchase or repair of office or information technology
8 equipment during the 2015-2016 fiscal year. Prior to using any funds under this section, the
9 Judicial Department shall report to the chairs of the House of Representatives and Senate
10 Appropriations Committees on Justice and Public Safety and the Office of State Budget and
11 Management on the equipment to be purchased or repaired and the reasons for the purchases.

12 **SECTION 18A.5.(b)** This section becomes effective June 30, 2015.
13

14 **CONFERENCE OF DISTRICT ATTORNEYS GRANT FUNDS/AUTHORIZE** 15 **DISTRICT ATTORNEYS TO USE CERTAIN GRANT FUNDS TO OBTAIN** 16 **TOXICOLOGY ANALYSIS FROM PROVIDERS OF TOXICOLOGY ANALYSES** 17 **OTHER THAN HOSPITALS**

18 **SECTION 18A.7.** Section 18B.4 of S.L. 2013-360 reads as rewritten:

19 "SECTION 18B.4. Of the funds appropriated in this act to the Judicial Department, the
20 sum of five hundred thousand dollars (\$500,000) in the 2013-2014 fiscal year shall be allocated
21 to the Conference of District Attorneys and shall be used to establish a grant fund to provide
22 district attorneys across the State with the resources to obtain toxicology analysis from local
23 ~~hospital~~ hospitals, or from other providers of toxicology analyses, on persons charged with
24 driving while impaired whose conduct did not result in serious injury or death to others. The
25 Conference of District Attorneys shall report to the Chairs of the Joint Legislative Oversight
26 Committee on Justice and Public Safety ~~by October 1, 2014,~~ on the expenditure of these
27 ~~funds.~~ funds by October 1 of each year until all of the grant funds have been expended."
28

29 **DISTRICT ATTORNEY LEGAL ASSISTANTS**

30 **SECTION 18A.8.(a)** G.S. 7A-347 reads as rewritten:

31 "~~§ 7A-347. Assistants for administrative and victim and witness services.~~ District attorney
32 legal assistants.

33 ~~Assistant for administrative and victim and witness services.~~ District attorney legal assistant
34 positions are established under the district attorneys' offices. Each prosecutorial district is
35 allocated at least one ~~assistant for administrative and victim and witness services.~~ district
36 attorney legal assistant to be employed by the district attorney. The Administrative Office of
37 the Courts shall allocate additional assistants to prosecutorial districts on the basis of need and
38 within available appropriations. Each district attorney may also use any volunteer or other
39 personnel to assist the assistant. The assistant is responsible for coordinating efforts of the
40 law-enforcement and judicial systems to assure that each victim and witness is provided fair
41 treatment under Article 45 of Chapter 15A, Fair Treatment for Victims and Witnesses and shall
42 also provide administrative and legal support to the district attorney's office."
43

44 **SECTION 18A.8.(b)** G.S. 7A-348 reads as rewritten:

45 "~~§ 7A-348. Training and supervision of assistants for administrative and victim and~~
46 ~~witness services.~~ district attorney legal assistants.

47 Pursuant to the provisions of G.S. 7A-413, the Conference of District Attorneys shall:

- 48 (1) Assist in establishing uniform statewide training for ~~assistants for~~
49 ~~administrative and victim and witness services;~~ district attorney legal
50 assistants; and
51 (2) Assist in the implementation and supervision of this program."

52 **SECTION 18A.8.(c)** G.S. 15A-826 reads as rewritten:

~~"§ 15A-826. Assistants for administrative and victim and witness services.~~
District attorney legal assistants.

In addition to providing administrative and legal support to the district attorney's office, ~~assistants for administrative and victim and witness services~~ district attorney legal assistants are responsible for coordinating efforts within the law-enforcement and judicial systems to assure that each victim and witness is treated in accordance with this Article."

REPORT ON DISMISSALS DUE TO DELAY IN ANALYSIS OF EVIDENCE

SECTION 18A.9. Whenever a criminal case is dismissed as a direct result of a delay in the analysis of evidence by the State Crime Laboratory, the district attorney for the district in which the case was dismissed shall report that dismissal and the facts surrounding it to the Conference of District Attorneys. The Conference of District Attorneys shall compile any such reports of dismissals and shall report them quarterly starting October 30, 2015, to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.

ALLOCATION OF ASSISTANT DISTRICT ATTORNEYS

SECTION 18A.10.(a) G.S. 7A-60 reads as rewritten:

"§ 7A-60. District attorneys and prosecutorial districts.

...

(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties ~~and the number of full-time assistant district attorneys~~ set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	8
3A	Pitt	11
3B	Carteret, Craven, Pamlico	12
4	Duplin, Jones, Onslow, Sampson	18
5	New Hanover, Pender	18
6	Bertie, Halifax, Hertford, Northampton	10
7	Edgecombe, Nash, Wilson	18
8	Greene, Lenoir, Wayne	14
9	Franklin, Granville, Vance, Warren	10
9A	Person, Caswell	6
10	Wake	41
11A	Harnett, Lee	9
11B	Johnston	10
12	Cumberland	23
13	Bladen, Brunswick, Columbus	13
14	Durham	18
15A	Alamance	11

1	15B	Orange, Chatham	10
2	16A	Scotland, Hoke	7
3	16B	Robeson	12
4	16C	Anson, Richmond	6
5	17A	Rockingham	7
6	17B	Stokes, Surry	8
7	18	Guilford	32
8	19A	Cabarrus	9
9	19B	Montgomery, Randolph	9
10	19C	Rowan	8
11	19D	Moore	5
12	20A		5
13		Stanly	
14	20B	Union	10
15	21	Forsyth	25
16	22A	Alexander, Iredell	11
17	22B	Davidson, Davie	11
18	23	Alleghany, Ashe, Wilkes, Yadkin	8
20	24	Avery, Madison, Mitchell, Watauga, Yancey	7
22	25	Burke, Caldwell, Catawba	18
23	26	Mecklenburg	58
24	27A	Gaston	14
25	27B	Cleveland,	11
26		Lincoln	
27	28	Buncombe	14
28	29A	McDowell, Rutherford	7
29	29B	Henderson, Polk, Transylvania	8
30	30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain.	10

(a2) ~~Upon the convening of each regular session of the General Assembly and its reconvening in the even-numbered year, the~~ The Administrative Office of the Courts shall report by March 15 of each year on its recommendations regarding the allocation of assistant district attorneys for the upcoming fiscal biennium and fiscal year to the General Assembly, including any request for additional assistant district attorneys. The report shall include the number of assistant district attorneys that the Administrative Office of the Courts recommends to be ~~has~~ allocated to each prosecutorial district and the workload formula established through the National Center for State Courts on which each ~~recommended~~ allocation is based. Any reports required under this subsection shall be made to ~~the Joint Legislative Commission of Governmental Operations,~~ the House of Representatives and Senate Appropriations ~~Subcommittees~~ Committees on Justice and Public, and the Fiscal Research Division.

...."

SECTION 18A.10.(b) G.S. 7A-63 reads as rewritten:

"§ 7A-63. Assistant district attorneys.

Each district attorney shall be entitled to the number of full-time assistant district attorneys ~~set out in this Subchapter, such number to be developed by the General Assembly allocated to that prosecutorial district by the Administrative Office of the Courts~~ after consulting the workload formula established through the National Center for State Courts, to be appointed by the district attorney, to serve at the district attorney's pleasure. A vacancy in the office of

1 assistant district attorney shall be filled in the same manner as the initial appointment. An
2 assistant district attorney shall take the same oath of office as the district attorney, and shall
3 perform such duties as may be assigned by the district attorney. The district attorney shall
4 devote full time to the duties of the office and shall not engage in the private practice of law
5 during his or her term."

6 **SECTION 18A.10.(c)** Article 9 of Chapter 7A of the General Statutes is amended
7 by adding a new section to read:

8 **"§ 7A-69.2. Transfer of vacant positions.**

9 Any assistant district attorney positions within a prosecutorial district that become vacant
10 shall be transferred by the Administrative Office of the Courts to prosecutorial districts that are
11 determined to be understaffed under the workload formula established through the National
12 Center for State Courts if the Administrative Office of the Courts makes a determination that
13 the district in which the vacancy occurred is overstaffed under that workload formula."

14 **SECTION 18A.10.(d)** The Administrative Office of the Courts, in conjunction
15 with the National Center for State Courts and the Conference of District Attorneys, shall revisit
16 the workload formula used to determine the allocation of assistant district attorneys under
17 G.S. 7A-60 and determine whether any adjustments should be made to the formula. The
18 Administrative Office of the Courts shall report by May 1, 2016, to the chairs of the Joint
19 Legislative Committee on Justice and Public Safety and the chairs of House of Representatives
20 and Senate Appropriations Committees on Justice and Public Safety on the conclusions reached
21 about the workload formula and any recommendations for adjustments.

22
23 **AMEND COURT COSTS**

24 **SECTION 18A.11.** G.S. 7A-304(a) reads as rewritten:

25 "(a) In every criminal case in the superior or district court, wherein the defendant is
26 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
27 prosecuting witness, the following costs shall be assessed and collected. No costs may be
28 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
29 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
30 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8),
31 (8a), (11), (12), or (13) of this section.

32 ...

33 ~~(2b) For the maintenance of misdemeanors in county jails, the sum of eighteen~~
34 ~~dollars (\$18.00) in the district court to be remitted to the Statewide~~
35 ~~Misdemeanor Confinement Fund in the Division of Adult Correction of the~~
36 ~~Department of Public Safety.~~

37 ...

38 (4) For support of the General Court of Justice, the sum of ~~one hundred~~
39 ~~twenty-nine dollars and fifty cents (\$129.50)~~ one hundred forty-seven dollars
40 and fifty cents (\$147.50) in the district court, including cases before a
41 magistrate, and the sum of one hundred fifty-four dollars and fifty cents
42 (\$154.50) in the superior court, to be remitted to the State Treasurer. For a
43 person convicted of a felony in superior court who has made a first
44 appearance in district court, both the district court and superior court fees
45 shall be assessed. The State Treasurer shall remit the sum of one dollar and
46 fifty cents (\$1.50) of each fee collected under this subdivision to the North
47 Carolina State Bar for the provision of services described in G.S. 7A-474.4,
48 and ninety-five cents (\$.95) of each fee collected under this subdivision to
49 the North Carolina State Bar for the provision of services described in
50 G.S. 7A-474.19.

51 ...

1 (4b) ~~To provide for contractual services to reduce county jail populations, For~~
2 ~~additional support of the General Court of Justice, the sum of fifty dollars~~
3 ~~(\$50.00) for all offenses arising under Chapter 20 of the General Statutes~~
4 ~~and resulting in a conviction of an improper equipment offense, to be~~
5 ~~remitted to the Statewide Misdemeanor Confinement Fund in the Division of~~
6 ~~Adult Correction of the Department of Public Safety. State Treasurer.~~

7"

9 FAMILY COURT PROGRAMS

10 SECTION 18A.13. The Administrative Office of the Courts shall provide direction
11 and oversight to the existing family court programs in order to ensure that each district with a
12 family court program is utilizing best practices and is working effectively and efficiently in the
13 disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report
14 on its efforts in this regard and the results of those efforts to the chairs of the House of
15 Representatives and Senate Appropriations Committee on Justice and Public Safety and the
16 Joint Legislative Oversight Committee on Justice and Public Safety by March 1 of each year.

18 SPECIALTY COURTS/USE CLERK OF COURT PERSONNEL AND RESOURCES

19 SECTION 18A.14. Article 14 of Chapter 7A of the General Statutes is amended by
20 adding a new section to read:

21 "§ 7A-146.1. Specialty sessions of court; use of clerk of court personnel and resources.

22 Upon the request of a clerk of court or district attorney, or upon the judge's own initiative, a
23 chief district court judge may, pursuant to the judge's authority under G.S. 7A-146(7) to
24 arrange sessions for the trial of specialized cases, authorize the establishment in the district
25 court district of the holding of sessions of court in which related specialized cases or matters
26 are adjudicated, including the holding of family court, drug treatment court, veterans' court,
27 DWI court, mental health court, or any other innovative use of a session of court. With the
28 consent of the clerk of superior court, the court may make use of the personnel and resources of
29 the clerk's office to administer these specialty sessions. The Administrative Office of the Courts
30 shall provide direction and oversight to any such specialty session of district court in order to
31 ensure that each district is utilizing best practices and is working effectively and efficiently in
32 the disposition of such specialized cases and consistent with the provisions of G.S. 7A-272."

34 INNOCENCE INQUIRY COMMISSION

35 SECTION 18A.16. G.S. 15A-1462 reads as rewritten:

36 "§ 15A-1462. Commission established.

37 (a) There is established the North Carolina Innocence Inquiry Commission. The North
38 Carolina Innocence Inquiry Commission shall be an independent commission under the
39 ~~Judicial Department~~ Administrative Office of the Courts for administrative purposes.

40 (b) The Administrative Office of the Courts shall provide administrative support to the
41 Commission as needed. The Director of the Administrative Office of the Courts shall not
42 reduce or modify the budget of the Commission or use funds appropriated to the Commission
43 without the approval of the Commission. The Administrative Office of the Courts shall conduct
44 an annual audit of the Commission."

46 TRANSFER OFFICE OF INDIGENT DEFENSE SERVICES TO THE 47 ADMINISTRATIVE OFFICE OF THE COURTS

48 SECTION 18A.17. G.S. 7A-498.2 reads as rewritten:

49 "§ 7A-498.2. Establishment of Office of Indigent Defense Services.

50 (a) The Office of Indigent Defense Services, which is administered by the Director of
51 Indigent Defense Services and includes the Commission on Indigent Defense Services and the

1 Sentencing Services Program established in Article 61 of this Chapter, is created within the
2 ~~Judicial Department. Administrative Office of the Courts.~~ As used in this Article, "Office"
3 means the Office of Indigent Defense Services, "Director" means the Director of Indigent
4 Defense Services, and "Commission" means the Commission on Indigent Defense Services.

5 (b) The Office of Indigent Defense Services shall exercise its prescribed powers
6 independently of the head of the Administrative Office of the Courts. The Office may enter into
7 contracts, own property, and accept funds, grants, and gifts from any public or private source to
8 pay expenses incident to implementing its purposes.

9 (c) The Director of the Administrative Office of the Courts shall provide general
10 administrative support to the Office of Indigent Defense Services. The term "general
11 administrative support" includes purchasing, payroll, and similar administrative services.

12 (d) The budget of the Office of Indigent Defense Services shall be a part of the ~~Judicial~~
13 ~~Department's budget. budget of the Administrative Office of the Courts.~~ The Commission on
14 Indigent Defense Services shall consult with the Director of the Administrative Office of the
15 Courts, who shall assist the Commission in preparing and presenting to the General Assembly
16 the Office's budget, but the Commission shall have the final authority with respect to
17 preparation of the Office's budget and with respect to representation of matters pertaining to the
18 Office before the General Assembly. The Administrative Office of the Courts shall conduct an
19 annual audit of the budget of the Office of Indigent Defense Services.

20 (e) The Director of the Administrative Office of the Courts shall not ~~reduce or~~ modify
21 the budget of the Office of Indigent Defense Services or use funds appropriated to the Office
22 without the approval of the Commission."
23

24 **STUDY FUTURE OF INDIGENT DEFENSE SERVICES COMMISSION AND** 25 **INNOCENCE INQUIRY COMMISSION**

26 **SECTION 18A.18.** The Joint Legislative Oversight Committee on Justice and
27 Public Safety shall study:

- 28 (1) The Office of Indigent Defense Services and determine whether changes
29 should be made to the ways in which appropriated funds are used to provide
30 legal assistance and representation to indigent persons.
- 31 (2) The North Carolina Innocence Inquiry Commission and determine whether
32 changes should be made to the way in which the Commission investigates
33 and determines credible claims of factual innocence made by criminal
34 defendants.

35 The Joint Legislative Oversight Committee on Justice and Public Safety shall report
36 its findings and recommendations, including any proposed legislation, to the 2015 General
37 Assembly when it reconvenes in 2016.
38

39 **ABOLISH THREE SPECIAL SUPERIOR COURT JUDGESHIPS**

40 **SECTION 18A.19.** G.S. 7A-45.1 reads as rewritten:

41 "**§ 7A-45.1. Special judges.**

42 ...

43 (a8) Notwithstanding any other provision of this section, the four special superior court
44 judgeships held as of April 1, 2014, by judges whose terms expire on April 29, 2015, October
45 20, 2015, and December 31, 2017, and the two special superior court judgeships held as of
46 April 1, 2015, by judges whose terms expire January 26, 2016, are abolished when any of the
47 following first occurs:

- 48 (1) Retirement of the incumbent judge.
- 49 (2) Resignation of the incumbent judge.
- 50 (3) Removal from office of the incumbent judge.
- 51 (4) Death of the incumbent judge.

1 (5) Expiration of the term of the incumbent judge.

2 (a9) Effective upon the retirement, resignation, removal from office, death, or expiration
3 of the term of the special superior court judge held as of April 1, 2014, by the judge whose term
4 expires on April 29, 2015, a new special superior court judgeship shall be created and filled
5 through the procedure for nomination and confirmation provided for in subsection (a10) of this
6 section. ~~Effective upon the retirement, resignation, removal from office, death, or expiration of~~
7 ~~the term of the special superior court judge held as of April 1, 2014, by the judge whose term~~
8 ~~expires on October 20, 2015, a new special superior court judgeship shall be created and filled~~
9 ~~through the procedure for nomination and confirmation provided for in subsection (a10) of this~~
10 ~~section.~~

11 Prior to submitting a nominee for the ~~judgeships~~ judgeship created under this subsection to
12 the General Assembly for confirmation, the Governor shall consult with the Chief Justice to
13 ensure that the ~~persons~~ person nominated to fill ~~these two judgeships~~ have this judgeship has
14 the requisite expertise and experience to be designated by the Chief Justice as a business court
15 ~~judges~~ judge under G.S. 7A-45.3, and the Chief Justice is requested to designate ~~those two~~
16 ~~judges as business court judges~~ this judge as a business court judge.

17 ...

18 (a11) The Chief Justice is requested, pursuant to the authority under G.S. 7A-45.3 to
19 designate business court judges, to maintain at least five business court judgeships from among
20 the special superior court judgeships authorized under this section.

21"

22

23 **COMPENSATION OF COURT REPORTERS**

24 **SECTION 18A.20.** The Administrative Office of the Courts shall set the limits on
25 compensation and allowances of court reporters provided for in G.S. 7A-95(e) and
26 G.S. 7A-198(f) during the 2015-2017 fiscal biennium so that (i) the Administrative Office of
27 the Courts pays no more than fifty percent (50%) of the per-transcript-page rate paid by the
28 Administrative Office of the Courts during the 2011-2013 fiscal biennium and (ii) the Office of
29 Indigent Defense Services pays no more than fifty percent (50%) of the per-transcript-page rate
30 paid by the Office of Indigent Defense Services during the 2011-2013 fiscal biennium.

31

32 **E-COURTS INFORMATION TECHNOLOGY INITIATIVE/STRATEGIC**

33 **PLAN/ADVISORY COMMITTEE**

34 **SECTION 18A.21.(a)** The Administrative Office of the Courts shall establish a
35 strategic plan for the design and implementation of its e-Courts information technology
36 initiative by February 1, 2016. The plan shall:

- 37 (1) Clearly articulate the requirements for the e-Courts system, including
38 well-defined milestones, costs parameters, and performance measures.
- 39 (2) Prioritize the funding needs for implementation of the various elements of
40 the system, after consultation with the e-Courts advisory committee
41 established by subsection (c) of this section.
- 42 (3) Identify any potential issues that may arise in the development of the system
43 and plans for mitigating those issues.
- 44 (4) Address the potential for incorporating any currently existing resources into
45 the e-Courts system.

46 **SECTION 18A.21.(b)** The Administrative Office of the Courts shall report
47 quarterly beginning November 1, 2015, to the Joint Legislative Oversight Committee on Justice
48 and Public Safety and the Joint Legislative Oversight Committee on Information Technology
49 on the development, implementation, and specific costs of the strategic plan required by
50 subsection (a) of this section and on any changes in the projected costs for implementing the
51 e-Courts system or the schedule for implementation.

1 **SECTION 18A.21.(c)** The Administrative Office of the Courts shall establish an
 2 e-Courts advisory committee consisting of clerks of superior court, judges, district attorneys,
 3 public defenders, and representatives of the State Bar in order to ensure that, in the
 4 development and implementation of the strategic plan required by subsection (a) of this section,
 5 it has the input and advice of those stakeholders in the e-Courts system and the benefit of the
 6 various stakeholders' expertise on the information technology needs of the courts. The advisory
 7 committee shall be guided by an executive steering committee.

8 **SECTION 18A.21.(d)** Upon completion of the strategic plan required by
 9 subsection (a) of this section, the Administrative Office of the Courts shall issue a Request For
 10 Information (RFI) for a contractor to provide the e-Courts system as outlined in the strategic
 11 plan. The Administrative Office of the Courts shall evaluate the responses to the RFI before
 12 issuing a Request for Proposals (RFP) for the e-Courts system.

13 **AMEND CHILD CUSTODY LAWS**

14 **SECTION 18A.22.(a)** Article 1 of Chapter 50 of the General Statutes is amended
 15 by adding a new section to read:

16 **"§ 50-13.01. Purposes.**

17 It is the policy of the State of North Carolina to do the following:

- 18 (1) Encourage focused, good-faith, best interest, and child-centered joint
 19 parenting agreement development to reduce needless litigation over child
 20 custody matters and to promote the best interest of the child.
- 21 (2) Encourage parents to take responsibility for their child by setting the
 22 expectation that parenthood will be a significant and ongoing responsibility.
- 23 (3) Encourage programs and court practices that maximize participation of both
 24 parents in the child's life and contact with both parents when such is in the
 25 child's best interest, regardless of the parents' present marital status, subject
 26 to laws regarding abuse, neglect, and dependency.
- 27 (4) Encourage both parents to share equitably in the rights and responsibilities
 28 of raising their child, even after dissolution of marriage or unwed
 29 relationship.
- 30 (5) Encourage each parent to establish and maintain a healthy relationship with
 31 the other parent to promote the best interest and welfare of the child."

32 **SECTION 18A.22.(b)** G.S. 50-13.2 reads as rewritten:

33 **"§ 50-13.2. Who entitled to custody; terms of custody; visitation rights of grandparents;** 34 **taking child out of State; consideration of parent's military service.**

35 (a) An order for custody of a minor child entered pursuant to this section shall award
 36 the custody of such child to such person, agency, organization or institution as will best
 37 promote the interest and welfare of the child. In making the determination, the court shall
 38 consider all relevant ~~factors~~ factors, including all of the following:

- 39 (1) ~~acts~~ Acts of domestic violence between the parties, parties.
- 40 (2) ~~the~~ The safety of the child, child.
- 41 (3) ~~and the~~ The safety of either party from domestic violence by the other party
 42 and shall make findings accordingly. party.

43 An order for custody must include findings of fact ~~which~~ that reflect the consideration of each
 44 of these factors and that support the determination of what is in the best interest of the child.

45 (a1) Between the mother and father, whether natural or adoptive, no presumption shall
 46 apply as to who will better promote the interest and welfare of the child. ~~Joint custody to the~~
 47 ~~parents shall be considered upon the request of either parent.~~

48 (b) An order for custody of a minor child may grant joint custody to the parents,
 49 exclusive custody to one person, agency, organization, or institution, or grant custody to two or
 50 more persons, agencies, organizations, or institutions. Any order for custody shall include such
 51

1 terms, including visitation, as will best promote the interest and welfare of the child. If the
2 court finds that domestic violence has occurred, the court shall enter such orders that best
3 protect the children and party who were the victims of domestic violence, in accordance with
4 the provisions of G.S. 50B-3(a1)(1), (2), and (3). If a party is absent or relocates with or
5 without the children because of an act of domestic violence, the absence or relocation shall not
6 be a factor that weighs against the party in determining custody or visitation. Absent an order
7 of the court to the contrary, each parent shall have equal access to the records of the minor
8 child involving the health, education, and welfare of the child.

9"

10 11 **USE OF COURT INFORMATION TECHNOLOGY FUND**

12 **SECTION 18A.23.** G.S. 7A-343.2(b) reads as rewritten:

13 "(b) Use. – Money in the Fund derived from State judicial facilities fees must be used to
14 upgrade, maintain, and operate the judicial and county courthouse ~~phone systems.~~ data
15 connectivity. All other monies in the Fund must be used to supplement funds otherwise
16 available to the Judicial Department for court information technology and office automation
17 needs."

18 19 **CLARIFY AUTHORIZATION TO CONTRACT FOR THE PROVISION OF REMOTE** 20 **ACCESS TO COURT RECORDS**

21 **SECTION 18A.24.** G.S. 7A-109(d) reads as rewritten:

22 "(d) In order to facilitate public access to ~~court records,~~ the electronic data processing
23 records or any compilation of electronic court records or data of the clerks of superior court,
24 except where public access is prohibited by law, the Director may enter into one or more
25 nonexclusive contracts under reasonable cost recovery terms with third parties to provide
26 remote electronic access to the electronic data processing records or any compilation of
27 electronic court records or data of the clerks of superior court by the public. Neither the
28 Director nor the Administrative Office of the Courts is the custodian of the records of the clerks
29 of superior court or of the electronic data processing records or any compilation of electronic
30 court records or data of the clerks of superior court. Costs recovered pursuant to this subsection
31 shall be remitted to the State Treasurer to be held in the Court Information Technology Fund
32 established in G.S. 7A-343.2."

33 34 **SUBPART XVIII-B. OFFICE OF INDIGENT DEFENSE SERVICES**

35 36 **INDIGENT DEFENSE SERVICES ANNUAL REPORT DATE CHANGE**

37 **SECTION 18B.1.** G.S. 7A-498.9 reads as rewritten:

38 **"§ 7A-498.9. Annual report on Office of Indigent Defense Services.**

39 The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative
40 Oversight Committee on Justice and Public Safety and to the Chairs of the House of
41 Representatives ~~Subcommittee~~ and Senate Committees on Justice and Public Safety ~~and the~~
42 ~~Senate Appropriations Committee on Justice and Public Safety~~ by February 1 March 15 of each
43 year on the following:

- 44 (1) The volume and cost of cases handled in each district by assigned counsel or
45 public defenders;
- 46 (2) Actions taken by the Office to improve the cost-effectiveness and quality of
47 indigent defense services, including the capital case program;
- 48 (3) Plans for changes in rules, standards, or regulations in the upcoming year;
49 and
- 50 (4) Any recommended changes in law or funding procedures that would assist
51 the Office in improving the management of funds expended for indigent

1 defense services, including any recommendations concerning the feasibility
2 and desirability of establishing regional public defender offices."
3

4 **OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS**

5 **SECTION 18B.2.** Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense
6 Services may use the sum of up to fifty thousand dollars (\$50,000) during the 2015-2016 fiscal
7 year from funds available to provide the State matching funds needed to receive grant funds.
8 Prior to using funds for this purpose, the Office shall report to the chairs of the House of
9 Representatives and Senate Appropriations Committees on Justice and Public Safety on the
10 grants to be matched using these funds.
11

12 **REPORTS ON CRIMINAL CASE INFORMATION SYSTEM**

13 **SECTION 18B.3.(a)** Section 18B.10 of S.L. 2013-360, as amended by Section
14 18A.2 of S.L. 2014-100, reads as rewritten:

15 "**SECTION 18B.10.** The Administrative Office of the Courts, in consultation with the
16 Office of Indigent Defense Services, shall use the sum of three hundred fifty thousand dollars
17 (\$350,000) in funds available to the Administrative Office of the Courts for the 2013-2015
18 fiscal biennium and the sum of three hundred fifty thousand dollars (\$350,000) in funds
19 available to the Office of Indigent Defense Services for the 2013-2015 fiscal biennium to
20 develop or acquire and to implement a component of the Department's criminal case
21 information system for use by public defenders no later than ~~February 1, 2015.~~ February 1,
22 2016. The Administrative Office of the Courts shall make ~~an interim report~~ quarterly reports on
23 the development and implementation of this ~~system by February 1, 2014,~~ system, including
24 costs, milestones, and performance measures, and a final report on the completed
25 implementation of the system by ~~July 1, 2015,~~ July 1, 2016, to the Chairs of the Joint
26 Legislative Oversight Committee on Justice and Public Safety and to the Chairs of the House of
27 Representatives and Senate Appropriations Subcommittee ~~Committees~~ on Justice and Public
28 Safety ~~and the Senate Appropriations Committee on Justice and Public Safety."~~
29

30 **SECTION 18B.3.(b)** This section becomes effective June 30, 2015.

31 **STUDY EFFICIENCY OF ESTABLISHING A SYSTEM OF AUTOMATED KIOSKS** 32 **IN LOCAL CONFINEMENT FACILITIES TO ALLOW ATTORNEYS** 33 **REPRESENTING INDIGENT DEFENDANTS TO CONSULT WITH THEIR** 34 **CLIENTS REMOTELY**

35 **SECTION 18B.4.(a)** The Administrative Office of the Courts, in conjunction with
36 the Office of Indigent Defense Services and the North Carolina Sheriffs' Association, shall
37 study and determine whether savings can be realized through the establishment of a system of
38 fully automated kiosks in local confinement facilities to allow attorneys representing indigent
39 defendants to consult with their clients remotely. The system would incorporate technology
40 through which meetings between attorneys and their clients cannot be monitored or recorded,
41 would provide for end-to-end message encryption, and would have scheduling software
42 integrated into the system.

43 **SECTION 18B.4.(b)** The Administrative Office of the Courts shall report its
44 findings and recommendations, including recommendations of at least two potential pilot sites
45 for the proposed system, to the chairs of the House of Representatives and Senate
46 Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative
47 Oversight Committee on Justice and Public Safety by February 1, 2016.
48

49 **STUDY FEE SCHEDULES USED BY OFFICE OF INDIGENT DEFENSE SERVICES**

50 **SECTION 18B.5.** The Joint Legislative Oversight Committee on Justice and
51 Public Safety shall study the creation and implementation of fee schedules to be used by the

1 Office of Indigent Defense Services to compensate private assigned counsel representing
2 indigent defendants. The Committee shall include its findings and recommendations in its
3 report to the 2015 General Assembly when it reconvenes in 2016.

4
5 **PART XIX. DEPARTMENT OF CULTURAL RESOURCES – RESERVED**

6
7 **PART XX. DEPARTMENT OF INSURANCE**

8
9 **INSURANCE REGULATORY CHARGE**

10 **SECTION 20.1.** The percentage rate to be used in calculating the insurance
11 regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2016 calendar
12 year.

13
14 **PART XXI. DEPARTMENT OF THE STATE TREASURER**

15
16 **UPDATE ORBIT RETIREMENT SYSTEM**

17 **SECTION 21.1.** The Department of State Treasurer, Retirement Systems Division,
18 may use funds from receipts up to eight hundred fifty thousand dollars (\$850,000) for the
19 purpose of upgrading the Online Retirement Benefits through Integrated Technology
20 self-service retirement system and those funds are hereby appropriated for that purpose.

21
22 **ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACT**

23 **SECTION 21.2.(a)** Chapter 147 of the General Statutes is amended by adding a
24 new Article to read:

25 "Article 6E.

26 "Achieving Better Life Experience Program Trust.

27 **"§ 147-86.50. Policy and definitions.**

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

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

- 35 (1) ABLE account. – An account established and owned by an eligible
36 individual and maintained under this Article. A guardian or agent under a
37 power of attorney may act on behalf of an account owner.
- 38 (2) Account owner. – The person who enters into an ABLE savings agreement
39 pursuant to the provisions of this Article. The account owner must be the
40 designated beneficiary.
- 41 (3) Board. – The ABLE Program Board of Trustees established in
42 G.S. 147-86.52.
- 43 (4) Contracting state. – A state without a qualified ABLE program that has
44 entered into a contract with North Carolina to provide residents of the
45 contracting state access to a qualified ABLE program.
- 46 (5) Designated beneficiary. – The eligible individual who established and owns
47 an ABLE account.
- 48 (6) Disability certification. – Defined in 26 U.S.C. § 259A(e)(2).
- 49 (7) Eligible individual. – Defined in 26 U.S.C. § 259A(e)(1).
- 50 (8) Federal ABLE Act. – Division B of the Tax Increase Prevention Act of
51 2014, P.L. 113-295, the Achieving a Better Life Experience Act of 2014.

1 (9) Member of the family. – A brother, sister, stepbrother, or stepsister.

2 (10) Qualified disability expense. – As defined in 26 U.S.C. § 529A(e)(5).

3 **"§ 147-86.51. ABLE Program.**

4 (a) Achieving a Better Life Experience (ABLE) Program Trust. – There is established
5 an ABLE Program Trust to be administered by the ABLE Program Board of Trustees
6 established in G.S. 146-86.52 to enable contributors to save funds to meet the costs of the
7 qualified disability expenses of eligible individuals.

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

9 (1) An account owner or contributor may establish an account by making an
10 initial contribution to the ABLE Program Trust, signing an application form
11 approved by the Board or its designee, and naming the designated
12 beneficiary. If the contributor is not the account owner, the account owner or
13 the account owner's guardian, trustee, or agent shall also sign the application
14 form.

15 (2) Any person may make contributions to an account after the account is
16 opened.

17 (3) Contributions to an account shall be made only in cash.

18 (4) Contributions to an account shall not exceed maximum contribution limits
19 applicable to program accounts in accordance with the federal ABLE Act.

20 (5) An account owner may change the designated beneficiary of an account to
21 an eligible individual who is a member of the family of the former
22 designated beneficiary. At the direction of an account owner, all or a portion
23 of an account may be transferred to another account of which the designated
24 beneficiary is a member of the family of the designated beneficiary of the
25 transferee account if the transferee account was created pursuant to this
26 section or in accordance with the federal ABLE Act.

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

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

42 (1) A rollover from an ABLE account shall constitute a qualified rollover if the
43 rollover distribution is in accordance with the federal ABLE Act.

44 (2) A person may make contributions for a taxable year for the benefit of an
45 individual who is an eligible individual for the taxable year to an ABLE
46 account that is established to meet the qualified disability expenses of the
47 designated beneficiary of the account.

48 (3) A designated beneficiary is limited to one ABLE account.

49 (4) An ABLE account may be established only for a designated beneficiary who
50 is a resident of North Carolina or a resident of a contracting state.

- 1 (5) Except as permitted under the federal ABLÉ Act, a person does not direct
2 the investment of any contributions to or earnings from the Achieving a
3 Better Life Experience Program more than two times each year.
4 (6) An account or a legal or beneficial interest in an account is not assignable,
5 pledged, or otherwise used to secure or obtain a loan or other advancement.
6 (7) Separate records and accounting are maintained for each ABLÉ account.
7 (8) Reports are made no less frequently than annually to each ABLÉ account
8 owner.
9 (9) A trustee or guardian appointed as a signatory of an ABLÉ account does not
10 have or acquire any beneficial interest in the account and administers the
11 account for the benefit of the designated beneficiary.

12 **§ 147-86.52. ABLÉ Program Board of Trustees.**

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

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

28 (b) Terms. – The members of the Board, except those members serving in an ex officio
29 capacity, shall be appointed for terms of three years and shall serve until their successors are
30 appointed and qualified. Vacancies are filled in the same manner as the original appointment.
31 No appointed member of the Board may serve longer than any of the following:

- 32 (1) Two consecutive three-year terms.
33 (2) Three consecutive terms of any length, in the event that one or more of the
34 terms is for fewer than three years in duration or the member serves a partial
35 term as a result of filling a vacancy.
36 (3) Eight consecutive years, regardless of term lengths.

37 (c) Duties. – The Board of Trustees is authorized to:

- 38 (1) Delegate the authority to the State Treasurer to develop and perform all
39 functions necessary and desirable to (i) administer the ABLÉ Program Trust
40 in such a manner as to meet and comply with the requirements of the federal
41 ABLE Act and federal regulations under the act, (ii) implement the
42 investment strategy of the Board, and (iii) provide other services as the
43 Board shall deem necessary to facilitate participation in the ABLÉ Program
44 Trust.
45 (2) Notwithstanding provisions of Article 3 of Chapter 143 of the General
46 Statutes, engage the services of consultants on a contract basis for rendering
47 professional and technical assistance and advice.
48 (3) Retain the services of auditors, attorneys, investment counseling firms,
49 custodians, or other persons or firms possessing specialized skills or
50 knowledge necessary for the proper administration of investment programs
51 that the Board administers pursuant to this Article.

1 (4) Develop marketing plans and promotional material.

2 (5) Establish the methods by which the funds held in accounts shall be
3 dispersed.

4 (6) Establish the method by which funds shall be allocated to pay for
5 administrative costs.

6 (7) Do all things necessary and proper to carry out the purposes of this act.

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

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

29 (1) Solely in the interest of the designated beneficiaries.

30 (2) With the care, skill, and caution under the circumstances then prevailing that
31 a prudent person acting in a like capacity and familiar with those matters
32 would use in the conduct of an activity of like character and purpose.

33 (3) Impartially, taking into account any differing interests of designated
34 beneficiaries.

35 (4) Incurring only costs that are appropriate and reasonable.

36 (5) In accordance with a good-faith interpretation of the law governing the
37 ABLE Program Trust.

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

42 (1) The person was not acting within the scope of that person's official duties.

43 (2) The person was not acting in good faith.

44 (3) The person committed gross negligence or willful or wanton misconduct that
45 resulted in the damages or injury.

46 (4) The person derived an improper personal financial benefit, either directly or
47 indirectly, from the transaction.

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

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

5 **"§ 147-86.53. Administration of ABLE Program.**

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

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

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

23 (1) The costs of administration, management, investment, and operation of the
24 ABLE Program Trust.

25 (2) The costs of all actions authorized for the Board.

26 (3) The costs of all actions delegated to the State Treasurer and his or her staff
27 by the Board under this section. Such costs shall be allocated among the
28 designated beneficiaries in such manner as may be prescribed by the Board.
29 The Board shall no less than annually approve a budget and allocation of
30 costs.

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

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

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

47 (g) Notice to Account Owner for Designated Beneficiary Receiving Medicaid. – Notice
48 of the State's right to file a claim against the estate following the death of a designated
49 beneficiary who received medical assistance must be provided to the account owner. The notice
50 shall be on a form prescribed by the Department of Health and Human Services, Division of
51 Medical Assistance, and shall explain:

- 1 (1) The types of Medicaid payments subject to a claim against the estate.
2 (2) That a claim will not be made if the individual is survived by a legal spouse,
3 a child or children under the age of 21, or a blind or disabled child or
4 children of any age who became blind or disabled before age 21 and still live
5 on the property of the deceased designated beneficiary.
6 (3) That a claim against the estate is limited to specified conditions.
7 (4) That a claim against the estate may be waived in the case of undue hardship
8 and the procedure for claiming an undue hardship.

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

11 **SECTION 21.2.(b)** The Department of Health and Human Services shall provide
12 information and assistance to the Department of State Treasurer and shall enter into a
13 data-sharing agreement with the Department of the State Treasurer for the purpose of the
14 ongoing implementation of this section. The Department of State Treasurer shall consult with
15 other departments as needed.

16 **SECTION 21.2.(c)** The Department of State Treasurer and the Department of
17 Health and Human Services are authorized to adopt rules necessary to implement this section.

18 **SECTION 21.2.(d)** The State Treasurer shall begin accepting contributions
19 authorized under this section when federal regulations regarding the Achieving a Better Life
20 Experience Program, as provided under the Tax Increase Prevention Act of 2014, Pub. L. No.
21 113-295, have been issued and provide the guidance necessary to implement the Achieving a
22 Better Life Experience Trust Fund Program established in this section. If the federal regulations
23 are materially inconsistent with this section, the Board may delay implementation of this
24 section until a change in this section has been made. If the Board delays implementation, the
25 Board shall provide a written report to the Governor, the Speaker of the House of
26 Representatives, and the President Pro Tempore of the Senate identifying the changes in this
27 section that must be made to be consistent with federal regulation.

28 **SECTION 21.2.(e)** The Board authorized in G.S. 147-86.52 shall be organized
29 immediately after a majority of the members have been qualified or appointed, and have taken
30 the oath of office. The terms for the trustees that are appointed shall be for initial terms to
31 expire June 30, 2018.

32 **SECTION 21.2.(f)** This section is effective when it becomes law.

33 34 **PART XXII. OFFICE OF ADMINISTRATIVE HEARINGS**

35 36 **WAYNESVILLE ADMINISTRATIVE LAW JUDGE/RULES REVIEW COMMISSION** 37 **COUNSEL**

38 **SECTION 22.1.(a)** The Office of Administrative Hearings shall identify office
39 space for the administrative law judge to be located in the Town of Waynesville. In selecting
40 office space, the Office of Administrative Hearings shall only consider locations that do not
41 impose an additional financial burden to the State. The Office is authorized to identify other
42 State-owned properties in the town and work with State officials to locate office space that
43 satisfies the requirements of this section. The Office of Administrative Hearings may provide
44 support staff for the administrative law judge to be located in the Town of Waynesville;
45 provided, there is no additional financial burden to the State as a result.

46 **SECTION 22.1.(b)** G.S. 143B-30.1 is amended by adding a new subsection to
47 read:

48 "(g) In the discretion of the Commission, G.S. 114-2.3 and G.S. 147-17 (a) through (c)
49 shall not apply to the Commission if the Commission is being sued by another agency,
50 institution, department, bureau, board, or commission of the State, whether such body is created
51 by the Constitution or by statute. The chairman, upon approval of a majority of the

1 Commission, may retain private counsel to represent the Commission to be paid with available
2 State funds to defend such litigation either independently or in cooperation with the
3 Department of Justice. If private counsel is to be so retained to represent the Commission, the
4 chairman shall designate lead counsel who shall possess final decision-making authority with
5 respect to the representation, counsel, or service for the Commission. Other counsel for the
6 Commission shall, consistent with the Rules of Professional Conduct, cooperate with such
7 designated lead counsel."
8

9 **PART XXIII. OFFICE OF STATE BUDGET AND MANAGEMENT**

10 **SYMPHONY CHALLENGE GRANT**

11 **SECTION 23.1.(a)** Of the funds appropriated in this act to the Office of State
12 Budget and Management, Special Appropriations, the sum of one million five hundred
13 thousand dollars (\$1,500,000) in recurring funds for the 2015-2016 fiscal year and the sum of
14 one million five hundred thousand dollars (\$1,500,000) in recurring funds for the 2016-2017
15 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section. It
16 is the intent of the General Assembly that the North Carolina Symphony raise at least eight
17 million dollars (\$8,000,000) in non-State funds for the 2015-2016 fiscal year and at least eight
18 million dollars (\$8,000,000) in non-State funds for the 2016-2017 fiscal year. The North
19 Carolina Symphony shall not use funds transferred from the organization's endowment to its
20 operating budget to achieve the fund-raising targets set out in subsections (b) and (c) of this
21 section.
22

23 **SECTION 23.1.(b)** For the 2015-2016 fiscal year, the North Carolina Symphony
24 shall receive allocations from the Office of State Budget and Management as follows:

- 25 (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State
26 funding, the North Carolina Symphony shall receive the sum of five hundred
27 thousand dollars (\$500,000).
- 28 (2) Upon raising an additional sum of two million dollars (\$2,000,000) in
29 non-State funding for a total amount of six million dollars (\$6,000,000) in
30 non-State funds, the North Carolina Symphony shall receive an additional
31 sum of five hundred thousand dollars (\$500,000).
- 32 (3) Upon raising an additional sum of two million dollars (\$2,000,000) in
33 non-State funding for a total sum of eight million dollars (\$8,000,000) in
34 non-State funds, the North Carolina Symphony shall receive the final sum of
35 five hundred thousand dollars (\$500,000) for the 2015-2016 fiscal year.

36 **SECTION 23.1.(c)** For the 2016-2017 fiscal year, the North Carolina Symphony
37 shall receive allocations from the Office of State Budget and Management as follows:

- 38 (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State
39 funding, the North Carolina Symphony shall receive the sum of five hundred
40 thousand dollars (\$500,000).
- 41 (2) Upon raising an additional sum of two million dollars (\$2,000,000) in
42 non-State funding for a total amount of six million dollars (\$6,000,000) in
43 non-State funds, the North Carolina Symphony shall receive an additional
44 sum of five hundred thousand dollars (\$500,000).
- 45 (3) Upon raising an additional sum of two million dollars (\$2,000,000) in
46 non-State funding for a total sum of eight million dollars (\$8,000,000) in
47 non-State funds, the North Carolina Symphony shall receive the final sum of
48 five hundred thousand dollars (\$500,000) for the 2016-2017 fiscal year.

49 **STUDY TRANSITION TO RENT-BASED MODEL FOR STATE-OWNED** 50 **FACILITIES** 51

1 and activities in the State, to enhance North Carolina's current
2 military-friendly environment and foster and promote business, technology,
3 transportation, education, economic development, and other efforts in
4 support of the mission, execution, and transformation of the United States
5 government military and national defense activities located in the State.

6 (2) Promote the industrial and economic development of localities included in or
7 adjacent to United States government military and national defense activities
8 and those of the State.

9 (3) Provide technical assistance and coordination between the State, its political
10 subdivisions, and the United States military and national defense activities
11 within the State of North Carolina.

12 (4) Award grants to local governments, State and federal agencies, and private
13 entities at the direction of the Secretary. The number of grants awarded and
14 the level of funding of each grant for each fiscal year shall be contingent
15 upon and determined by funds appropriated for that purpose by the General
16 Assembly.

17 (5) Provide active outreach to the United States Department of Veterans Affairs,
18 the veterans service organizations, and the veterans community in North
19 Carolina to support and assist North Carolina's veterans in identifying and
20 obtaining the services, assistance, and support to which they are entitled,
21 including monitoring efforts to provide services to veterans, newly separated
22 service members, and their immediate family members and disseminating
23 relevant materials.

24 (6) Monitor and enhance efforts to provide assistance and support for veterans
25 living in North Carolina and members of the North Carolina National Guard
26 and North Carolina residents in the Armed Forces Reserves not in active
27 federal service in the areas of (i) medical care, (ii) mental health and
28 rehabilitative services, (iii) housing, (iv) homelessness prevention, (v) job
29 creation, and (vi) education.

30 (7) Seek and receive monies from any source, including federal funds, gifts,
31 grants, and devises, which shall be expended for the purposes designated in
32 this Article.

33 (8) Provide active outreach, coordination, formal training and standards, and
34 official certification to localities of the State and veterans support
35 organizations in the development, implementation, and review of local
36 veterans services programs as part of the State program.

37 (9) Work with veterans services organizations and counterparts in other states to
38 monitor and encourage the timely and accurate processing of veterans'
39 benefit requests by the United States Department of Veterans Affairs,
40 including requests for service connected to health care, mental health care,
41 and disability payments.

42 (10) Manage and maintain the State's veterans nursing homes and cemeteries and
43 their associated assets to the standard befitting those who have worn the
44 uniform of the Armed Forces according to federal guidelines. Plan for
45 expansion and grow the capacity of these facilities and any new facilities as
46 required pending the availability of designated funds.

47 (11) Manage and maintain the State's Scholarships for Children of Wartime
48 Veterans in accordance with Part 2 of Article 14 of Chapter 143B of the
49 General Statutes and in support of the Veterans' Affairs Commission.

- 1 (12) Provide administrative, organizational, and funding support to the NC
2 Military Affairs Commission and the Governor's Working Group for
3 Veterans.
- 4 (13) Work with federal officials to obtain additional federal resources and
5 coordinate veterans policy development and information exchange.
- 6 (14) Work with the appropriate heads of the principal departments to coordinate
7 working relationships between State agencies and take all actions necessary
8 to ensure that available federal and State resources are directed toward
9 assisting veterans and addressing all issues of mutual concern to the State
10 and the Armed Forces of the United States, including, but not limited to,
11 quality of life issues unique to North Carolina's military personnel and their
12 families, the quality of educational opportunities for military children, the
13 future of federal impact aid, preparedness, public safety and security
14 concerns, transportation needs, alcoholic beverage law enforcement,
15 substance abuse, social service needs, possible expansion and growth of
16 military facilities in the State, and intergovernmental support agreements
17 with state and local governments.
- 18 (15) Educate the public on veterans and defense issues in coordination with
19 applicable State agencies.
- 20 (16) Adopt rules and procedures for the implementation of this section.
- 21 (17) Assist veterans, their families, and dependents in the presentation,
22 processing, proof, and establishment of such claims, privileges, rights, and
23 benefits as they may be entitled to under federal, State, or local laws, rules,
24 and regulations.
- 25 (18) Aid persons in active military service and their dependents with problems
26 arising out of that service that come reasonably within the purview of the
27 Department's program of assistance.
- 28 (19) Collect data and information as to the facilities and services available to
29 veterans, their families, and dependents and to cooperate with agencies
30 furnishing information or services throughout the State in order to inform
31 such agencies regarding the availability of (i) education, training, and
32 retraining facilities; (ii) health, medical, rehabilitation, and housing services
33 and facilities; (iii) employment and reemployment services; and (iv)
34 provisions of federal, State, and local laws, rules, and regulations affording
35 rights, privileges, and benefits to veterans, their families, and dependents,
36 and in respect to such other matters of similar, related, or appropriate nature
37 not herein set out.
- 38 (20) Establish such field offices, facilities, and services throughout the State as
39 may be necessary to carry out the purposes of this Article.
- 40 (21) Cooperate, as the Department deems appropriate, with governmental,
41 private, and civic agencies and instrumentalities in securing services or
42 benefits for veterans, their families, dependents, and beneficiaries.
- 43 (22) Enter into any contract or agreement with any person, business,
44 governmental agency, or other entity in furtherance of the purposes of this
45 Article.
- 46 (23) Train, assist, and provide guidance to the employees of any county, city,
47 town, or Indian tribe who are engaged in veterans service. Authority is
48 hereby granted to the governing body of any county, city, or town to
49 appropriate such amounts as it may deem necessary to provide a veterans
50 services program, and the expenditure of such funds is hereby declared to be
51 for a public purpose; such program shall be operated in affiliation with this

Department as set forth above and in compliance with Department policies and procedures.

"§ 143B-1212. Personnel of the Department of Military and Veterans Affairs.

Notwithstanding G.S. 114-2.3, the Secretary of Military and Veterans Affairs shall have the power to appoint all employees, including consultants and legal counsel, necessary to carry out the powers and duties of the office. These employees shall be subject to the North Carolina Human Resources Act, except that employees in positions designated as exempt under G.S. 126-5(d)(1) are not subject to the Act, in accordance with the provisions of that section.

"§ 143B-1213. Definitions.

Except where provided otherwise, the following definitions apply in this Chapter:

(1) Department. – The Department of Military and Veterans Affairs.

(2) Secretary. – The Secretary of Military and Veterans Affairs.

(3) Veteran. – One of the following, as applicable:

a. For qualifying as a voting member of the State Board of Veterans Affairs and as the State Director of Veterans Affairs, a person who served honorably during a period of war as defined in Title 38, United States Code.

b. For entitlement to the services of the Department of Military and Veterans Affairs, any person who may be entitled to any benefits or rights under the laws of the United States by reason of service in the Armed Forces of the United States."

CREATION OF STATUTORY PARTS AND RECODIFICATION AND REPEAL OF AFFECTED STATUTES

SECTION 24.1.(c) Veterans' Affairs Commission. – Part 13 of Article 9 of Chapter 143B of the General Statutes is recodified as Part 2 of Article 14 of Chapter 143B of the General Statutes and renumbered as G.S. 143B-1220 through G.S. 143B-1222. G.S. 165-19 through G.S. 165-22.1 are recodified under that Part as G.S. 143B-1223 through G.S. 143B-1227.

SECTION 24.1.(d) Governor's Jobs for Veterans Committee. – Part 19 of Article 9 of Chapter 143B of the General Statutes is recodified as Part 3 of Article 14 of Chapter 143B of the General Statutes and renumbered as G.S. 143B-1235 and G.S. 143B-1236.

SECTION 24.1.(e) Division of Veterans Affairs. – G.S. 165-1 through G.S. 165-4, G.S. 165-6, 165-8, and 165-10 are repealed. G.S. 165-9, 165-11, and 165-11.1 are recodified under Part 1 of Article 14 of Chapter 143B of the General Statutes as G.S. 143B-1214 through G.S. 143B-1216, respectively.

SECTION 24.1.(f) Minor Veterans and Minor Spouses of Veterans. – Article 2 of Chapter 165 of the General Statutes is recodified as Part 4 of Article 14 of Chapter 143B of the General Statutes, G.S. 143B-1240 through G.S. 143B-1244. Article 3 of Chapter 165 of the General Statutes is recodified as Part 5 of Article 14 of Chapter 143B of the General Statutes, G.S. 143B-1247 and G.S. 143B-1248.

SECTION 24.1.(g) Veterans Recreation Authorities Law. – Article 5 of Chapter 165 of the General Statutes is recodified as Part 6 of Article 14 of Chapter 143B of the General Statutes, G.S. 143B-1250 through G.S. 143B-1265.

SECTION 24.1.(h) Powers of Attorney. – Article 6 of Chapter 165 of the General Statutes is recodified as Part 7 of Article 14 of Chapter 143B of the General Statutes, G.S. 143B-1270 through G.S. 143B-1273.

SECTION 24.1.(i) Miscellaneous Provisions. – Article 7 of Chapter 165 of the General Statutes is recodified as Part 8 of Article 14 of Chapter 143B of the General Statutes, G.S. 143B-1275 through G.S. 143B-1277.

1 **SECTION 24.1.(j)** Employment Assistance. – Article 7A of Chapter 165 of the
 2 General Statutes is recodified as Part 9 of Article 14 of Chapter 143B of the General Statutes,
 3 G.S. 143B-1280 through G.S. 143B-1285.

4 **SECTION 24.1.(k)** State Veterans Home. – Article 8 of Chapter 165 of the
 5 General Statutes is recodified as Part 10 of Article 14 of Chapter 143B of the General Statutes,
 6 G.S. 143B-1290 through G.S. 143B-1300.

7 **SECTION 24.1.(l)** North Carolina Military Affairs Commission. – Chapter 127C
 8 of the General Statutes is recodified as Part 11 of Article 14 of Chapter 143B of the General
 9 Statutes, G.S. 143B-1310 through G.S. 143B-1314.

10
 11 **CONFORMING CHANGES**

12 **SECTION 24.1.(m)** G.S. 20-79.4 reads as rewritten:

13 **"§ 20-79.4. Special registration plates.**

14 ...

15 (a2) Special Plates Based Upon Military Service. – ~~The Division of Veterans Affairs~~
 16 Department of Military and Veterans Affairs shall be responsible for verifying and maintaining
 17 all verification documentation for all special plates that are based upon military service. The
 18 ~~Division-Department~~ shall not issue a special plate that is based on military service unless the
 19 application is accompanied by a motor vehicle registration (MVR) verification form signed by
 20 the ~~Director of the Division of Veterans Affairs, Secretary of Military and Veterans Affairs, or~~
 21 ~~the Director's Secretary's~~ designee, showing that the ~~Division of Veterans Affairs-Department~~
 22 of Military and Veterans Affairs has verified the applicant's credentials and qualifications to
 23 hold the special plate applied for.

- 24 (1) Unless a qualifying condition exists requiring annual verification, no
 25 additional verification shall be required to renew a special registration plate
 26 either in person or through an online service.
- 27 (2) If the ~~Division of Veterans Affairs-Department of Military and Veterans~~
 28 Affairs determines a special registration plate has been issued due to an error
 29 on the part of the Division of Motor Vehicles, the plate shall be recalled and
 30 canceled.
- 31 (3) If the ~~Division of Veterans Affairs-Department of Military and Veterans~~
 32 Affairs determines a special registration plate has been issued to an applicant
 33 who falsified documents or has fraudulently applied for the special
 34 registration plate, the Division of Motor Vehicles shall revoke the special
 35 plate and take appropriate enforcement action.

36 "

37 **SECTION 24.1.(n)** G.S. 20-79.5 reads as rewritten:
 38 **"§ 20-79.5. Special registration plates for elected and appointed State government**
 39 **officials.**

40 (a) Plates. – The State government officials listed in this section are eligible for a
 41 special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the
 42 following table for the position held by the official.

Position	Number on Plate
Governor	1
Lieutenant Governor	2
...	
<u>Secretary of Military and Veterans Affairs</u>	<u>22</u>
Governor's Staff	<u>22-23-29</u>
...."	

50 **SECTION 24.1.(o)** G.S. 47-113.2 reads as rewritten:
 51 **"§ 47-113.2. Restricting access to military discharge documents.**

1 ...
2 (b) Definitions:
3 (1) Authorized party. – Four categories of authorized parties are recognized with
4 respect to access to military discharge documents under subsection (e) of
5 this section:

6 ...

7 c. Authorized agents of the ~~Division of Veterans Affairs, Department of~~
8 Military and Veterans Affairs, the United States Department of
9 Veterans Affairs, the Department of Defense, or a court official with
10 an interest in assisting the subject or the deceased subject's
11 beneficiaries to obtain a benefit.

12 ...

13 (h) The North Carolina Association of Registers of Deeds and the ~~Division of Veterans~~
14 ~~Affairs~~ Department of Military and Veterans Affairs shall adopt ~~before January 1, 2004,~~ such
15 request forms and associated rules as are required to implement the provisions of this section.
16 All filing offices shall use the forms and comply with the rules, as adopted.

17"

18 **SECTION 24.1.(p)** G.S. 65-43.4(b) reads as rewritten:

19 "(b) A disinterment may be permitted, at no cost to the State, when the following
20 conditions are satisfied:

21 (1) The disinterment is requested in writing and filed with the Program Director
22 of the veterans cemeteries, the Assistant Secretary for Veterans Affairs, or
23 the ~~Division of Veterans Affairs;~~ Department of Military and Veterans
24 Affairs;

25 (2) The request for disinterment contains the notarized signature of the nearest
26 of kin, such as surviving spouse. If the spouse is deceased, the signatures of
27 a majority of the surviving children of legal age will be required;

28 (3) The funeral director has obtained all necessary permits for disinterment."

29 **SECTION 24.1.(q)** G.S. 65-43.5 reads as rewritten:

30 "**§ 65-43.5. Reinterment.**

31 (a) The remains of a qualified veteran or the remains of an eligible family member may
32 be moved to a State veterans cemetery for reinterment, at no cost to the State, when the
33 following conditions are satisfied:

34 ...

35 (2) The reinterment is requested in writing and filed with the Program Manager
36 of veterans cemeteries, the Assistant Secretary for Veterans Affairs, or the
37 ~~Division of Veterans Affairs;~~ and Department of Military and Veterans
38 Affairs;

39"

40 **SECTION 24.1.(r)** G.S. 93B-15.1(c1) reads as rewritten:

41 "(c1) Each occupational licensing board shall publish a document that lists the specific
42 criteria or requirements for licensure, registration, or certification by the board, with a
43 description of the criteria or requirements that are satisfied by military training or experience as
44 provided in this section, and any necessary documentation needed for obtaining the credit or
45 satisfying the requirement. The information required by this subsection shall be published on
46 the occupational licensing board's Web site and the Web site of the ~~North Carolina Division of~~
47 ~~Veterans Affairs.~~ Department of Military and Veterans Affairs."

48 **SECTION 24.1.(s)** G.S. 116-209.23 reads as rewritten:

49 "**§ 116-209.23. Inconsistent laws inapplicable.**

50 Insofar as the provisions of this Article are inconsistent with the provisions of any general
51 or special laws, or parts thereof, the provisions of this Article shall be controlling, except that

1 no provision of the 1971 amendments to this Article shall apply to scholarships for children of
 2 war veterans as set forth in ~~Article 4 of Chapter 165~~, Part 2 of Article 14 of Chapter 143B of the
 3 General Statutes, as amended."

4 **SECTION 24.1.(t)** G.S. 116B-7(b) reads as rewritten:

5 "(b) An amount specified in the Current Operations Appropriations Act shall be
 6 transferred annually from the Escheat Fund to the Department of ~~Administration~~ Military and
 7 Veterans Affairs to partially fund the program of Scholarships for Children of War Veterans
 8 established by ~~Article 4 of Chapter 165~~ Part 2 of Article 14 of Chapter 143B of the General
 9 Statutes. Those funds may be used only for residents of this State who (i) are worthy and needy
 10 as determined by the Department of ~~Administration~~ Military and Veterans Affairs and (ii) are
 11 enrolled in public institutions of higher education of this State."

12 **SECTION 24.1.(u)** G.S. 126-2(b1)(5) reads as rewritten:

13 "(b1) The Commission shall consist of nine members, appointed as follows:

14 ...

15 (5) One member who is a veteran of the Armed Forces of the United States
 16 appointed by the Governor upon the nomination of the ~~Veterans~~ Veterans'
 17 Affairs Commission and who is a State employee subject to this Chapter
 18 serving in a nonexempt supervisory position. The member may not be a
 19 human resources professional."

20 **SECTION 24.1.(v)** G.S. 126-5(d)(1) is amended by adding a new sub-subdivision
 21 to read:

- 22 "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
 23 Chapter, which is known as the North Carolina Human Resources Act, the
 24 Governor may designate a total of 1,500 exempt positions throughout the
 25 following departments and offices:
 26 a. Department of Administration.
 27 b. Department of Commerce.
 28 c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012,
 29 and by Session Laws 2012-142, s. 25.2E(a), effective January 1,
 30 2013.
 31 d. Department of Public Safety.
 32 e. Department of Cultural Resources.
 33 f. Department of Health and Human Services.
 34 g. Department of Environment and Natural Resources.
 35 h. Department of Revenue.
 36 i. Department of Transportation.
 37 j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012,
 38 and by Session Laws 2012-142, s. 25.2E(a), effective January 1,
 39 2013.
 40 k. Office of Information Technology Services.
 41 l. Office of State Budget and Management.
 42 m. Office of State Human Resources.
 43 n. Department of Military and Veterans Affairs."

44 **SECTION 24.1.(w)** G.S. 127C-1, as recodified by subsection (l) of this section,
 45 reads as rewritten:

46 "**§ 143B-1310. Commission established; purpose; transaction of business.**

47 (a) Establishment. – There is established the North Carolina Military Affairs
 48 Commission. The Commission shall be established within the ~~Office of the Governor~~. ~~The~~
 49 ~~Department of Commerce is responsible for organizational, budgetary, and administrative~~
 50 ~~purposes.~~ Department of Military and Veterans Affairs.

1 (b) Purpose. – The Commission shall provide advice, counsel, and recommendations to
2 ~~the Governor,~~ the General Assembly, the Secretary of ~~Commerce,~~ Military and Veterans
3 Affairs, and other State agencies on initiatives, programs, and legislation that will continue and
4 increase the role that North Carolina's military installations, the National Guard, and Reserves
5 play in America's defense strategy and the economic health and vitality of the State. The
6 Commission is authorized ~~to do all of the following, as delegated by the Secretary of~~
7 Military and Veterans Affairs:

8 ...
9 (c) Transaction of Business. – The Commission shall meet, at a minimum, at least once
10 during each quarter and shall provide a report on military affairs to the ~~Governor~~ Secretary of
11 Military and Veterans Affairs and to the General Assembly at least every six months. Prior to
12 the start of a Regular Session of the General Assembly, the Commission shall report to the
13 General Assembly with recommendations, if any, for legislation. Priority actions or issues may
14 be submitted at any time.

15"

16 **SECTION 24.1.(x)** G.S. 127C-2(h), as recodified by subsection (l) of this section,
17 reads as rewritten:

18 "(h) The initial meeting of the Commission shall be within 30 days of the effective date
19 of this act at a time and place to be determined by the Secretary of Commerce. The first order
20 of business at the initial meeting of the Commission shall be the adoption of bylaws and
21 establishment of committees, after which the Commission shall meet upon the call of the
22 ~~Chairman or the Military Advisor within the Office of the Governor, or the Secretary of the~~
23 Department of Military and Veterans Affairs. The members shall receive no compensation for
24 attendance at meetings, except a per diem expense reimbursement. Members of the
25 Commission who are not officers or employees of the State shall receive reimbursement for
26 subsistence and travel expenses at rates set out in G.S. 138-5 from funds made available to the
27 Commission. Members of the Commission who are officers or employees of the State shall be
28 reimbursed for travel and subsistence at the rates set out in G.S. 138-6 from funds made
29 available to the Commission. The Department of ~~Commerce~~ Military and Veterans Affairs
30 shall use funds within its budget for the per diem, subsistence, and travel expenses authorized
31 by this subsection."

32 **SECTION 24.1.(y)** G.S. 127C-3, as recodified by subsection (l) of this section, is
33 repealed.

34 **SECTION 24.1.(z)** G.S. 127C-5, as recodified by subsection (l) of this section,
35 reads as rewritten:

36 "**§ 143B-1314. Protection of sensitive documents.**

37 (a) In carrying out any purpose set out in ~~G.S. 127C-1(b),~~ G.S. 143B-1310(b), the
38 Commission and the Department of ~~Commerce~~ Military and Veterans Affairs may share
39 documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11
40 with other public bodies. Any information shared under this subsection shall be confidential
41 and exempt from Chapter 132 of the General Statutes to the same extent that it is confidential
42 in the possession of the Commission or the Department.

43 (b) In carrying out any purpose set out in ~~G.S. 127C-1(b),~~ G.S. 143B-1310(b), the
44 Commission and the Department of ~~Commerce~~ Military and Veterans Affairs may share
45 documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11
46 with any third party in its discretion. Any information shared under this subsection shall be
47 shared under an agreement to keep the information confidential to the same extent that it is
48 confidential in the possession of the Commission or the Department."

49 **SECTION 24.1.(aa)** G.S. 143B-6 is amended by adding a new subdivision to read:

50 "**§ 143B-6. Principal departments.**

1 In addition to the principal departments enumerated in the Executive Organization Act of
 2 1971, all executive and administrative powers, duties, and functions not including those of the
 3 General Assembly and its agencies, the General Court of Justice and the administrative
 4 agencies created pursuant to Article IV of the Constitution of North Carolina, and higher
 5 education previously vested by law in the several State agencies, are vested in the following
 6 principal departments:

7 ...
 8 (12) Department of Military and Veterans Affairs."

9 **SECTION 24.1(bb)** G.S. 143B-399, as recodified and renumbered by subsection
 10 (c) of this section, reads as rewritten:

11 "**§ 143B-1220. Veterans' Affairs Commission – creation, powers and duties.**

12 There is hereby created the Veterans' Affairs Commission of the Department of
 13 ~~Administration of Military and Veterans Affairs.~~ The Veterans' Affairs Commission shall have
 14 the following functions and ~~duties;~~duties, as delegated by the Secretary of Military and
 15 Veterans Affairs:

- 16 (1) To advise the ~~Governor~~Secretary of Military and Veterans Affairs on
 17 matters relating to the affairs of veterans in North Carolina;
- 18 (2) To maintain a continuing review of the operation and budgeting of existing
 19 programs for veterans and their dependents in the State and to make any
 20 recommendations to the ~~Governor~~Secretary of Military and Veterans
 21 Affairs for improvements and additions to such matters to which the
 22 ~~Governor~~Secretary shall give due consideration;
- 23 (3) ~~To serve collectively as a liaison between the Division of Veterans Affairs~~
 24 ~~and the veterans organizations represented on the Commission;~~
- 25 (4) To promulgate rules and regulations concerning the awarding of
 26 scholarships for children of North Carolina veterans as provided by ~~Article 4~~
 27 ~~of Chapter 165 of the General Statutes of North Carolina.~~ this Article. The
 28 Commission shall make rules and regulations consistent with the provisions
 29 of this ~~Chapter.~~ Article. All rules and regulations not inconsistent with the
 30 provisions of this Chapter heretofore adopted by the State Board of Veterans'
 31 Affairs shall remain in full force and effect unless and until repealed or
 32 superseded by action of the ~~Veterans~~Veterans' Affairs Commission. All
 33 rules and regulations adopted by the Commission shall be enforced by the
 34 ~~Division of Veterans' Affairs;~~Department of Military and Veterans Affairs;
- 35 (4a) To promulgate rules concerning the awarding of the North Carolina Services
 36 Medal to all veterans who have served in any period of war as defined in 38
 37 U.S.C. § 101. The award shall be self-financing; those who wish to be
 38 awarded the medal shall pay a fee to cover the expenses of producing the
 39 medal and awarding the medal. All rules adopted by the Commission with
 40 respect to the North Carolina Services Medal shall be implemented and
 41 enforced by the ~~Division of Veterans' Affairs;~~Department of Military and
 42 Veterans Affairs; and
- 43 (5) To advise the ~~Governor~~Secretary on any matter the ~~Governor~~Secretary may
 44 refer to it."

45 **SECTION 24.1(cc)** G.S. 143B-400, as recodified and renumbered by subsection
 46 (c) of this section, reads as rewritten:

47 "**§ 143B-1221. Veterans' Affairs Commission – members; selection; quorum;**
 48 **compensation.**

49 The Veterans' Affairs Commission of the Department of ~~Administration~~Military and
 50 Veterans Affairs shall consist of one voting member from each congressional district, all of
 51 whom shall be veterans, appointed by the Governor for four-year terms. In making these

1 appointments, the Governor shall insure that both major political parties will be continuously
2 represented on the Veterans' Affairs Commission.

3 The initial members of the Commission shall be the appointed members of the current
4 Veterans' Affairs Commission who shall serve for the remainder of their current terms and six
5 additional members appointed by the Governor for terms expiring June 30, 1981. Thereafter, all
6 members shall be appointed for terms of four years. Any appointment to fill a vacancy on the
7 Commission created by the resignation, dismissal, death or disability of a member shall be for
8 the balance of the unexpired term. The Governor shall have the power to remove any member
9 of the Commission in accordance with provisions of G.S. 143B-13.

10 In the event that more than 11 congressional districts are established in the State, the
11 Governor shall on July 1 following the establishment of such additional congressional districts
12 appoint a member of the Commission from that congressional district. If on July 1, 1977, or at
13 any time thereafter due to congressional redistricting, two or more members of the Veterans'
14 Affairs Commission shall reside in the same congressional district then such members shall
15 continue to serve as members of the Commission for a period equal to the remainder of their
16 current terms on the Commission provided that upon the expiration of said term or terms the
17 Governor shall fill such vacancy or vacancies in such a manner as to insure that as
18 expeditiously as possible there is one member of the Veterans' Affairs Commission who is a
19 resident of each congressional district in the State.

20 The Governor shall designate from the membership of the Commission a chairman and
21 vice-chairman of the Commission who shall serve at the pleasure of the Governor. The
22 Secretary of the Department of ~~Administration~~ Military and Veterans Affairs or his designee
23 shall serve as secretary of the Commission.

24 Members of the Commission shall receive per diem and necessary travel and subsistence
25 expenses in accordance with provisions of G.S. 138-5.

26 A majority of the Commission shall constitute a quorum for the transaction of business.

27 The Veterans' Affairs Commission shall meet at least twice a year and may hold special
28 meetings at any time or place within the State at the call of the chairman, at the call of the
29 Secretary of the Department of ~~Administration~~ Military and Veterans Affairs or upon the
30 written request of at least six members.

31 All clerical and other services required by the Commission shall be provided by the
32 Secretary of the Department of ~~Administration~~ Military and Veterans Affairs."

33 **SECTION 24.1.(dd)** G.S. 143B-420, as recodified by subsection (d) of this
34 section, reads as rewritten:

35 **"§ 143B-1235. Governor's Jobs for Veterans Committee – creation; appointment,
36 organization, etc.; duties.**

37 (a) There is hereby created and established in the North Carolina Department of
38 ~~Administration, Division of Veterans Affairs, Military and Veterans Affairs,~~ a committee to be
39 known as the Governor's Jobs for Veterans Committee, with one member from each
40 Congressional district, appointed by the Governor. Members of the Committee shall serve at
41 the pleasure of the Governor. The Secretary of ~~Administration, Military and Veterans Affairs~~
42 with the concurrence of the Governor, shall appoint a chairman to administer this Committee
43 who shall be subject to the direction and supervision of the Secretary. The chairman shall serve
44 at the pleasure of the Secretary. The chairman shall devote full time to his duties of office.

45 (b) ~~Subject to the general supervision of the Secretary, the~~ The duties of the chairman
46 shall include but not be limited to the ~~following:~~ following, as delegated by the Secretary of
47 Military and Veterans Affairs:

- 48 (1) Serving as a liaison between the Office of the Governor and all State
49 agencies to insure that veterans receive the employment preference to which
50 they are legally entitled and that such State agencies list available jobs with
51 appropriate public employment services;

- 1 (2) Evaluating existing programs designed to benefit veterans and submitting
- 2 reports and recommendations to the Governor and Secretary;
- 3 (3) Developing and furthering favorable employer attitudes toward the
- 4 employment of veterans by appropriate promulgation of information
- 5 concerning veterans and the functions of the Committee;
- 6 (4) Serving as a liaison between the Committee and communities throughout the
- 7 State to the end that civic committees and volunteer groups are formed and
- 8 utilized to promote the objectives of the Committee;
- 9 (5) Assisting employers in properly designing affirmative action plans as they
- 10 relate to handicapped and Vietnam-era veterans;
- 11 (6) Serving as a liaison between veterans and State agencies on questions
- 12 regarding the employment practices of such State agencies."

13 **SECTION 24.1.(ee)** G.S. 161-10.1 reads as rewritten:

14 **"§ 161-10.1. Exemption of Armed Forces discharge documents and certain other records**
15 **needed in support of claims for veterans' benefits.**

16 Any schedule of fees which is now or may be prescribed in Chapter 161 of the General
17 Statutes or in G.S. 161-10 shall not apply to nor shall the same repeal any of the provisions of
18 Article 5 of Chapter 47 of the General Statutes. Any schedule of fees which is now or may be
19 hereafter prescribed in Chapter 161 of the General Statutes or as may appear in G.S. 161-10
20 shall not apply to nor shall the same repeal any of the provisions of
21 ~~G.S. 165-11~~G.S. 143B-1215."

22 **SECTION 24.1.(ff)** G.S. 165-11, as recodified by subsection (e) of this section,
23 reads as rewritten:

24 **"§ 143B-1215. Copies of records to be furnished to the Department of**
25 **Administration, Military and Veterans Affairs.**

26 (a) Whenever copies of any State and local public records are requested by a
27 representative of the Department of ~~Administration, Military and Veterans Affairs~~ in assisting
28 persons in obtaining any federal, State, local or privately provided benefits relating to veterans
29 and their beneficiaries, the official charged with the custody of any such records shall without
30 charge furnish said representative with the requested number of certified copies of such
31 records; provided, that this section shall not apply to the disclosure of information in certain
32 privileged and confidential records referred to elsewhere in the General Statutes of North
33 Carolina, which information shall continue to be disclosed in the manner prescribed by the
34 statute relating thereto.

35 (b) No official chargeable with the collection of any fee or charge under the laws of the
36 State of North Carolina in connection with his official duties shall be held accountable on his
37 official bond or otherwise for any fee or charge remitted pursuant to the provisions of this
38 section."

39 **SECTION 24.1.(gg)** G.S. 165-11.1, as recodified by subsection (e) of this section,
40 reads as rewritten:

41 **"§ 143B-1216. Confidentiality of ~~Veterans Affairs~~ Department of Military and Veterans**
42 **Affairs records.**

43 Notwithstanding any other provisions of Chapter 143B, no records of the ~~Division of~~
44 ~~Veterans Affairs in the Department of Administration~~ Department of Military and Veterans
45 Affairs shall be disclosed or used for any purpose except for official purposes, and no records
46 shall be disclosed, destroyed or used in any manner which is in violation of any existing federal
47 law or regulation. Nothing in this Chapter shall convert records which are the property of the
48 federal government into State property."

49 **SECTION 24.1.(hh)** G.S. 165-20, as recodified by subsection (c) of this section,
50 reads as rewritten:

51 **"§ 143B-1224. Definitions.**

As used in this Article the terms defined in this section shall have the following meaning:

(3) "Child" means a person: (i) under 25 years of age at the time of application for a scholarship, (ii) who is a domiciliary of North Carolina and is a resident of North Carolina when applying for a scholarship, (iii) who has completed high school or its equivalent prior to receipt of a scholarship awarded under this Article, (iv) who has complied with the requirements of the Selective Service System, if applicable, and (v) who further meets one of the following requirements:

- a. A person whose veteran parent was a legal resident of North Carolina at the time of said veteran's entrance into that period of service in the Armed Forces during which eligibility is established under ~~G.S. 165-22~~G.S. 143B-1226.
- b. A veteran's child who was born in North Carolina and has been a resident of North Carolina continuously since birth. Provided, that the requirement in the preceding sentence as to birth in North Carolina may be waived by the Department of ~~Administration~~Military and Veterans Affairs if it is shown to the satisfaction of the Department that the child's mother was a native-born resident of North Carolina and was such resident at the time of her marriage to the veteran and was outside the State temporarily at the time of the child's birth, following which the child was returned to North Carolina within a reasonable period of time where said child has since lived continuously.
- c. A person meeting either of the requirements set forth in subdivision (3) a or b above, and who was legally adopted by the veteran prior to said person's reaching the age of 15 years.

(5) "Private educational institution" means any junior college, senior college or university which is operated and governed by private interests not under the control of the federal, State or any local government, which is located within the State of North Carolina, which does not operate for profit, whose curriculum is primarily directed toward the awarding of associate, baccalaureate or graduate degrees, which agrees to the applicable administration and funding provisions of ~~G.S. 165-22.1~~G.S. 143B-1227, of this Article, and which is otherwise approved by the State Board of Veterans Affairs.

...."

SECTION 24.1.(ii) G.S. 165-21, as recodified by subsection (c) of this section, reads as rewritten:

"§ 143B-1225. Scholarship.

(a) A scholarship granted pursuant to this Article shall consist of the following benefits in either a State or private educational institution:

...

(2) With respect to private educational institutions, a scholarship shall consist of a monetary allowance as prescribed in ~~G.S. 165-22.1(d)~~G.S. 143B-1227(d).

...."

SECTION 24.1.(jj) G.S. 165-22, as recodified by subsection (c) of this section, reads as rewritten:

"§ 143B-1226. Classes or categories of eligibility under which scholarships may be awarded.

1 A child, as defined in this Article, who falls within the provisions of any eligibility class
2 described below shall, upon proper application be considered for a scholarship, subject to the
3 provisions and limitations set forth for the class under which the child is considered:

4 ...

5 (2) Class I-B: Under this class a limited scholarship providing only those
6 benefits set forth in ~~G.S. 165-21(1)a and d and 165-21(2) of this Article,~~
7 G.S. 143B-1225(a)(1)a. and d. and G.S. 143B-1225(a)(2) shall be awarded
8 to any child whose veteran parent, at the time the benefits pursuant to this
9 Article are sought to be availed of, is or was at the time of his death
10 receiving compensation for a wartime service-connected disability of one
11 hundred percent (100%) as rated by the United States Department of
12 Veterans Affairs. Provided, that if the veteran parent of a recipient under this
13 class should die of his wartime service-connected condition before the
14 recipient shall have utilized all of his scholarship eligibility time, then the
15 North Carolina Department of ~~Administration~~ Military and Veterans Affairs
16 shall amend the recipient's award from Class I-B to Class I-A for the
17 remainder of the recipient's eligibility time. The effective date of such an
18 amended award shall be determined by the Department of ~~Administration,~~
19 Military and Veterans Affairs but, in no event shall it predate the date of the
20 veteran parent's death.

21 ...

22 (4) Class III: Under this class a scholarship may be awarded to not more than
23 100 children yearly, each of whose veteran parent, at the time the benefits
24 pursuant to this Article are sought to be availed of:

- 25 a. Is or was at the time of his death drawing pension for permanent and
26 total disability, nonservice-connected, as rated by the United States
27 Department of Veterans Affairs.
28 b. Is deceased and who does not fall within the provisions of any other
29 eligibility class described in ~~G.S. 165-22(1),~~ G.S. 143B-1226(1), (2),
30 (3), (4)a., nor (5).
31 c. Served in a combat zone, or waters adjacent to a combat zone, or any
32 other campaign, expedition, or engagement for which the United
33 States Department of Defense authorizes a campaign badge or medal,
34 who does not fall within the provisions of any other class described
35 in ~~G.S. 165-22(1),~~ G.S. 143B-1226(1), (2), (3), (4)a., or (5).

36 (5) Class IV: Under this class a scholarship as defined in ~~G.S. 165-21~~
37 G.S. 143B-1225 shall be awarded to any child whose parent, while serving
38 honorably as a member of the Armed Forces in active federal service during
39 a period of war, as defined in ~~G.S. 165-20(4),~~ G.S. 143B-1224(4), was listed
40 by the United States government as (i) missing in action, (ii) captured in line
41 of duty by a hostile force, or (iii) forcibly detained or interned in line of duty
42 by a foreign government or power."

43 **SECTION 24.1.(kk)** G.S. 165-22.1, as recodified by subsection (c) of this section,
44 reads as rewritten:

45 "**§ 143B-1227. Administration and funding.**

46 (a) The administration of the scholarship program shall be vested in the Department of
47 ~~Administration,~~ Military and Veterans Affairs, and the disbursing and accounting activities
48 required shall be a responsibility of the Department of ~~Administration,~~ Military and Veterans
49 Affairs. The ~~Veterans-~~ Veterans' Affairs Commission shall determine the eligibility of
50 applicants, select the scholarship recipients, establish the effective date of scholarships, and
51 may suspend or revoke scholarships if the ~~said Veterans-~~ Veterans' Affairs Commission finds

1 that the recipient does not comply with the registration requirements of the Selective Service
2 System or does not maintain an adequate academic status, or if the recipient engages in riots,
3 unlawful demonstrations, the seizure of educational buildings, or otherwise engages in
4 disorderly conduct, breaches of the peace or unlawful assemblies. The Department of
5 ~~Administration~~ Military and Veterans Affairs shall maintain the primary and necessary records,
6 and the ~~Veterans~~ Veterans' Affairs Commission shall promulgate such rules and regulations not
7 inconsistent with the other provisions of this Article as it deems necessary for the orderly
8 administration of the program. It may require of State or private educational institutions, as
9 defined in this Article, such reports and other information as it may need to carry out the
10 provisions of this Article. The Department of ~~Administration~~ Military and Veterans Affairs
11 shall disburse scholarship payments for recipients certified eligible by the Department of
12 ~~Administration~~ Military and Veterans Affairs upon certification of enrollment by the enrolling
13 institution.

14 (b) Funds for the support of this program shall be appropriated to the Department of
15 ~~Administration~~ Military and Veterans Affairs as a reserve for payment of the allocable costs for
16 room, board, tuition, and other charges, and shall be placed in a separate budget code from
17 which disbursements shall be made. Funds to support the program shall be supported by
18 receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be used only
19 for worthy and needy residents of this State who are enrolled in public institutions of higher
20 education of this State. In the event the said appropriation for any year is insufficient to pay the
21 full amounts allocable under the provisions of this Article, such supplemental sums as may be
22 necessary shall be allocated from the Contingency and Emergency Fund. The method of
23 disbursing and accounting for funds allocated for payments under the provisions of this section
24 shall be in accordance with those standards and procedures prescribed by the Director of the
25 Budget, pursuant to the ~~Executive Budget Act~~ State Budget Act.

26 (c) Allowances for room and board in State educational institutions shall be at such rate
27 as established by the Secretary of the Department of ~~Administration~~ Military and Veterans
28 Affairs.

29 (d) Scholarship recipients electing to attend a private educational institution shall be
30 granted a monetary allowance for each term or other academic period attended under their
31 respective scholarship awards. All recipients under Class I-B scholarship shall receive an
32 allowance at one rate, irrespective of course or institution; all recipients under Classes I-A, II,
33 III and IV shall receive a uniform allowance at a rate higher than for Class I-B, irrespective of
34 course or institution. The amount of said allowances shall be determined by the Director of the
35 Budget and made known prior to the beginning of each fall quarter or semester; provided that
36 the Director of the Budget may change the allowances at intermediate periods when in his
37 judgment such changes are necessary. Disbursements by the State shall be to the private
38 institution concerned, for credit to the account of each recipient attending said institution. The
39 manner of payment to any private institution shall be as prescribed by the Department of
40 ~~Administration~~ Military and Veterans Affairs. The participation by any private institution in
41 the program shall be subject to the applicable provisions of this Article and to examination by
42 State auditors of the accounts of scholarship recipients attending or having attended private
43 institutions. The ~~Veterans~~ Veterans' Affairs Commission may defer making an award or may
44 suspend an award in any private institution which does not comply with the provisions of this
45 Article relating to said institutions.

46 (e) Irrespective of other provisions of this Article, the ~~Veterans~~ Veterans' Affairs
47 Commission may prescribe special procedures for adjusting the accounts of scholarship
48 recipients who for reasons of illness, physical inability to attend class or for other valid reason
49 satisfactory to the ~~Veterans~~ Veterans' Affairs Commission may withdraw from State or private
50 educational institutions prior to the completion of the term, semester, quarter or other academic
51 period being attended at the time of withdrawal. Such procedures may include, but shall not be

1 limited to, paying the recipient the dollar value of his unused entitlements for the academic
2 period being attended, with a corresponding deduction of this period from his remaining
3 scholarship eligibility time."

4 **SECTION 24.1.(ll)** G.S. 165-44.5, as recodified by subsection (j) of this section,
5 reads as rewritten:

6 "**§ 143B-1284. Priority employment assistance directed.**

7 All covered service providers, as specified in ~~G.S. 165-44.4~~, G.S. 143B-1283, shall
8 establish procedures to provide veterans with priority, not inconsistent with existing federal or
9 State law, to participate in employment and job training assistance programs."

10 **SECTION 24.1.(mm)** G.S. 165-44.6, as recodified by subsection (j) of this section,
11 reads as rewritten:

12 "**§ 143B-1285. Implementation and performance measures.**

13 The North Carolina Commission on Workforce Preparedness shall:

- 14 (1) Issue implementing directives that shall apply to all covered service
15 providers as specified in ~~G.S. 165-44.4~~, G.S. 143B-1283, and revise those
16 directives as necessary to accomplish the purpose of this Article.
- 17 (2) Develop measures of service for veterans that will serve as indicators of
18 compliance with the provisions of this Article by all covered service
19 providers.
- 20 (3) Annually publish and submit to the Joint Legislative Commission on
21 Governmental Operations, beginning not later than October 1, 1998, a report
22 detailing covered providers' compliance with the provisions of this Article."

23 **SECTION 24.1.(nn)** G.S. 165-46, as recodified by subsection (k) of this section,
24 reads as rewritten:

25 "**§ 143B-1291. Establishment.**

26 The State of North Carolina shall construct, maintain, and operate veterans homes for the
27 aged and infirm veterans resident in this State under the administrative authority and control of
28 the ~~Division of Veterans Affairs of the Department of Administration~~. Department of Military
29 and Veterans Affairs. There is vested in ~~such Division~~ the Department any and all powers and
30 authority that may be necessary to enable it to establish and operate the homes and to issue
31 rules necessary to operate the homes in compliance with applicable State and federal statutes
32 and regulations."

33 **SECTION 24.1.(oo)** G.S. 165-47, as recodified by subsection (k) of this section,
34 reads as rewritten:

35 "**§ 143B-1292. Exemption from certificate of need.**

36 Any state veterans home established by the ~~Division of Veterans Affairs~~ Department of
37 Military and Veterans Affairs shall be exempt from the certificate of need requirements as set
38 out in Article 9 of Chapter 131E, or as may be hereinafter enacted."

39 **SECTION 24.1.(pp)** G.S. 165-48, as recodified by subsection (k) of this section,
40 reads as rewritten:

41 "**§ 143B-1293. North Carolina Veterans Home Trust Fund.**

42 (a) Establishment. – A trust fund shall be established in the State treasury, for the
43 ~~Division of Veterans Affairs~~, Department of Military and Veterans Affairs, to be known as the
44 North Carolina Veterans Home Trust Fund.

45 (b) Composition. – The trust fund shall consist of all funds and monies received by the
46 ~~Veterans~~ Veterans' Affairs Commission ~~or the Division of Veterans Affairs~~ from the United
47 States, any federal agency or institution, and any other source, whether as a grant,
48 appropriation, gift, contribution, devise, or individual reimbursement, for the care and support
49 of veterans who have been admitted to a State veterans home.

1 (c) Use of Fund. – The trust fund created in subsection (a) of this section shall be used
2 by the ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs to do the
3 following:

- 4 (1) To pay for the care of veterans in said State veterans homes;
- 5 (2) To pay the general operating expenses of the State veterans homes, including
6 the payment of salaries and wages of officials and employees of said homes;
7 and
- 8 (3) To remodel, repair, construct, modernize, or add improvements to buildings
9 and facilities at the homes.

10 (d) Miscellaneous. – The following provisions apply to the trust fund created in
11 subsection (a) of this section:

- 12 (1) All funds deposited and all income earned on the investment or reinvestment
13 of such funds shall be credited to the trust fund.
- 14 (2) Any monies remaining in the trust fund at the end of each fiscal year shall
15 remain on deposit in the State treasury to the credit of the North Carolina
16 Veterans Home Trust Fund.
- 17 (3) Nothing contained herein shall prohibit the establishment and utilization of
18 special agency accounts by the ~~Division of Veterans Affairs~~, ~~as may be~~
19 ~~approved by the Veterans~~Veterans' Affairs Commission, for the receipt and
20 disbursement of personal funds of the State veterans homes' residents or for
21 receipt and disbursement of charitable contributions for use by and for
22 residents."

23 **SECTION 24.1.(qq)** G.S. 165-49, as recodified by subsection (k) of this section,
24 reads as rewritten:

25 "**§ 143B-1294. Funding.**

26 (a) The ~~Division of Veterans Affairs of the Department of Administration~~Department
27 of Military and Veterans Affairs may apply for and receive federal aid and assistance from the
28 United States Department of Veterans Affairs or any other agency of the United States
29 Government authorized to pay federal aid to states for the construction and acquisition of
30 veterans homes under Title 38, United States Code, section 8131 et seq., or for the care or
31 support of disabled veterans in State veterans homes under Title 38, United States Code,
32 section 1741 et seq., or from any other federal law for said purposes.

33 (b) The ~~Division of Veterans Affairs~~Department may receive from any source any gift,
34 contribution, devise, or individual reimbursement, the receipt of which does not exclude any
35 other source of revenue.

36 (c) All funds received by the ~~Division~~Department shall be deposited in the North
37 Carolina Veterans Home Trust Fund, except for any funds deposited into special agency
38 accounts established pursuant to ~~G.S. 165-48(d)(3)~~G.S. 143B-1293(d)(3). The ~~Veterans~~
39 Veterans' Affairs Commission shall authorize the expenditure of all funds from the North
40 Carolina Veterans Home Trust Fund. The ~~Veterans~~Veterans' Affairs Commission may delegate
41 authority to the Assistant Secretary of Veterans Affairs for the expenditure of funds from the
42 North Carolina Veterans Home Trust Fund for operations of the State Veterans Nursing
43 Homes."

44 **SECTION 24.1.(rr)** G.S. 165-50, as recodified by subsection (k) of this section,
45 reads as rewritten:

46 "**§ 143B-1295. Contracted operation of homes.**

47 The ~~Veterans~~Veterans' Affairs Commission may contract with persons or other
48 nongovernmental entities to operate each State veterans home. Contracts for the procurement of
49 services to manage, administer, and operate any State veterans home shall be awarded on a
50 competitive basis through the solicitation of proposals and through the procedures established
51 by statute and the Division of Purchase and Contract. A contract may be awarded to the vendor

1 whose proposal is most advantageous to the State, taking into consideration cost, program
2 suitability, management plan, excellence of program design, key personnel, corporate or
3 company resources, financial condition of the vendor, experience and past performance, and
4 any other qualities deemed necessary by the ~~Veterans~~ Veterans' Affairs Commission and set out
5 in the solicitation for proposals. Any contract awarded under this section shall not exceed five
6 years in length. The ~~Veterans~~ Veterans' Affairs Commission is not required to select or
7 recommend the vendor offering the lowest cost proposal but shall select or recommend the
8 vendor who, in the opinion of the Commission, offers the proposal most advantageous to the
9 veterans and the State of North Carolina."

10 **SECTION 24.1.(ss)** G.S. 165-51, as recodified by subsection (k) of this section,
11 reads as rewritten:

12 **"§ 143B-1296. Program staff.**

13 The ~~Division~~ Department shall appoint and fix the salary of an Administrative Officer for
14 the State veterans home program. The Administrative Officer shall be an honorably discharged
15 veteran who has served in active military service in the Armed Forces of the United States for
16 other than training purposes. The Administrative Officer shall direct the establishment of the
17 State veterans home program, coordinate the master planning, land acquisition, and
18 construction of all State veterans homes under the procedures of the Office of State
19 Construction, and oversee the ongoing operation of said veterans homes. The Division may hire
20 any required additional administrative staff to help with administrative and operational
21 responsibilities at each established State veterans home."

22 **SECTION 24.1.(tt)** G.S. 165-52, as recodified by subsection (k) of this section,
23 reads as rewritten:

24 **"§ 143B-1297. Admission and dismissal authority.**

25 The ~~Veterans~~ Veterans' Affairs Commission shall have authority to determine
26 administrative standards for admission and dismissal, as well as the medical conditions, of all
27 persons admitted to and dismissed from any State veterans home, and to issue any necessary
28 rules, subject to the requirements set out in ~~G.S. 165-53~~ G.S. 143B-1298."

29 **SECTION 24.1.(uu)** G.S. 165-54, as recodified by subsection (k) of this section,
30 reads as rewritten:

31 **"§ 143B-1299. Deposit required.**

32 Each resident of any State veterans home shall pay to the ~~Division of Veterans Affairs~~
33 Department of Military and Veterans Affairs the cost of maintaining his or her residence at the
34 home. This deposit shall be placed in the North Carolina Veterans Home Trust Fund and shall
35 be in an amount and in the form prescribed by the ~~Veterans~~ Veterans' Affairs Commission in
36 consultation with the Assistant Secretary for Veterans Affairs."

37 **SECTION 24.1.(vv)** G.S. 165-55, as recodified by subsection (k) of this section,
38 reads as rewritten:

39 **"§ 143B-1300. Report and budget.**

40 (a) The Assistant Secretary for Veterans Affairs shall report annually to the Secretary of
41 the Department of ~~Administration~~ Military and Veterans Affairs on the activities of the State
42 Veterans Homes Program. This report shall contain an accounting of all monies received and
43 expended, statistics on residents in the homes during the year, recommendations to the
44 Secretary, the Governor, and the General Assembly as to the program, and such other matters
45 as may be deemed pertinent.

46 (b) The Assistant Secretary for Veterans Affairs, with the approval of the ~~Veterans~~
47 Veterans' Affairs Commission, shall compile an annual budget request for any State funding
48 needed for the anticipated costs of the homes, which shall be submitted to the Secretary of the
49 Department of ~~Administration~~ Military and Veterans Affairs. State appropriated funds for
50 operational needs shall be made available only in the event that other sources are insufficient to
51 cover essential operating costs."

1 SECTION 24.1.(ww) This section becomes effective on January 1, 2016.

2
3 **RESTORE STATE CONTRIBUTION TO COUNTY VETERANS SERVICES**
4 **PROGRAMS**

5 SECTION 24.2. G.S. 143B-1211, as enacted by Section 24.1(b) of this act, is
6 amended by adding a new subdivision to read:

7 "**§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

8 It shall be the duty of the Department of Military and Veterans Affairs to do all of the
9 following:

10 ...

11 (24) Contribute each fiscal year to each county that applies for it an amount for
12 the maintenance and operation of a county veterans services program.
13 Participating counties shall furnish the Department such reports,
14 accountings, and other information at such times and in such form as the
15 Department may require. The amount contributed to each county under this
16 subdivision shall be as follows:

17 a. If funds appropriated to the Department for contributions under this
18 subdivision exceed the total amount of county requests received by
19 December 31 of each year, the contribution to each county shall be
20 the full amount requested by each county.

21 b. If the funds appropriated to the Department for contributions under
22 this subdivision are insufficient to fund the full amount of county
23 requests received by December 31 of each year, the contribution to
24 each county shall be a pro rata share of the amount appropriated to
25 the Department for contributions under this section, up to the amount
26 requested by the county."

27
28 **BRAC SPECIAL FUND**

29 SECTION 24.3.(a) Part 1 of Article 14 of Chapter 143B of the General Statutes, as
30 enacted by Section 24.1 of this act, is amended by adding a new section to read:

31 "**§ 143B-1214. Military Presence Stabilization Fund.**

32 The Military Presence Stabilization Fund is established as a special fund in the Department
33 of Military and Veterans Affairs. Funds in the Military Presence Stabilization Fund shall be
34 used to fund actions designed to make the State less vulnerable to closure pursuant to federal
35 Base Realignment and Closure and related initiatives. The Secretary of Military and Veterans
36 Affairs may allocate funds in the Fund for this purpose."

37 SECTION 24.3.(b) Notwithstanding G.S. 143B-1214, the funds appropriated in
38 this act to the Military Presence Stabilization Fund for the 2015-2016 fiscal year shall not be
39 used to provide grants to local communities or military installations and shall only be used for
40 the following:

- 41 (1) Administrative expenses and reimbursements for members of the
42 Commission.
- 43 (2) Federal advocacy and lobbying support.
- 44 (3) Updates to strategic planning analysis and strategic plan.
- 45 (4) Economic modeling software and analyses.
- 46 (5) Compatible development mapping (red, yellow, green mapping)
- 47 (6) Public-public/public-private (P4) initiative.
- 48 (7) Identification and implementation of innovated measures to increase the
49 military value of installations.

1 **SECTION 24.3.(c)** The Department of Military and Veterans Affairs shall report to
2 the Joint Legislative Oversight Committee on General Government no later than December 1,
3 2015, on the expenditures from the Military Presence Stabilization Fund.

4
5 **PART XXV. OFFICE OF THE STATE AUDITOR**

6
7 **STOP FRAUD AND ABUSE OF TAXPAYER DOLLARS**

8 **SECTION 25.1.(a)** G.S. 143-746 reads as rewritten:
9 **"§ 143-746. Internal auditing required.**

10 ...

11 (e) Insufficient Personnel. – If a State agency has insufficient personnel to comply with
12 this section, the Office of State Budget and Management shall provide technical assistance.

13 (f) Reporting Fraudulent Activity. – If an internal audit conducted pursuant to this
14 section results in a finding that a private person or entity has received public funds as a result of
15 fraud, misrepresentation, or other deceptive acts or practices while doing business with the
16 State agency, the internal auditor shall submit a detailed written report of the finding, and any
17 additional necessary supporting documentation, to the State Purchasing Officer. A report
18 submitted under this subsection may include a recommendation that the private person or entity
19 be debarred from doing business with the State or a political subdivision thereof."

20 **SECTION 25.1.(b)** G.S. 147-64.6(c) is amended by adding a new subdivision to
21 read:

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

23 ...

24 (21) If an audit undertaken by the Auditor results in a finding that a private
25 person or entity has received public funds as a result of fraud,
26 misrepresentation, or other deceptive acts or practices while doing business
27 with the State or a political subdivision thereof, the Auditor shall submit a
28 detailed written report of the finding, and any additional necessary
29 supporting documentation, to the State Purchasing Officer or the appropriate
30 political subdivision official, as applicable. A report submitted under this
31 subsection may include a recommendation that the private person or entity
32 be debarred from doing business with the State or a political subdivision
33 thereof."

34 **SECTION 25.1.(c)** This section becomes effective October 1, 2015, and applies to
35 audits conducted or undertaken on or after that date.

36
37 **PART XXV-A. HOUSING FINANCE AGENCY**

38
39 **EXPAND COMMUNITY LIVING HOUSING FUND USES**

40 **SECTION 25A.1.** G.S. 122E-3.1 reads as rewritten:
41 **"§ 122E-3.1. Community Living Housing Fund.**

42 ...

43 (c) Use of Funds. – The North Carolina Housing Finance Agency, in consultation with
44 the Department of Health and Human Services, shall be responsible for administering the
45 Community Living Housing Fund. The monies in the Fund shall be available for expenditure
46 only upon an act of appropriation by the General Assembly and only for the following
47 purposes:

48 (1) To provide permanent community-based housing in integrated settings
49 appropriate for individuals with severe mental illness and severe and
50 persistent mental illness.

- 1 (2) To support an increase in the number of targeted units for individuals with
2 disabilities located in housing projects funded by the Housing Finance
3 Agency from ten percent (10%) to fifteen percent (15%). The additional
4 targeted units funded shall be made available to the Department of Health
5 and Human Services for use in the North Carolina Supportive Housing
6 Program under Article 1B of Chapter 122C of the General Statutes. Priority
7 for funding of the additional targeted units shall be given to units to be
8 located in catchment areas identified by the Department of Health and
9 Human Services, in consultation with the North Carolina Housing Finance
10 Agency and LMECOs, as having the greatest need for targeted units.
- 11 (3) To provide property rehabilitation.
- 12 (4) To recruit property owners who are willing to rent targeted units to
13 individuals with disabilities."

15 USE S&P SETTLEMENT FUNDS TO SUPPORT WORKFORCE HOUSING LOAN 16 PROGRAM

17 **SECTION 25A.2.** Of the funds received by the State pursuant to the settlement
18 agreement in *North Carolina ex rel. Cooper v. The McGraw-Hill Companies, Inc., and*
19 *Standard & Poor's Financial Services LLC*, No. 13CVS 001703, the sum of ten million dollars
20 (\$10,000,000) shall be used to provide loans under the Workforce Housing Loan Program of
21 the Housing Finance Agency for the 2015-2016 year, the sum of nine million three hundred
22 thousand dollars (\$9,300,000) shall be used to provide loans under the Workforce Housing
23 Loan Program of the Housing Finance Agency for the 2016-2017, and these funds are hereby
24 appropriated for those purposes.

26 PART XXVI. OFFICE OF STATE HUMAN RESOURCES

28 PERSONAL SERVICES CONTRACTS/TEMPORARY SOLUTIONS

29 **SECTION 26.2.(a)** Article 3 of Chapter 143 of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 143-48.6. Personal services contracts subject to Article.**

32 (a) Requirement. – Notwithstanding any other provision of law, personal services
33 contracts for executive branch agencies shall be subject to the same requirements and
34 procedures as service contracts.

35 (b) Personal Services Contract Defined. – For purposes of this section, the term
36 "personal services contract" means a contract for services provided by a professional individual
37 as an independent contractor on a temporary or occasional basis.

38 (c) Rules Required. – The Department of Administration shall adopt rules consistent
39 with this section."

40 **SECTION 26.2.(b)** Part 4 of Article 14 of Chapter 143B of the General Statutes, as
41 enacted by this act, is amended by adding a new section to read:

42 **"§ 143B-1334A. Personal services contracts subject to Article.**

43 (a) Requirement. – Notwithstanding any other provision of law, information technology
44 personal services contracts for executive branch agencies shall be subject to the same
45 requirements and procedures as information technology service contracts, except as provided in
46 this section.

47 (b) Certain Approvals Required. – Notwithstanding any provision of law to the
48 contrary, no information technology personal services contract, nor any contract that provides
49 personnel to perform information technology functions regardless of the cost of the contract,
50 may be established or renewed without written approval from the Office of Information
51 Technology Services and the Office of State Budget and Management. To facilitate compliance

1 with this requirement, the Office of Information Technology Services shall develop and
2 document the following:

3 (1) Standards for determining whether it is more appropriate for an agency to
4 hire an employee or use the services of a vendor.

5 (2) A process to monitor all State agency information technology personal
6 services contracts, as well as any other State contracts providing personnel to
7 perform information technology functions.

8 (3) A process for obtaining approval of contractor positions.

9 (c) Creation of State Positions in Certain Cases. – The Office of Information
10 Technology Services shall review current information technology personal services contracts
11 on an ongoing basis and determine if each contractor is performing a function that could more
12 appropriately be performed by a State employee. Where the determination is made that a State
13 employee should be performing the function, the Office of Information Technology Services
14 shall work with the impacted agency and the Office of State Personnel to identify or create the
15 position.

16 (d) Compliance Audits Required. – The Office of Information Technology Services
17 shall conduct periodic audits of State agencies that are subject to this Article to determine the
18 degree to which those agencies are complying with the rules and procedures that govern
19 information technology personal services contracts.

20 (e) Reporting Required. – The Office of Information Technology Services shall report
21 biennially to the Joint Legislative Oversight Committee on Information Technology and the
22 Fiscal Research Division on all of the following:

23 (1) Its progress toward standardizing information technology personal services
24 contracts.

25 (2) The number of information technology service contractors in each State
26 agency, the cost for each, and the comparable cost, including benefits, of a
27 State employee serving in that capacity rather than a contractor.

28 (3) The results of the compliance audits conducted pursuant to subsection (d) of
29 this section.

30 (f) Information Technology Personal Services Contract Defined. – For purposes of this
31 section, the term "personal services contract" means a contract for services provided by a
32 professional individual as an independent contractor on a temporary or occasional basis.

33 (g) Rules Required. – The Office of Information Technology Services shall adopt rules
34 consistent with this section."

35 **SECTION 26.2.(c)** Personal services contracts and information technology
36 personal services contracts in effect on the effective date of this act shall be allowed to expire
37 in accordance with the terms of the contract. A personal services contract or an information
38 technology personal services contract that can be terminated at any time shall be reviewed
39 within 60 days of the effective date of this act and shall only be continued if the contract
40 complies with the requirements of G.S. 143-48.6 and G.S. 143B-1334A, as enacted by
41 subsections (a) and (b) of this section, respectively. A personal services contract or information
42 technology personal services contract entered into after the effective date of this act shall
43 comply with the requirements of G.S. 143-48.6 or G.S. 143B-1334A, as applicable.

44 **SECTION 26.2.(d)** G.S. 143-64.70 is repealed. The Office of State Budget and
45 Management shall notify State agencies of the repeal of G.S. 143-64.70 and about the new
46 requirements imposed by this act.

47 **SECTION 26.2.(e)** Article 1 of Chapter 126 of the General Statutes is amended by
48 adding a new section to read:

49 **"§ 126-6.3. Temporary employment needs of State agencies shall be met through the**
50 **Temporary Solutions Program.**

1 (a) Use of Temporary Solutions Required. – Notwithstanding G.S. 126-5 or any other
2 provision of law, all State agencies that utilize temporary employees to perform work that is not
3 information technology-related shall employ them through the Temporary Solutions Program
4 administered by the Office of State Human Resources. The Director of the Office of State
5 Human Resources may create exceptions to this requirement when doing so would be in the
6 best interests of the State in the sole discretion of the Director. An exception shall be invalid
7 unless it is in writing.

8 (b) Compliance Monitoring. – The Office of State Human Resources shall monitor the
9 employment of temporary employees by agencies subject to this section and shall report
10 biannually to the Joint Legislative Commission on Governmental Operations and to the Fiscal
11 Research Division on agency compliance with this section and policies and rules adopted
12 pursuant to it.

13 (c) State Agency Defined. – For purposes of this section, "State agency" means a unit
14 of the executive branch of State government, such as a department, an institution, a division, a
15 commission, a board, or a council, regardless of whether or not the agency is part of the
16 Council of State."

17 **SECTION 26.2.(f)** G.S. 126-4 is amended by adding a new subdivision to read:
18 **"§ 126-4. Powers and duties of State Human Resources Commission.**

19 Subject to the approval of the Governor, the State Human Resources Commission shall
20 establish policies and rules governing each of the following:

21 ...

22 (19) The implementation of G.S. 126-6.3 in a manner that is consistent across all
23 affected State agencies."

24 **PART XXVII. DEPARTMENT OF ADMINISTRATION**

25 **DOA PROVIDE ADMINISTRATIVE SUPPORT TO SEC FREE OF CHARGE**

26 **SECTION 27.1.** G.S. 138A-9 reads as rewritten:

27 **"§ 138A-9. Staff and offices.**

28 (a) The Commission may employ professional and clerical staff, including an executive
29 director.

30 (b) The Commission shall be located within the Department of Administration for
31 administrative purposes only, but shall exercise all of its powers, including the power to
32 employ, direct, and supervise all personnel, independently of the Secretary of Administration,
33 and is subject to the direction and supervision of the Secretary of Administration only with
34 respect to the management functions of coordinating and reporting. The Department shall
35 provide administrative support to the Commission free of charge."

36 **ALLOW FOR ELECTRONIC ADVERTISEMENT OF LEASE PROPOSALS**

37 **SECTION 27.2.** G.S. 146-25.1 reads as rewritten:

38 **"§ 146-25.1. Proposals to be secured for leases.**

39 (a) If pursuant to G.S. 146-25, the Department of Administration determines that it is in
40 the best interest of the State to lease or rent land and the rental is estimated to exceed
41 twenty-five thousand dollars (\$25,000) per year or the term will exceed three years, the
42 Department shall require the State agency desiring to rent land to prepare and submit for its
43 approval a set of specifications for its needs. Upon approval of specifications, the Department
44 shall prepare a public advertisement. ~~The State agency shall place such advertisement in a~~
45 ~~newspaper of general circulation in the county for proposals from prospective lessors of said~~
46 ~~land and shall make such other distribution thereof as the Department directs. The~~
47 ~~advertisement shall be run for at least five consecutive days, and shall provide that proposals~~
48 ~~shall be received for at least seven days from the date of the last advertisement in the State~~
49
50
51

1 ~~Property Office of the Department. The provisions of this section do not apply to property~~
2 ~~owned by governmental agencies and leased to other governmental agencies; advertisement and~~
3 ~~shall publish it by one or more of the following methods, as determined by the Department of~~
4 ~~Administration:~~

5 (1) Placement in a newspaper of general circulation in the county. The
6 advertisement shall be run for at least five consecutive days and shall
7 provide that proposals shall be received for at least seven days from the date
8 of the last advertisement in the State Property Office.

9 (2) Through electronic means. If posted on a Web site, the advertisement shall
10 be accessible for at least five consecutive days and shall provide that
11 proposals shall be received for at least seven days from the date of the fifth
12 day in the State Property Office.

13 (3) Through such other methods of distribution as the Department of
14 Administration directs.

15 ...
16 (d) The provisions of this section do not apply to property owned by governmental
17 agencies and leased to other governmental agencies."

19 STREAMLINE SEIZED VEHICLE DISPOSAL

20 **SECTION 27.3.(a)** G.S. 20-28.2(a1) is amended by adding a new subdivision to
21 read:

22 "(a1) Definitions. – As used in this section and in G.S. 20-28.3, 20-28.4, 20-28.5, 20-28.7,
23 20-28.8, 20-28.9, 20-54.1, and 20-141.5, the following terms mean:

24 ...
25 (9) State Surplus Property Agency. – The Department of Administration."

26 **SECTION 27.3.(b)** G.S. 20-28.3 reads as rewritten:

27 "**§ 20-28.3. Seizure, impoundment, forfeiture of motor vehicles for offenses involving**
28 **impaired driving while license revoked or without license and insurance, and**
29 **for felony speeding to elude arrest.**

30 ...
31 (d) Custody of Motor Vehicle. – Unless the motor vehicle is towed pursuant to a
32 statewide or regional contract, or a contract with the county board of education, the seized
33 motor vehicle shall be towed by a commercial towing company designated by the law
34 enforcement agency that seized the motor vehicle. Seized motor vehicles not towed pursuant to
35 a statewide or regional contract or a contract with a county board of education shall be retrieved
36 from the commercial towing company within a reasonable time, not to exceed 10 business
37 days, by the county board of education or their agent who must pay towing and storage fees to
38 the commercial towing company when the motor vehicle is retrieved. If either a statewide or
39 regional contractor, or the county board of education, chooses to contract for local towing
40 services, all towing companies on the towing list for each law enforcement agency with
41 jurisdiction within the county shall be given written notice and an opportunity to submit
42 proposals prior to a contract for local towing services being awarded. The seized motor vehicle
43 is under the constructive possession of the county board of education for the county in which
44 the operator of the vehicle is charged at the time the vehicle is delivered to a location
45 designated by the county board of education or delivered to its agent pending release or sale, or
46 in the event a statewide or regional contract is in place, under the constructive possession of the
47 ~~Department of Public Instruction, State Surplus Property Agency~~ on behalf of the State at the
48 time the vehicle is delivered to a location designated by the ~~Department of Public Instruction~~
49 State Surplus Property Agency or delivered to its agent pending release or sale. Absent a
50 statewide or regional contract that provides otherwise, each county board of education may
51 elect to have seized motor vehicles stored on property owned or leased by the county board of

1 education and charge a reasonable fee for storage, not to exceed ten dollars (\$10.00) per
2 calendar day. In the alternative, the county board of education may contract with a commercial
3 towing and storage facility or other private entity for the towing, storage, and disposal of seized
4 motor vehicles, and a storage fee of not more than ten dollars (\$10.00) per calendar day may be
5 charged. Except for gross negligence or intentional misconduct, neither the State Surplus
6 Property Agency, the county board of education, ~~or nor~~ any of ~~its~~ their employees, shall ~~not~~ be
7 liable to the owner or lienholder for damage to or loss of the motor vehicle or its contents, or to
8 the owner of personal property in a seized vehicle, during the time the motor vehicle is being
9 towed or stored pursuant to this subsection.

10 ...

11 (i) Expedited Sale of Seized Motor Vehicles in Certain Cases. – In order to avoid
12 additional liability for towing and storage costs pending resolution of the criminal proceedings
13 of the defendant, the State Surplus Property Agency or county board of education may, after
14 expiration of 90 days from the date of seizure, or at any time with the consent of the owner, sell
15 any motor vehicle ~~having a fair market value of one thousand five hundred dollars (\$1,500) or~~
16 ~~less. The county board of education may also sell a motor vehicle, regardless of the fair market~~
17 ~~value, any time the outstanding towing and storage costs exceed eighty five percent (85%) of~~
18 ~~the fair market value of the vehicle, or with the consent of all the motor vehicle owners. seized~~
19 pursuant to this section and recover all costs associated with the sale. Any sale conducted
20 pursuant to this subsection shall be conducted in accordance with the provisions of
21 ~~G.S. 20-28.5(a),~~ G.S. 20-28.5(a) or G.S. 20-28.5(a1), as applicable, and the proceeds of the
22 sale, after the payment of outstanding towing and storage costs or reimbursement of towing and
23 storage costs paid by a person other than the defendant, shall be deposited with the clerk of
24 superior court. If an order of forfeiture is entered by the court, the court shall order the proceeds
25 held by the clerk to be disbursed as provided in G.S. 20-28.5(b). If the court determines that the
26 motor vehicle is not subject to forfeiture, the court shall order the proceeds held by the clerk to
27 be disbursed first to pay the sale, towing, and storage costs, second to pay outstanding liens on
28 the motor vehicle, and the balance to be paid to the motor vehicle owners.

29"

30 **SECTION 27.3.(c)** G.S. 20-28.5 reads as rewritten:

31 "**§ 20-28.5. Forfeiture of impounded motor vehicle or funds.**

32 (a) ~~Sale.~~ Sale of Vehicle in Possession of County Board of Education. – A motor vehicle
33 in the possession or constructive possession of a county board of education ordered forfeited
34 and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be
35 sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A
36 of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or
37 (4), subject to the notice requirements of this subsection, and shall be conducted by the county
38 board of education or a person acting on its behalf. Notice of sale, including the date, time,
39 location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of
40 the vehicle to be sold at the address shown by the records of the Division. Written notice of sale
41 shall also be given to all lienholders on file with the Division. Notice of sale shall be given to
42 the Division in accordance with the procedures established by the Division. Notices required to
43 be given under this subsection shall be mailed at least 10 days prior to the date of sale. A
44 lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the
45 amount of its lien, if that should be the highest bid, without being required to tender any
46 additional funds, other than the towing and storage fees. The county board of education, or its
47 agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the
48 defendant, the motor vehicle owner who owned the motor vehicle immediately prior to
49 forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf.

50 (a1) Sale of Vehicle in Possession of the State Surplus Property Agency. – A motor
51 vehicle in the possession or constructive possession of the State Surplus Property Agency

1 ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to
2 G.S. 20-28.3(i) shall be sold at a public sale conducted in accordance with the provisions of
3 Article 3A of Chapter 143 of the General Statutes, subject to the notice requirements of this
4 subsection, and shall be conducted by the State Surplus Property Agency or a person acting on
5 its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given
6 by first-class mail to all motor vehicle owners of the vehicle to be sold at the address shown by
7 the records of the Division. Written notice of sale shall also be given to all lienholders on file
8 with the Division. Notice of sale shall be given to the Division in accordance with the
9 procedures established by the State Surplus Property Agency. Notices required to be given
10 under this subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall
11 be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien,
12 if that should be the highest bid, without being required to tender any additional funds, other
13 than the towing and storage fees. The State Surplus Property Agency, or its agent, shall not sell,
14 give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor
15 vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person
16 acting on the defendant's or motor vehicle owner's behalf.

17 (b) Proceeds of Sale. – Proceeds of any sale conducted under this section,
18 G.S. 20-28.2(f)(5), or G.S. 20-28.3(e3)(3), shall first be applied to ~~the cost of sale~~ all costs
19 incurred by the State Surplus Property Agency or county board of education and then to satisfy
20 towing and storage costs. The balance of the proceeds of sale, if any, shall be used to satisfy
21 any other existing liens of record that were properly recorded prior to the date of initial seizure
22 of the vehicle. Any remaining balance shall be paid to the county school fund in the county in
23 which the motor vehicle was ordered forfeited. If there is more than one school board in the
24 county, then the net proceeds of sale, after reimbursement to the county board of education of
25 reasonable administrative costs incurred in connection with the forfeiture and sale of the motor
26 vehicle, shall be distributed in the same manner as fines and other forfeitures. The sale of a
27 motor vehicle pursuant to this section shall be deemed to extinguish all existing liens on the
28 motor vehicle and the motor vehicle shall be transferred free and clear of any liens.

29 "...."

30 **SECTION 27.3.(d)** G.S. 20-28.9 reads as rewritten:

31 "**§ 20-28.9. Authority for the ~~Department of Public Instruction~~ State Surplus Property**
32 **Agency to administer a statewide or regional towing, storage, and sales**
33 **program for vehicles forfeited.**

34 (a) ~~The Department of Public Instruction~~ State Surplus Property Agency is authorized
35 to enter into a contract for a statewide service or contracts for regional services to tow, store,
36 process, maintain, and sell motor vehicles seized pursuant to G.S. 20-28.3. All motor vehicles
37 seized under G.S. 20-28.3 shall be subject to contracts entered into pursuant to this section.
38 Contracts shall be let by the ~~Department of Public Instruction~~ State Surplus Property Agency in
39 accordance with the provisions of Article 3 of Chapter 143 of the General Statutes. Nothing in
40 this section shall be construed to prohibit the State Surplus Property Agency from entering into
41 contracts pursuant to this section for some regions of the State while performing the work of
42 towing, storing, processing, maintaining, and selling motor vehicles seized pursuant to
43 G.S. 20-28.3 itself in other regions of the State. All contracts shall ensure the safety of the
44 motor vehicles while held and any funds arising from the sale of any seized motor vehicle. The
45 contract shall require the contractor to maintain and make available to the agency a
46 computerized up-to-date inventory of all motor vehicles held under the contract, together with
47 an accounting of all accrued charges, the status of the vehicle, and the county school fund to
48 which the proceeds of sale are to be paid. The contract shall provide that the contractor shall
49 pay the towing and storage charges owed on a seized vehicle to a commercial towing company
50 at the time the seized vehicle is obtained from the commercial towing company, with the
51 contractor being reimbursed this expense when the vehicle is released or sold. ~~The Department~~

1 State Surplus Property Agency shall not enter into any contract under this section under which
2 the State will be obligated to pay a deficiency arising from the sale of any forfeited motor
3 vehicle.

4 (b) The ~~Department,~~ State Surplus Property Agency, through its contractor or
5 contractors designated in accordance with subsection (a) of this section, may charge a
6 reasonable fee for storage not to exceed ten dollars (\$10.00) per calendar day for the storage of
7 seized vehicles pursuant to G.S. 20-28.3.

8 ~~(c) In order to help defray the administrative costs associated with the administration of
9 this section, the Department shall collect a ten dollar (\$10.00) administrative fee from a person
10 to whom a seized vehicle is released at the time the motor vehicle is released and shall collect a
11 ten dollar (\$10.00) administrative fee out of the proceeds of the sale of any forfeited motor
12 vehicle. The funds collected under this subsection shall be paid to the General Fund."~~

13 **SECTION 27.3.(e)** G.S. 143-64.02 is amended by adding two new subdivisions to
14 read:

15 "**§ 143-64.02. Definitions.**

16 As used in Part 1 of this Article, except where the context clearly requires otherwise:

- 17 (1) "Agency" means an existing department, institution, commission,
18 committee, board, division, or bureau of the State.
- 19 (2) "Nonprofit tax exempt organizations" means those nonprofit tax exempt
20 medical institutions, hospitals, clinics, health centers, school systems,
21 schools, colleges, universities, schools for the mentally retarded, schools for
22 the physically handicapped, radio and television stations licensed by the
23 Federal Communications Commission as educational radio or educational
24 television stations, public libraries, and civil defense organizations, that have
25 been certified by the Internal Revenue Service as tax-exempt nonprofit
26 organizations under section 501(c)(3) of the United States Internal Revenue
27 Code of 1954.
- 28 (3) "Recyclable material" means a recyclable material, as defined in
29 G.S. 130A-290, that the Secretary of Administration determines, consistent
30 with G.S. 130A-309.14, to be a recyclable material.
- 31 (4) "State owned" means supplies, materials, and equipment in the possession of
32 the State of North Carolina and purchased with State funds, personal
33 property donated to the State, or personal property purchased with other
34 funds that give ownership to the State.
- 35 (5) "Surplus property" means personal property that is no longer needed by a
36 State agency."

37 **SECTION 27.3.(f)** G.S. 143-64.03 reads as rewritten:

38 "**§ 143-64.03. Powers and duties of the State agency for surplus property.**

39 (a) The State Surplus Property Agency is authorized and directed to:

- 40 (1) Sell all State owned supplies, materials, and equipment that are surplus,
41 obsolete, or unused; unused and sell all seized vehicles and other
42 conveyances that the State Surplus Property Agency is authorized to sell;
43 (2) Warehouse such property; and
44 (3) Distribute such property to tax-supported or nonprofit tax-exempt
45 organizations.

46 (b) The State Surplus Property Agency is authorized and empowered to act as a
47 clearinghouse of information for agencies and private nonprofit tax-exempt organizations, to
48 locate property available for acquisition from State agencies, to ascertain the terms and
49 conditions under which the property may be obtained, to receive requests from agencies and
50 private nonprofit tax-exempt organizations, and transmit all available information about the

1 property, and to aid and assist the agencies and private nonprofit tax-exempt organizations in
2 transactions for the acquisition of State surplus property.

3 (c) The State agency for surplus property, in the administration of Part 1 of this Article,
4 shall cooperate to the fullest extent consistent with the provisions of Part 1 of this Article, with
5 the departments or agencies of the State.

6 (d) The State agency for surplus property may sell or otherwise dispose of surplus
7 property, including motor vehicles, through an electronic auction service."

8 **SECTION 27.3.(g)** G.S. 143-64.05(a) reads as rewritten:

9 "**§ 143-64.05. Service charge; receipts.**

10 (a) The State agency for surplus property may assess and collect a service charge (i) for
11 the acquisition, receipt, warehousing, distribution, or transfer of any State surplus ~~property and~~
12 property; (ii) for the transfer or sale of recyclable ~~material.~~ material; and (iii) for the towing,
13 storing, processing, maintaining, and selling of motor vehicles seized pursuant to G.S. 20-28.3.
14 The service charge authorized by this subsection does not apply to the transfer or sale of timber
15 on land owned by the Wildlife Resources Commission or the Department of Agriculture and
16 Consumer Services."
17

18 **DOROTHEA DIX MEMORIAL**

19 **SECTION 27.4.** The Department of Administration, in consultation with the
20 Department of Cultural Resources, shall appoint a task force to acquire historical documents,
21 photographs, and memorabilia relating to Dorothea Lynde Dix, mental health efforts in the
22 State, and the Dorothea Dix Hospital. The Department shall propose options to preserve a
23 building or provide a space on the Dorothea Dix campus for the purpose of permanently
24 exhibiting the acquired historical materials for the purposes of (i) memorializing and honoring
25 the unique history of Dorothea Dix Hospital and the story of Dorothea Dix and (ii) educating
26 the public about her advocacy for and innovations in the proper treatment of the mentally ill.
27 The Department shall submit a report of its proposed options to the Joint Legislative Oversight
28 Committee on Health and Human Services by April 1, 2016.
29

30 **VEHICLES ASSIGNED TO SECTION OF COMMUNITY CORRECTION/EXEMPT** 31 **FROM MINIMUM MILEAGE REQUIREMENT**

32 **SECTION 27.6.(a)** Exemption. – For the 2015-2017 fiscal biennium and
33 notwithstanding any law, rule, or regulation to the contrary, motor vehicles assigned from the
34 central motor fleet established under G.S. 143-341 to the Section of Community Corrections of
35 the Division of Adult Correction of the Department of Public Safety are exempt from any
36 requirement that the motor vehicle be driven a minimum number of miles per month or quarter.

37 **SECTION 27.6.(b)** Report on Exemption. – The Department of Administration
38 shall provide an interim report to the Joint Legislative Oversight Committee on General
39 Government and the Joint Legislative Oversight Committee on Justice and Public Safety by
40 March 1, 2016, and a final report to the Joint Legislative Oversight Committee on General
41 Government and the Joint Legislative Oversight Committee on Justice and Public Safety by
42 January 1, 2017. Each report shall include all of the following information:

- 43 (1) The number of motor vehicles assigned to the Section of Community
44 Corrections of the Division of Adult Correction of the Department of Public
45 Safety.
- 46 (2) The average miles per month the assigned motor vehicles were driven.
- 47 (3) The average costs per month for maintenance and motor fuel for the
48 assigned motor vehicles.
- 49 (4) The number of months in which an assigned motor vehicle was not driven at
50 all.

1 **SECTION 27.6.(c)** Report on Vehicles Managed. – Beginning on October 1, 2015,
2 and quarterly thereafter, the Department of Administration shall provide a report to the Joint
3 Legislative Oversight Committee on General Government and the Joint Legislative Oversight
4 Committee on Justice and Public Safety on the status of all motor vehicles managed by the
5 Department of Administration for the Department of Public Safety. The report shall include all
6 of the following information:

- 7 (1) The number of motor vehicles managed by the Department of
8 Administration for the Department of Public Safety.
- 9 (2) The condition of each motor vehicle, including the mileage on each motor
10 vehicle.
- 11 (3) The average amount of time taken to repair or replace a motor vehicle.
- 12 (4) The number and condition of any backup motor vehicles managed by the
13 Department of Administration and available for use by the Department of
14 Public Safety, including the location and condition of each motor vehicle.

15 16 **ELIMINATE NC HUMAN RELATIONS COMMISSION**

17 **SECTION 27.7.(a)** The following are repealed:

- 18 (1) Part 9 of Article 9 of Chapter 143B of the General Statutes.
- 19 (2) G.S. 99D-1(b1), 143-157.1(d)(14), and 143-422.3.
- 20 (3) Chapter 41A of the General Statutes.

21 **SECTION 27.7.(b)** Notwithstanding any other provision of law, the Department of
22 Justice shall assume and resolve all pending complaints filed with the North Carolina Human
23 Relations Commission and shall be allowed to substitute for the North Carolina Human
24 Relations Commission in any pending proceeding in the courts of this State.

25 **SECTION 27.7.(c)** This section does not affect the rights or liabilities of the State,
26 a complainant, or another party arising under a statute repealed by this section before the
27 effective date of its amendment or repeal, and the statutes that would be applicable but for this
28 act remain applicable to those parties.

29 **SECTION 27.7.(d)** The North Carolina Human Relations Commission shall refer
30 any complaints received after the enactment of this act to the Office of Fair Housing and Equal
31 Opportunity with the United States Department of Housing and Urban Development if the
32 Commission determines the complaint is unlikely to be resolved prior to July 1, 2016.

33 **SECTION 27.7.(e)** Subsections (d) and (e) of this section are effective when this
34 act becomes law. The remainder of this section becomes effective July 1, 2016.

35 36 **ELIMINATE LICENSE TO GIVE TRUST FUND COMMISSION**

37 **SECTION 27.8.(a)** Subsection (c) of Section 5 of S.L. 2004-189, as amended by
38 subsection (q) of Section 44.1 of S.L. 2005-276, reads as rewritten:

39 "**SECTION 5.(c)** The Division of Motor Vehicles shall retain a portion of five cents
40 (\$0.05) collected for the issuance of each drivers license and duplicate license to offset the
41 actual cost of developing and maintaining the online Organ Donor Internet site established
42 pursuant to Section 1 of this act. ~~The remainder of the five cents (\$0.05) shall be credited to the~~
43 ~~License to Give Trust Fund established under G.S. 20-7.4 and shall be used for the purposes~~
44 ~~authorized under G.S. 20-7.4 and G.S. 20-7.5."~~

45 **SECTION 27.8.(b)** G.S. 20-7.4 through G.S. 20-7.6 are repealed.

46 **SECTION 27.8.(c)** Prior to the effective date of subsection (b) of this section, the
47 License to Give Trust Fund Commission shall expend all funds in the License to Give Trust
48 Fund for the purposes set forth in G.S. 20-7.4. Any unencumbered State funds remaining in the
49 License to Give Trust Fund after the effective date of subsection (b) of this section shall be
50 transferred to the Highway Fund.

1 **SECTION 27.8.(d)** Subsections (a), (c), and (d) of this section are effective when
2 this act becomes law. The remainder of this section becomes effective October 1, 2015.

3 4 **PART XXVII-A. OFFICE OF THE STATE CONTROLLER**

5 6 **OVERPAYMENTS AUDIT**

7 **SECTION 27A.1.(a)** During the 2015-2017 fiscal biennium, receipts generated by
8 the collection of inadvertent overpayments by State agencies to vendors as a result of pricing
9 errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds,
10 erroneously paid excise taxes, and related errors are to be deposited in Special Reserve Account
11 24172 as required by G.S. 147-86.22(c).

12 **SECTION 27A.1.(b)** For each year of the 2015-2017 fiscal biennium, five hundred
13 thousand dollars (\$500,000) of the funds in the Special Reserve Account 24172 shall be used
14 by the Office of the State Controller for data processing, debt collection, or e-commerce costs
15 and are hereby appropriated for that purpose.

16 **SECTION 27A.1.(c)** All funds available in Special Reserve Account 24172 on
17 June 30 of each year of the 2015-2017 fiscal biennium shall revert to the General Fund on that
18 date.

19 **SECTION 27A.1.(d)** The State Controller shall report quarterly to the Joint
20 Legislative Commission on Governmental Operations and the Fiscal Research Division on the
21 revenue deposited into Special Reserve Account 24172 and the disbursement of that revenue.

22 23 **PART XXVIII. DEPARTMENT OF REVENUE**

24 25 **MODIFY COLLECTION ASSISTANCE FEE RULES**

26 **SECTION 28.2.** G.S. 105-243.1(e) reads as rewritten:

27 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs of
28 collecting overdue tax debts. The proceeds of the fee must be credited to a special account
29 within the Department and may be expended only as provided in this subsection. The proceeds
30 of the fee may not be used for any purpose that is not directly and primarily related to
31 collecting overdue tax debts. The Department may apply the proceeds of the fee for the
32 purposes listed in this subsection. The remaining proceeds of the fee may be spent only
33 pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain
34 in the special account until spent for the costs of collecting overdue tax debts. The Department
35 and the Office of State Budget and Management must account for all expenditures using
36 accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts
37 from costs allocable to other purposes and must demonstrate that none of the fee proceeds are
38 used for any purpose other than collecting overdue tax debts.

39 The Department may apply the fee proceeds for the following purposes:

- 40 ...
- 41 (4) To pay for postage or other delivery charges for correspondence directly and
42 primarily relating to collecting overdue tax debts, not to exceed ~~five hundred~~
43 ~~thousand dollars (\$500,000)~~ one million dollars (\$1,000,000) a year.

44 "

45 46 **STATE AGENCY/ENHANCED DEBT COLLECTION**

47 **SECTION 28.3.** Article 1 of Chapter 105A of the General Statutes reads as
48 rewritten:

49 **"Chapter 105A.**

50 **"Setoff Debt Collection Act.**

51 **"Article 1.**

"In General.

"§ 105A-1. Purposes.

The purpose of this Chapter is to establish as policy that all claimant agencies and the Department of Revenue shall cooperate in identifying debtors who owe money to the State or to a local government through their various agencies and who qualify for refunds from the Department of Revenue. It is also the intent of this Chapter that procedures be established for setting off against any refund the sum of any debt owed to the State or to a local government. Furthermore, it is the legislative intent that this Chapter be liberally construed so as to effectuate these purposes as far as legally and practically possible.

"§ 105A-2. Definitions.

The following definitions apply in this Chapter:

(1) Claimant agency. – Either of the following:

- a. A State agency.
- b. A local agency acting through a clearinghouse or an organization pursuant to G.S. 105A-3(b1).
- c. A federal agency.

(2) Debt. – Any of the following, except as limited in sub-subdivision (f.) of this subdivision:

- a. A sum owed to a claimant agency that has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for the sum.
- b. A sum a claimant agency is authorized or required by law to collect, such as child support payments collectible under Title IV, Part D of the Social Security Act.
- c. A sum owed as a result of an intentional program violation or a violation due to inadvertent household error under the Food and Nutrition Services Program enabled by Part 5 of Article 2 of Chapter 108A of the General Statutes.
- d. Reserved for future codification purposes.
- e. A sum owed as a result of having obtained public assistance payments under any of the following programs through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error:
 1. The Work First Program provided in Article 2 of Chapter 108A of the General Statutes.
 2. The State-County Special Assistance Program enabled by Part 3 of Article 2 of Chapter 108A of the General Statutes.
 3. A successor program of one of these programs.
- f. For any school of medicine, clinical program, facility, or practice affiliated with one of the constituent institutions of The University of North Carolina that provides medical care to the general public and for The University of North Carolina Health Care System and other persons or entities affiliated with or under the control of The University of North Carolina Health Care System, the term "debt" is limited to the sum owed to one of these entities by law or by contract following adjudication of a claim resulting from an individual's receipt of hospital or medical services at a time when the individual was covered by commercial insurance, Medicaid, Health Choice, Medicare, Medicare Advantage, a Medicare supplement plan, or any other government insurance.
- g. A sum owed to the United States government or its federal agencies.

- 1 (3) Debtor. – A person who owes a debt.
2 (4) Department. – The Department of Revenue.
3 (5) Federal official. – A unit or official of the federal government charged with
4 the collection of nontax debts payable to the federal government pursuant to
5 31 U.S.C. § 3716.
6 (6) Local agency. – Any of the following:
7 a. A county, to the extent it is not considered a State agency.
8 b. A municipality.
9 c. A water and sewer authority created under Article 1 of Chapter 162A
10 of the General Statutes.
11 d. A regional joint agency created by interlocal agreement under Article
12 20 of Chapter 160A of the General Statutes between two or more
13 counties, cities, or both.
14 e. A public health authority created under Part 1B of Article 2 of
15 Chapter 130A of the General Statutes or other authorizing legislation.
16 f. A metropolitan sewerage district created under Article 5 of Chapter
17 162A of the General Statutes.
18 g. A sanitary district created under Part 2 of Article 2 of Chapter 130A
19 of the General Statutes.
20 h. A housing authority created under Chapter 157 of the General
21 Statutes, provided that the debt owed to a housing authority has been
22 reduced to a final judgment in favor of the housing authority.
23 i. A regional solid waste management authority created under Article
24 22 of Chapter 153A of the General Statutes.
25 (7) Net proceeds collected. – Gross proceeds collected through setoff against a
26 debtor's refund or nontax payment minus the collection assistance fees
27 provided in G.S. 105A-13.
28 (7a) Nontax payment. – A payment, including an expense reimbursement, made
29 by the State to a person. The term does not include a person's salary, wages,
30 or pension or a refund.
31 (7b) Person. – Defined in G.S. 105-228.90.
32 (8) Refund. – A debtor's North Carolina tax refund.
33 (9) State agency. – Any of the following:
34 a. A unit of the executive, legislative, or judicial branch of State
35 government.
36 b. A local agency, to the extent it administers a program supervised by
37 the Department of Health and Human Services or it operates a Child
38 Support Enforcement Program, enabled by Chapter 110, Article 9,
39 and Title IV, Part D of the Social Security Act.
40 c. A community college.

41 **"§ 105A-3. Remedy additional; mandatory State usage; optional local usage; obtaining**
42 **identifying information; registration.**

- 43 (a) Remedy Additional. – The collection remedy under this Chapter is in addition to
44 and not in substitution for any other remedy available by law.
45 (b) Mandatory State Usage. – A State agency must submit a debt owed to it for
46 collection under this Chapter unless the State Controller has waived this requirement or the
47 State agency has determined that the validity of the debt is legitimately in dispute, an
48 alternative means of collection is pending and believed to be adequate, or such a collection
49 attempt would result in a loss of federal funds. The State Controller may waive the requirement
50 for a State agency, other than the Department of Health and Human Services or a county acting
51 on behalf of that Department, to submit a debt owed to it for collection under this Chapter if the

1 State Controller finds that collection by this means would not be practical or cost effective. A
2 waiver may apply to all debts owed a State agency or a type of debt owed a State agency.

3 (b1) Optional Local Usage. – A local agency may submit a debt owed to it for collection
4 under this Chapter. A local agency that decides to submit a debt owed to it for collection under
5 this Chapter must establish the debt by following the procedure set in G.S. 105A-5 and must
6 submit the debt through one of the following:

7 (1) A clearinghouse that is established pursuant to an interlocal agreement
8 adopted under Article 20 of Chapter 160A of the General Statutes and has
9 agreed to submit debts on behalf of any requesting local agency.

10 (2) The North Carolina League of Municipalities.

11 (3) The North Carolina Association of County Commissioners.

12 (c) Identifying Information. – All claimant agencies shall whenever possible obtain the
13 full name, social security number or federal identification number, address, and any other
14 identifying information required by the Department from any person for whom the agencies
15 provide any service or transact any business and who the claimant agencies can foresee may
16 become a debtor under this Chapter.

17 (d) Registration and Reports. – A State agency must register with the Department and
18 with the State Controller. Every State agency must report annually to the State Controller the
19 amount of debts owed to the agency for which the agency did not submit a claim for setoff and
20 the reason for not submitting the claim.

21 A clearinghouse or an organization that submits debts on behalf of a local agency must
22 register with the Department. Once a clearinghouse registers with the Department under this
23 subsection, no other clearinghouse may register to submit debts for collection under this
24 Chapter.

25 **"§ 105A-4. Minimum debt and ~~refund~~ refund or nontax payment.**

26 This Chapter applies only to a debt that is at least fifty dollars (\$50.00) and to a refund or
27 nontax payment that is at least this same amount.

28 **"§ 105A-5. Local agency notice, hearing, and decision.**

29 (a) Prerequisite. – A local agency may not submit a debt for collection under this
30 Chapter until it has given the notice required by this section and the claim has been finally
31 determined as provided in this section.

32 (b) Notice. – A local agency must send written notice to a debtor that the agency
33 intends to submit the debt owed by the debtor for collection by setoff. The notice must explain
34 the basis for the agency's claim to the debt, that the agency intends to apply the debtor's refund
35 or nontax payment against the debt, and that a collection assistance fee ~~of fifteen dollars~~
36 ~~(\$15.00)~~ provided in G.S. 105A-13 will be added to the debt if it is submitted for setoff. The
37 notice must also inform the debtor that the debtor has the right to contest the matter by filing a
38 request for a hearing with the local agency, must state the time limits and procedure for
39 requesting the hearing, and must state that failure to request a hearing within the required time
40 will result in setoff of the debt.

41 (c) Administrative Review. – A debtor who decides to contest a proposed setoff must
42 file a written request for a hearing with the local agency within 30 days after the date the local
43 agency mails a notice of the proposed action to the debtor. A request for a hearing is considered
44 to be filed when it is delivered for mailing with postage prepaid and properly addressed. The
45 governing body of the local agency or a person designated by the governing body must hold the
46 hearing.

47 If the debtor disagrees with the decision of the governing body or the person designated by
48 the governing body, the debtor may file a petition for a contested case under Article 3 of
49 Chapter 150B of the General Statutes. The petition must be filed within 30 days after the debtor
50 receives a copy of the local decision. Notwithstanding the provisions of G.S. 105-241.21, a

1 local agency is considered an agency for purposes of contested cases and appeals under this
2 Chapter.

3 In a hearing under this section, an issue that has previously been litigated in a court
4 proceeding cannot be considered.

5 (d) Decision. – A decision made after a hearing under this section must determine
6 whether a debt is owed to the local agency and the amount of the debt.

7 (e) Return of Amount Set Off. – If a local agency submits a debt for collection under
8 this Chapter without sending the notice required by subsection (b) of this section, the agency
9 must send the taxpayer the entire amount set off plus the collection assistance fees provided in
10 G.S. 105A-13. Similarly, if a local agency submits a debt for collection under this Chapter after
11 sending the required notice but before final determination of the debt and a decision finds that
12 the local agency is not entitled to any part of the amount set off, the agency must send the
13 taxpayer the entire amount set off plus the collection assistance fees provided in G.S. 105A-13.
14 That portion of the amount returned that reflects the collection assistance fees must be paid
15 from the local agency's funds.

16 If a local agency submits a debt for collection under this Chapter after sending the required
17 notice and the net proceeds collected that are credited to the local agency for the debt exceed
18 the amount of the debt, the local agency must send the balance to the debtor. No part of the
19 collection assistance fees provided in G.S. 105A-13 may be returned when a notice was sent
20 and a debt is owed but the debt is less than the amount set off.

21 Interest accrues on the amount of a refund returned to a taxpayer under this subsection in
22 accordance with G.S. 105-241.21. A local agency that returns a refund to a taxpayer under this
23 subsection must pay from the local agency's funds any interest that has accrued since the fifth
24 day after the Department mailed the notice of setoff to the taxpayer.

25 **"§ 105A-6. Procedure Department to follow in making setoff.**

26 (a) Notice to Department. – A claimant agency seeking to attempt collection of a debt
27 through setoff must notify the Department in writing and supply information necessary to
28 identify the debtor whose refund or nontax payment is sought to be set off. The claimant
29 agency may include with the notification the date, if any, that the debt is expected to expire.
30 The agency must notify the Department in writing when a debt has been paid or is no longer
31 owed the agency.

32 (b) Setoff by Department. – The Department, upon receipt of notification, must
33 determine each year whether the debtor to the claimant agency is entitled to a refund ~~of or~~
34 nontax payment and whether the amount is at least fifty dollars (\$50.00) from the Department.
35 (\$50.00). Upon determination by the Department that a debtor specified by a claimant agency
36 qualifies for such a ~~refund, refund or nontax payment~~, the Department must set off the debt
37 against the refund or nontax payment to which the debtor would otherwise be entitled and must
38 refund any remaining balance to the debtor. The Department must mail the debtor written
39 notice that the setoff has occurred and must credit the net proceeds collected to the claimant
40 agency. If the claimant agency is a State agency, that agency must credit the amount received to
41 a nonreverting trust account and must follow the procedure set in G.S. 105A-8.

42 **"§ 105A-6.1. State Reciprocal Offset Program.**

43 (a) Agreement. – The Department is authorized to enter into an agreement with the
44 Secretary of the Treasury to participate in the State Reciprocal Offset Program pursuant to 31
45 U.S.C. § 3716 for the collection of any debts owed to the State or to State agencies from federal
46 payments to vendors, contractors, and taxpayers. The agreement may provide for the United
47 States to submit nontax debts owed to federal agencies for offset against State payments
48 otherwise due and owing to taxpayers, vendors, and contractors providing goods or services to
49 the State, its departments, agencies, or institutions.

50 (b) Federal Certification. – Pursuant to the agreement authorized in subsection (a) of
51 this section, a federal official may certify to the Department the existence of a person's

1 delinquent, nontax debt owed by the person to the federal government. To accept the
2 certification provided by the federal official, the certification must include the name of the
3 person, the person's Social Security number or federal tax identification number, and the
4 amount of the person's nontax debt and may include any other information pursuant to the
5 agreement authorized herein.

6 (c) Offset. – Upon receiving a federal certification complying with subsection (b) of
7 this section and a request by the federal official that the Department withhold a refund or
8 nontax payment, the following provisions, as required or permitted by State law, federal law, or
9 the offset agreement, apply:

10 (1) The Department may determine if a person for whom the federal
11 certification is received is due a refund or nontax payment.

12 (2) If the person for whom the federal certification is received is due a refund or
13 nontax payment, the Department shall (i) withhold the refund or nontax
14 payment due, (ii) notify the person of the amount withheld in the manner
15 required by the offset agreement, and (iii) remit to the federal official the
16 lesser of the entire amount of the refund or nontax payment or the amount
17 certified.

18 (3) If the amount certified is less than the refund or nontax payment, the
19 Department shall pay the excess to the person less the collection assistance
20 fee provided in G.S. 105A-13.

21 (d) State Certification. – As permitted by State law, federal law, and the offset
22 agreement, the Department may certify to a federal official a person's delinquent debt owed to
23 the State by providing the federal official the name of the person, the person's Social Security
24 number or tax identification number, the amount of the debt due the State, and any other
25 information required by the offset agreement. The Department may request that the federal
26 official withhold any federal vendor or other federal payment pursuant to the offset agreement
27 to which the person is entitled.

28 (e) Proceeds Retention. – The retention of a portion of the proceeds of any federal
29 administrative setoff pursuant to 31 C.F.R. § 285.6 does not affect the provisions of this
30 section.

31 ...

32 **"§ 105A-8. State agency notice, hearing, decision, and refund of setoff.**

33 (a) Notice. – Within 10 days after a State agency receives a refund or nontax payment
34 of a debtor, the agency must send the debtor written notice that the agency has received the
35 debtor's ~~refund~~ refund or nontax payment. The notice must explain the debt that is the basis for
36 the agency's claim to the debtor's refund or nontax payment and that the agency intends to
37 apply the refund or nontax payment against the debt. The notice must also inform the debtor
38 that the debtor has the right to contest the matter by filing a request for a hearing, must state the
39 time limits and procedure for requesting the hearing, and must state that failure to request a
40 hearing within the required time will result in setoff of the debt. A State agency that does not
41 send a debtor a notice within the time required by this subsection must refund the amount set
42 off plus the collection assistance fee, in accordance with subsection (d) of this section.

43 (b) Hearing. – A hearing on a contested claim of a State agency, except a constituent
44 institution of The University of North Carolina or the Division of Employment Security, must
45 be conducted in accordance with Article 3 of Chapter 150B of the General Statutes. A hearing
46 on a contested claim of a constituent institution of The University of North Carolina must be
47 conducted in accordance with administrative procedures approved by the Attorney General. A
48 hearing on a contested claim of the Division of Employment Security must be conducted in
49 accordance with rules adopted by that Division. A request for a hearing on a contested claim of
50 any State agency must be filed within 30 days after the State agency mails the debtor notice of
51 the proposed setoff. A request for a hearing is considered to be filed when it is delivered for

1 mailing with postage prepaid and properly addressed. In a hearing under this section, an issue
2 that has previously been litigated in a court proceeding cannot be considered.

3 (c) Decision. – A decision made after a hearing under this section must determine
4 whether a debt is owed to the State agency and the amount of the debt.

5 (d) Return of Amount Set Off. – If a State agency fails to send the notice required by
6 subsection (a) of this section within the required time or a decision finds that a State agency is
7 not entitled to any part of an amount set off, the agency must send the taxpayer the entire
8 amount set off plus the collection assistance fee retained by the Department. That portion of the
9 amount returned that reflects the collection assistance fee must be paid from the State agency's
10 funds.

11 If a debtor owes a debt to a State agency and the net proceeds credited to the State agency
12 for the debt exceed the amount of the debt, the State agency must send the balance to the
13 debtor. No part of the collection assistance fee retained by the Department may be returned
14 when a debt is owed but it is less than the amount set off.

15 Interest accrues on the amount of a refund returned to a taxpayer under this subsection in
16 accordance with G.S. 105-241.21. A State agency that returns a refund to a taxpayer under this
17 subsection must pay from the State agency's funds any interest that has accrued since the fifth
18 day after the Department mailed the notice of setoff to the taxpayer.

19 **"§ 105A-9. Appeals from hearings.**

20 Appeals from hearings allowed under this Chapter, other than those conducted by the
21 Division of Employment Security, shall be in accordance with the provisions of Chapter 150B
22 of the General Statutes, the Administrative Procedure Act, except that the place of initial
23 judicial review shall be the superior court for the county in which the debtor resides. Appeals
24 from hearings allowed under this Chapter that are conducted by the Division of Employment
25 Security shall be in accordance with the provisions of Chapter 96 of the General Statutes.

26 ...

27 **"§ 105A-12. Priorities in claims to setoff.**

28 The Department has priority over all other claimant agencies for collection by setoff
29 whenever it is a competing agency for a ~~refund~~-refund or nontax payment. State agencies have
30 priority over federal or local agencies for collection by setoff. When there are multiple claims
31 by State agencies other than the Department, the claims have priority based on the date each
32 agency registered with the Department under G.S. 105A-3. When there are multiple claims by
33 two or more organizations submitting debts on behalf of federal or local agencies, the claims
34 have priority based on the date each organization registered with the Department under
35 G.S. 105A-3. When there are multiple claims among federal or local agencies whose debts are
36 submitted by the same organization, the claims have priority based on the date each federal or
37 local agency requested the organization to submit debts on its behalf.

38 **"§ 105A-13. Collection assistance fees.**

39 (a) State Setoff. – ~~To~~Except as provided in subsection (b1) of this section, to recover
40 the costs incurred by the Department in collecting debts under this Chapter, a collection
41 assistance fee of five dollars (\$5.00) is imposed on each debt collected through setoff. The
42 Department must collect this fee as part of the debt and retain it. The collection assistance fee
43 shall not be added to child support debts or collected as part of child support debts. Instead, the
44 Department shall retain from collections under Division II of Article 4 of Chapter 105 of the
45 General Statutes the cost of collecting child support debts under this Chapter.

46 (b) Repealed by Session Laws 2001-380, s. 3, effective November 1, 2001.

47 (b1) Federal Debts. – To recover the costs incurred by the Department in collecting debts
48 on behalf of a federal agency under this Chapter, a collection assistance fee equal to the fee
49 charged by the federal government for similar debt collection efforts is imposed on each debt
50 collected through setoff. The Department must collect this fee as part of the debt and retain it.

1 (c) Local Debts. – To recover the costs incurred by local agencies in submitting debts
 2 for collection under this Chapter, a local collection assistance fee of fifteen dollars (\$15.00) is
 3 imposed on each local agency debt submitted under G.S. 105A-3(b1) and collected through
 4 setoff. The Department must collect this fee as part of the debt and remit it to the clearinghouse
 5 that submitted the debt. The local collection assistance fee does not apply to child support
 6 debts.

7 (d) Priority. – If the Department is able to collect only part of a debt through setoff, the
 8 collection assistance fee provided in subsection (a) of this section has priority over the local
 9 collection assistance fee and over the remainder of the debt. The local collection assistance fee
 10 has priority over the remainder of the debt.

11 **"§ 105A-14. Accounting to the claimant agency; credit to debtor's obligation.**

12 (a) Simultaneously with the transmittal of the net proceeds collected to a claimant
 13 agency, the Department must provide the agency with an accounting of the setoffs for which
 14 payment is being made. The accounting must whenever possible include the full names of the
 15 debtors, the debtors' social security numbers or federal identification numbers, the gross
 16 proceeds collected per setoff, the net proceeds collected per setoff, and the collection assistance
 17 fee added to the debt and collected per setoff.

18 (b) Upon receipt by a claimant agency of net proceeds collected on the claimant
 19 agency's behalf by the Department, a final determination of the claim if it is a State agency
 20 claim, and an accounting of the proceeds as specified under this section, the claimant agency
 21 must credit the debtor's obligation with the net proceeds collected.

22 **"§ 105A-15. Confidentiality exemption; nondisclosure.**

23 (a) Notwithstanding G.S. 105-259 or any other provision of law prohibiting disclosure
 24 by the Department of the contents of taxpayer records or information and notwithstanding any
 25 confidentiality statute of any claimant agency, the exchange of any information among the
 26 Department, the claimant agency, the organization submitting debts on behalf of a local agency,
 27 and the debtor necessary to implement this Chapter is lawful.

28 (b) The information a claimant agency or an organization submitting debts on behalf of
 29 a local agency obtains from the Department in accordance with the exemption allowed by
 30 subsection (a) may be used by the agency or organization only in the pursuit of its debt
 31 collection duties and practices and may not be disclosed except as provided in G.S. 105-259,
 32 153A-148.1, or 160A-208.1.

33 **"§ 105A-16. Rules.**

34 The Secretary of Revenue may adopt rules to implement this Chapter. The State Controller
 35 may adopt rules to implement this Chapter."

37 **PART XXIX. DEPARTMENT OF TRANSPORTATION**

39 **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATION**

40 **SECTION 29.1.(a)** The General Assembly authorizes and certifies anticipated
 41 revenues for the Highway Fund as follows:

42	For Fiscal Year 2017-2018	\$1,960.9 million
43	For Fiscal Year 2018-2019	\$1,995.5 million
44	For Fiscal Year 2019-2020	\$2,031.0 million
45	For Fiscal Year 2020-2021	\$2,059.3 million

46 **SECTION 29.1.(b)** The General Assembly authorizes and certifies anticipated
 47 revenues for the Highway Trust Fund as follows:

48	For Fiscal Year 2017-2018	\$1,365.7 million
49	For Fiscal Year 2018-2019	\$1,389.0 million
50	For Fiscal Year 2019-2020	\$1,417.6 million
51	For Fiscal Year 2020-2021	\$1,445.9 million

1 **SECTION 29.1.(c)** The Department of Transportation, in collaboration with the
 2 Office of State Budget and Management, shall develop a four-year revenue forecast. The first
 3 fiscal year in the four-year forecast shall be the 2021-2022 fiscal year. The four-year revenue
 4 forecast developed under this subsection shall be used (i) to develop the four-year cash flow
 5 estimates included in the biennial budgets, (ii) to develop the Strategic Transportation
 6 Improvement Program, and (iii) by the Department of the State Treasurer to compute
 7 transportation debt capacity.

8
 9 **SMALL CONSTRUCTION, CONTINGENCY, AND ECONOMIC DEVELOPMENT**
 10 **FUNDS**

11 **SECTION 29.2.(a)** Of the funds appropriated in this act to the Department of
 12 Transportation:

- 13 (1) Two million five hundred thousand dollars (\$2,500,000) in nonrecurring
 14 funds shall be allocated in each fiscal year of the biennium for small
 15 construction projects recommended by the Chief Engineer in consultation
 16 with the Chief Operating Officer and approved by the Secretary of
 17 Transportation. These funds shall be allocated equally in each fiscal year of
 18 the biennium among the 14 Highway Divisions for small construction
 19 projects.
- 20 (2) Twelve million dollars (\$12,000,000) shall be allocated statewide in each
 21 fiscal year of the biennium for rural or small urban highway improvements
 22 and related transportation enhancements to public roads and public facilities,
 23 industrial access roads, and spot safety projects, including pedestrian
 24 walkways that enhance highway safety. Projects funded pursuant to this
 25 subdivision shall be approved by the Secretary of Transportation.

26 **SECTION 29.2.(b)** The Department of Transportation shall report to the members
 27 of the General Assembly on projects funded pursuant to this section in each member's district
 28 prior to construction. The Department shall make a quarterly comprehensive report on the use
 29 of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal
 30 Research Division.

31 **SECTION 29.2.(c)** The funds appropriated in this act to the Economic
 32 Development fund shall be used for prioritized transportation improvements and infrastructure
 33 that expedite commercial growth as well as either job creation or job retention. Projects funded
 34 under this subsection shall be jointly approved by the Secretary of Transportation and the
 35 Secretary of Commerce in accordance with the guidelines and procedures developed under
 36 subsection (c) of Section 34.7 of S.L. 2013-360, as amended by Section 34.29 of S.L.
 37 2014-100.

38
 39 **REPAIRS AND RENOVATIONS**

40 **SECTION 29.2A.** There is appropriated from the Highway Fund to the Department
 41 of Transportation for the 2015-2017 fiscal biennium the following amounts for repairs and
 42 renovations:

44 Repairs and Renovations – Highway Fund	45 2015-2016	46 2016-2017
47 High-Rise Code Compliance Renovations	48 \$957,000	49 \$957,000
50 Roof Repairs & Replacements – Statewide	51 3,450,000	3,450,000
Chilled Water Piping and Insulation Replacement	612,700	612,700

1	TBC: Annex Building Window Replacement	0	724,000
2			
3	DOT Elevator Modernization	0	251,000
4			
5	DMV Field Facilities – Window Replacement		
6	Statewide	0	341,000
7			
8	Rowan County Renovation and Addition	0	630,000
9			
10	TOTAL REPAIRS AND RENOVATIONS –		
11	HIGHWAY FUND	\$5,019,700	\$6,965,700

REQUIRE COUNTY OR MUNICIPALITY TO PAY COSTS ASSOCIATED WITH REQUESTED PROJECT IMPROVEMENTS

SECTION 29.5.(a) G.S. 136-66.3(e) reads as rewritten:

"(e) Authorization to Participate in Project Additions. – Pursuant to an agreement with the Department of Transportation, a county or municipality ~~may~~ shall reimburse the Department of Transportation for the cost of all ~~improvements~~, improvements requested by the county or municipality, including additional right-of-way, for a street, highway improvement projects, or other transportation system improvements approved by the Board of Transportation under G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of Transportation would normally include in the project. Requests for safety enhancements or increases to mobility shall not be considered improvements subject to the requirement of this subsection unless the increase or enhancement is in excess of the standard required by law."

SECTION 29.5.(b) This section is effective when it becomes law and applies to agreements entered into on or after that date.

BOARD OF TRANSPORTATION/OUT-OF-STATE TRAVEL

SECTION 29.5A. Expenditures for out-of-State travel by the Board of Transportation for the 2015-2016 fiscal year and each subsequent fiscal year shall not exceed twenty-five thousand dollars (\$25,000).

DEPARTMENT OF TRANSPORTATION OUT-OF-STATE TRAVEL

SECTION 29.7. Section 34.5 of S.L. 2014-100 reads as rewritten:

"**SECTION 34.5.** Expenditures for out-of-state travel by the Department of Transportation for the 2014-2015 fiscal year and ~~all each~~ subsequent fiscal ~~years~~ year shall not exceed the amount expended during the 2009-2010 fiscal year. For purposes of this section, "expenditures for out-of-state travel" includes transportation, conference, registration, and education expenses, lodging, and meals for Department of Transportation employees traveling outside of the ~~State~~ State, but does not include expenditures charged to federal projects."

DOT/OUTSIDE COUNSEL

SECTION 29.8.(a) Section 34.27 of S.L. 2013-360, as amended by Section 34.24(a) of S.L. 2014-100, is repealed.

SECTION 29.8.(b) Subsections (b), (c), and (e) of Section 34.24 of S.L. 2014-100 are repealed.

SECTION 29.8.(c) G.S. 136-103.1 is repealed.

SECTION 29.8.(d) Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-18.03. Outside counsel.

1 (a) Intent. – It is the intent of the General Assembly that the Department of
2 Transportation exercise the authority granted by this section to maximize operational and
3 project delivery benefits attributed to the avoidance or successful defense of litigation.

4 (b) Authorization. – The Department of Transportation may engage the services of
5 private counsel with the pertinent expertise to provide legal services related to any project
6 undertaken by the Department. The Department shall supervise and manage the private counsel
7 engaged under this section and, excluding legal services related to workers' compensation
8 claims brought by Department employees, shall not be required to obtain written permission or
9 approval from the Attorney General under G.S. 114-2.3.

10 (c) Performance Metrics. – The Department shall develop performance metrics to
11 evaluate its utilization of in-house counsel and private counsel, to include the following:

12 (1) A summary of new matters opened by legal area.

13 (2) Case cycle times.

14 (3) Resolution of cases.

15 (4) A comparison of in-house costs to billable rates for private counsel.

16 (5) The process for procurement for legal services.

17 (d) Report. – The Department shall provide a semiannual report to the Joint Legislative
18 Transportation Oversight Committee and the Joint Legislative Justice and Public Safety
19 Oversight Committee on the performance metrics set forth in subsection (c) of this section."
20

21 **RIGHT-OF-WAY ACQUISITIONS/REDUCE REMNANT PROPERTY**

22 **SECTION 29.9.(a)** Plan. – The Department of Administration, in collaboration
23 with the Department of Transportation, shall develop a plan to reduce the amount of remnant
24 property resulting from the acquisition of rights-of-way. The plan shall include a method or
25 methods for disseminating information to contiguous or adjoining landowners and other
26 members of the general public about (i) remnant property eligible for sale or other disposition
27 and (ii) the process for placing a bid or offer on the remnant property, including posting the
28 information required under this subdivision on the Web sites for both Departments.

29 **SECTION 29.9.(b)** Report. – The Departments shall jointly report to the Joint
30 Legislative Transportation Oversight Committee by February 1, 2016, on the development of
31 the plan required under this section. The report shall include all of the following:

32 (1) An identification of all remnant property eligible for sale or other
33 disposition.

34 (2) An identification of the amount and types of costs incurred by the State from
35 retaining remnant property.

36 (3) An identification of the estimated fair market value, as determined by the
37 Department of Administration, for each remnant property eligible for sale or
38 other disposition.

39 (4) An identification of any legal issues that may prohibit, or arise from, the sale
40 or other disposition of other remnant property, if any.

41 (5) Any other matters or information the Departments jointly deem relevant to
42 the development of the plan.

43 **SECTION 29.9.(c)** Implementation. – The Department of Administration shall
44 implement the plan required under this section by July 1, 2016.

45 **SECTION 29.9.(d)** This section is effective when this act becomes law.
46

47 **ROADSIDE ENVIRONMENTAL UNIT/LITTER PROGRAM**

48 **SECTION 29.9A.** The Department of Transportation shall reclassify two vacant
49 positions within the Division of Highways as Office Assistant IV positions within the Roadside
50 Environmental Unit, and the duties of the positions shall include managing the litter program.

1 The Department shall transfer from the highway maintenance units to the Roadside
2 Environmental Unit all functions and funding related to the litter program and lawn mowing.

3
4 **EXTEND SUNSET/MINORITY-OWNED AND WOMEN-OWNED BUSINESSES IN**
5 **TRANSPORTATION CONTRACTS**

6 **SECTION 29.9B.** G.S. 136-28.4(e) reads as rewritten:

7 "(e) This section expires August 31, ~~2015-2017.~~"

8
9 **VARIOUS REPORTING CHANGES**

10 **SECTION 29.12.(a)** G.S. 136-89.183(a)(5) reads as rewritten:

11 "(5) To fix, revise, charge, retain, enforce, and collect tolls and fees for the use of
12 the Turnpike Projects. ~~Prior~~ Thirty days prior to the effective date of any toll
13 or fee for use of a Turnpike Facility, the Authority shall submit a description
14 of the proposed toll or fee to the Board of Transportation, the Joint
15 Legislative Transportation Oversight Committee and the Joint Legislative
16 Commission on Governmental Operations for review."

17 **SECTION 29.12.(b)** G.S. 143B-350(f)(4) reads as rewritten:

18 "(4) To approve a schedule of all major transportation improvement projects and
19 their anticipated cost. This schedule is designated the Transportation
20 Improvement Program. The Board shall publish the schedule in a format that
21 is easily reproducible for distribution and make copies available for
22 ~~distribution.~~ distribution in accordance with the process established for
23 public records in Chapter 132 of the General Statutes. The document that
24 contains the Transportation Improvement Program, or a separate document
25 that is published at the same time as the Transportation Improvement
26 Program, shall include the anticipated funding sources for the improvement
27 projects included in the ~~Program,~~ Program and a list of any changes made
28 from the previous year's Program, and the reasons for the changes."

29 **SECTION 29.12.(c)** G.S. 136-44.8(a1) reads as rewritten:

30 "(a1) In each county having unpaved roads programmed for paving, representatives of the
31 Department of Transportation shall annually provide to the board of county commissioners in
32 those counties a list of roads proposed for the annual paving program approved by the Board of
33 Transportation. The paving priority list shall include the priority rating of each secondary road
34 paving project included in the proposed paving program according to the criteria and standards
35 adopted by the Board of Transportation. In addition to the list required under this subsection,
36 the Department of Transportation shall annually provide to the board of county commissioners
37 a summary of unpaved secondary road projects completed in the particular county for the prior
38 calendar year, including an indication as to which projects were not completed on schedule and
39 a detailed explanation as to why the projects were not completed on schedule."

40 **SECTION 29.12.(d)** G.S. 136-44.9 is repealed.

41 **SECTION 29.12.(e)** G.S. 136-28.6(h) reads as rewritten:

42 "(h) The Secretary shall report in writing, on a ~~quarterly~~ an annual basis, to the Joint
43 Legislative ~~Commission on Governmental Operations~~ Transportation Oversight Committee on
44 all agreements entered into between a private developer and the Department of Transportation
45 for participation in private engineering and construction contracts under this section, as well as
46 (i) agreements by counties and municipalities to participate in private engineering and
47 construction contracts under subsection (i) of this section and (ii) pass-through funding from
48 private developers to counties or municipalities for State transportation projects. The
49 information in the report required by this subsection shall be set forth separately for each
50 division of the Department of Transportation."

51 **SECTION 29.12.(f)** G.S. 136-66.3(f) reads as rewritten:

1 "(f) Report to General Assembly. – The Department shall report in writing, on a
2 ~~monthly~~ an annual basis, to the Joint Legislative ~~Commission on Governmental Operations~~
3 Transportation Oversight Committee on all agreements entered into between counties,
4 municipalities and the Department of Transportation. The report shall state in summary form
5 the contents of ~~such~~ the agreements. The information in the report required by this subsection
6 shall be set forth separately for each division of the Department of Transportation."

7 **SECTION 29.12.(g)** G.S. 136-28.10(c) reads as rewritten:

8 "(c) The Secretary of Transportation shall report ~~quarterly~~ annually to the Joint
9 Legislative Transportation Oversight Committee on the implementation of this section. The
10 information in the report required by this subsection shall be set forth separately for each
11 division of the Department of Transportation."

12 **SECTION 29.12.(h)** G.S. 143B-350 is amended by adding a new subsection to
13 read:

14 "(p) Reports. – Notwithstanding any other provision of law, any report required to be
15 submitted by the Board to the General Assembly or a committee thereof is due by the 15th day
16 of the month that the report is due."

18 **OUTSOURCING OF PRECONSTRUCTION ACTIVITY**

19 **SECTION 29.13.(a)** Section 34.13(a) of S.L. 2014-100 reads as rewritten:

20 "**SECTION 34.13.(a)** 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 seventy percent (70%) of the
26 total cost of activities performed by those units in fiscal year ~~2014-2015,~~
27 2015-2016, excluding the cost of activities performed by the Turnpike
28 Authority, the Structures Design and Management unit, and the Bridge
29 Program.
- 30 (2) Increase the outsourcing of all activities performed by the Department's
31 Roadway Design unit to fifty percent (50%) of the total cost of activities
32 performed by that unit in fiscal year ~~2014-2015.~~ 2015-2016.
- 33 (3) Increase the outsourcing of all activities performed by the Department's
34 Project Development and Environmental Analysis unit to sixty-five percent
35 (65%) of the total cost of activities performed by that unit in fiscal year
36 ~~2014-2015.~~ 2015-2016.
- 37 (4) ~~The~~ Based on the total expenditures for outsourced activity in fiscal year
38 2013-2014, the Department's Right-of-Way unit shall increase the total
39 expenditures for outsourced activity by five percent (5%) in fiscal year
40 ~~2014-2015.~~ 2015-2016."

41 **SECTION 29.13.(b)** Section 34.13(d) of S.L. 2014-100 reads as rewritten:

42 "**SECTION 34.13.(d)** The Department shall report no later than October 1, ~~2014,~~ 2015,
43 and quarterly thereafter, to the Joint Legislative Transportation Oversight Committee and the
44 Fiscal Research Division regarding its implementation of this section, including any reductions
45 in force used to meet privatization requirements."

47 **RECLASSIFY FUNDING SOURCE FOR CERTAIN POSITIONS**

48 **SECTION 29.14.** No later than May 1, 2016, the Department of Transportation, in
49 consultation with the Fiscal Research Division and the Office of State Budget and
50 Management, shall reclassify to appropriation the funding source for all full-time positions that
51 are budgeted as receipt-supported on the basis of charging to projects and shall adjust budgeted

1 funds accordingly. Employees in the Division of Highways shall be attributed to the respective
 2 Highway Division fund codes within the Highway Fund. Notwithstanding any other provision
 3 of law, the Department of Transportation is authorized to reallocate sufficient funds from the
 4 Primary Maintenance, Secondary Maintenance, and General Maintenance Reserve fund codes
 5 to each Highway Division to pay for salary and related costs associated with the reclassified
 6 positions. Receipt-supported positions in other organizational units within the Department of
 7 Transportation shall be funded through existing fund codes and funding sources for their
 8 assigned organizational units.

10 DOT/STREAMLINING AND REORGANIZATION

11 **SECTION 29.14A.(a)** Intent. – It is the intent of the General Assembly to reduce
 12 costs and increase efficiencies within the Department of Transportation. To achieve this intent,
 13 the General Assembly finds that the elimination and reorganization of certain positions, units,
 14 and programs is necessary.

15 **SECTION 29.14A.(b)** Position Eliminations. – In accordance with G.S. 126-7.1,
 16 but by no later than 60 days after the effective date of this section, the Department of
 17 Transportation shall eliminate the following positions:

18	<u>Position number</u>	<u>Title</u>
19	60026819	Processing Assistant III
20	60026963	Technical Support Analyst
21	60026961	Technical Support Analyst
22	60026964	Engineering Technician
23	60026962	Technology Support Analyst
24	60015475	Engineering Technician
25	60027682	Processing Assistant V
26	60024002	Management Engineer III
27	60029011	Engineer
28	60029012	Architect Supervisor
29	60029019	Engineering Technician
30	60015784	Engineer
31	60015785	Environmental Specialist
32	60018852	Marine Welder
33	60024003	Technology Support Analyst
34	60024034	Administrative Officer II
35	60024046	Radio Communications Engineer
36	60024055	Technical Trainer II
37	60024057	Technical Trainer II
38	60024058	Technical Trainer II
39	60024072	Radio Engineer I
40	60024011	Information Processing Technician
41	60024012	Information Processing Technician
42	60024041	Information Processing Technician
43	60024068	Administrative Assistant III
44	60027194	Engineer
45	60026559	Engineer
46	60026603	Engineer
47	60026472	Engineer
48	60026509	Engineer
49	60026843	Engineering Supervisor
50	60027171	Engineering Manager
51	60029468	Engineer

1	60029009	Engineering Technician
2	60029014	Engineering Technician
3	60029015	Engineering Supervisor
4	60029018	Engineering Technician
5	60025908	Engineering Supervisor
6	60025855	Engineer
7	60025937	Engineering Supervisor
8	60025980	Engineer
9	60025919	Engineering Technician
10	60026010	Engineer
11	60025859	Engineer
12	60025846	Engineer
13	60026005	Engineering Supervisor
14	60026015	Engineer
15	60025862	Engineer
16	60025999	Engineer
17	60025877	Engineer
18	60025945	Engineering Supervisor
19	60026805	Engineering Technician
20	60026944	Engineering Technician
21	60025069	Engineering Manager
22	60027023	Engineering Director
23	60027025	Engineer

24 **SECTION 29.14A.(c)** Vacant Positions. – The Office of State Budget and
 25 Management shall eliminate all vacant positions within units or programs of the Department of
 26 Transportation in which all filled positions have been eliminated.

27 **SECTION 29.14A.(d)** Reorganization and Consolidation. – Notwithstanding any
 28 other provision of law, the Department of Transportation may, when it deems necessary for
 29 purposes of eliminating redundancies and achieving efficiencies, reorganize or consolidate any
 30 unit or program within the Department of Transportation in which a filled position has been
 31 eliminated under this section.

32 **SECTION 29.14A.(e)** Plan for Future Position Elimination and Reorganization. –
 33 It is the intent of the General Assembly for the 2016-2017 fiscal year to reduce the number of
 34 administrative, managerial, supervisory, and oversight functions centrally or regionally based
 35 in offices of the Department of Transportation and shift decision making on project
 36 development to the highway divisions. To achieve this intent, the Department of Transportation
 37 shall submit a plan to eliminate at least ten percent (10%) of the total amount of filled positions
 38 that are centrally or regionally based as of June 30, 2015, and that perform administrative,
 39 managerial, supervisory, or oversight functions. In addition, the plan shall describe the
 40 functions performed at the centrally and regionally based offices, including justification as to
 41 why each function cannot be outsourced, consolidated, or shifted to the highway divisions. The
 42 Department of Transportation shall submit the plan required under this subsection to the chairs
 43 of the Senate Appropriations Committee on the Department of Transportation and the House of
 44 Representatives Committee on Transportation Appropriations and the Joint Legislative
 45 Transportation Oversight Committee by January 1, 2016.

46 **SECTION 29.14A.(f)** Effective Date. – This section is effective when it becomes
 47 law.

49 **STUDY/TURNPIKE AUTHORITY PROCESSING FEE**

50 **SECTION 29.15.(a)** Study. – The Department of Transportation shall study
 51 whether the amount of the processing fee set forth in G.S. 136-89.215 is in excess of the actual

1 cost to collect and process unpaid open road tolls. The following information, set forth
2 separately for each calendar year since the fee's enactment, shall be included within the study:

- 3 (1) The amount of the processing fee.
- 4 (2) The total amount of proceeds generated by the imposition of the processing
5 fee.
- 6 (3) The total amount of costs incurred by the Turnpike Authority to collect and
7 process unpaid open road tolls and a description of how the Department
8 determined the total amount of costs incurred.
- 9 (4) An identification of whether the processing fees collected exceeded,
10 equaled, or fell short of the costs incurred by the Turnpike Authority for
11 collecting and processing unpaid open road tolls.

12 **SECTION 29.15.(b)** Report. – The Department shall report its findings to the Joint
13 Legislative Transportation Oversight Committee by March 1, 2016.

14 **ADJUST CAP ON TURNPIKE PROJECTS**

15 **SECTION 29.15A.** G.S. 136-89.183(a)(2) reads as rewritten:

16 **"§ 136-89.183. Powers of the Authority.**

17 (a) The Authority shall have all of the powers necessary to execute the provisions of
18 this Article, including the following:

- 19 ...
- 20 (2) To study, plan, develop, and undertake preliminary design work on ~~up to~~
21 ~~nine~~-Turnpike Projects. At the conclusion of these activities, the Turnpike
22 Authority is authorized to design, establish, purchase, construct, operate, and
23 maintain no more than eleven projects, which shall include the following
24 projects:following:
25
 - 26 a. Triangle Expressway, including segments also known as N.C. 540,
27 Triangle Parkway, and the Western Wake Freeway in Wake and
28 Durham Counties. The described segments constitute ~~three~~
29 projects:one project.
 - 30 b. Repealed by Session Laws 2013-183, s. 5.1, effective July 1, 2013.
 - 31 c. Monroe Connector/Bypass.
 - 32 d., e. Repealed by Session Laws 2013-183, s. 5.1, effective July 1, 2013.
 - 33 f. Repealed by Session Laws 2008-225, s. 4, effective August 17, 2008.

34 Any other project proposed by the Authority in addition to the projects listed
35 in this subdivision requires prior consultation with the Joint Legislative
36 Commission on Governmental Operations pursuant to G.S. 120-76.1 no less
37 than 180 days prior to initiating the process required by Article 7 of Chapter
38 159 of the General Statutes.

39 With the exception of the ~~four~~-two projects set forth in sub-subdivisions a.
40 and c. of this subdivision, the Turnpike projects selected for construction by
41 the Turnpike Authority, prior to the letting of a contract for the project, shall
42 meet the following conditions: (i) two of the projects must be ranked in the
43 top 35 based on total score on the Department-produced list entitled
44 "Mobility Fund Project Scores" dated June 6, 2012, and, in addition, may be
45 subject to G.S. 136-18(39a); (ii) of the projects not ranked as provided in (i),
46 one may be subject to G.S. 136-18(39a); (iii) the projects shall be included
47 in any applicable locally adopted comprehensive transportation plans; (iv)
48 the projects shall be shown in the current State Transportation Improvement
49 Program; and (v) toll projects must be approved by all affected Metropolitan
50 Planning Organizations and Rural Transportation Planning Organizations for
51 tolling."

USE OF FUNDS FOR PAVEMENT PRESERVATION PROGRAM**SECTION 29.17.(a)** G.S. 136-44.17 reads as rewritten:**"§ 136-44.17. Pavement preservation program.**

...

(b) Eligible Activities or Treatments. – Applications eligible for funding under the pavement preservation program include the following preservation activities or treatments for asphalt pavement structures:

- (1) Chip seals, slurry seals, fog seals, sand seals, scrub seals, and cape seals.
- (2) Microsurfacing.
- (3) Profile milling not covered by resurfacing.
- (4) Asphalt rejuvenators.
- (5) Open graded asphalt friction course.
- (6) Overlays less than 1,000 feet in length.
- (7) Diamond grinding.
- (8) Joint sealing.
- (9) Dowel bar retrofit.
- (10) Partial-depth or full-depth repairs and reclamations.
- (11) Ultra-thin whitetopping.
- (12) Thin lift and sand asphalt overlays.
- (13) Asphalt crack sealing.

(c) Ineligible Activities or Treatments. – The pavement preservation program shall not include the following preservation activities or treatments:

- (1) Contract resurfacing activities or major pavement rehabilitation treatments and pretreatments that are used in combination with a resurfacing treatment, such as profile milling or chip seals.
- (2) Routine maintenance activities used to maintain and preserve the condition of roads. Treatments include, but are not limited to, ~~asphalt crack sealing~~, pothole patching, rut filling, cleaning of roadside ditches and structures, shoulder maintenance, and retracing of pavement markings.
- (3) Maintenance and preservation activities performed on bridges or culverts.
- (4) Activities related to positive guidance or signal maintenance program functions.

(d) Encumbrance Schedule. – Beginning in the 2015-2016 fiscal year, the Department of Transportation shall spend or encumber all funds appropriated by the General Assembly to the Department for the pavement preservation program by June 30 of the fiscal year for which the funds were appropriated."

SECTION 29.17.(b) Subsection (k) of Section 34.11 of S.L. 2014-100 is repealed.**SECTION 29.17.(c)** Subdivision (3) of subsection (l) of Section 34.11 of S.L. 2014-100 reads as rewritten:

- "(3) The statewide cost per lane mile (hereafter "unit cost") along with unit cost for each division and for each type of treatment. The Department shall provide an explanation for unit costs that vary by more than ~~twenty percent~~ (20%)ten percent (10%) from the statewide unit cost."

SECTION 29.17.(d) Subsection (c) of this section is effective when this act becomes law and applies to reports submitted on or after that date.**FUNDS FOR CONTRACT RESURFACING****SECTION 29.17C.(a)** Subsection (e) of Section 34.11 of S.L. 2014-100 is repealed.**SECTION 29.17C.(b)** G.S. 136-44.3A reads as rewritten:

1 "§ 136-44.3A. Highway Maintenance Improvement Program.

2 ...
3 ~~(d) Contract Maintenance Resurfacing Program Letting Schedule.—Beginning in the~~
4 ~~2015-2016 fiscal year, and based on the amount of funds appropriated in the prior fiscal year by~~
5 ~~the General Assembly to the Department for the contract maintenance resurfacing program, the~~
6 ~~Department shall let contracts that total at least seventy percent (70%) of contract resurfacing~~
7 ~~program funds included in the certified budget annually by September 1.~~

8 (d1) Encumbrance Schedule. – Beginning in the 2015-2016 fiscal year, the Department
9 of Transportation shall spend or encumber all funds appropriated by the General Assembly to
10 the Department for the contract maintenance resurfacing program by June 30 of the fiscal year
11 for which the funds were appropriated.

12"

13
14 **STABILIZATION OF FUNDING FOR STATE AID TO MUNICIPALITIES**

15 **SECTION 29.17D.** G.S. 136-41.1(a) reads as rewritten:

16 "(a) ~~There is annually appropriated out of the State Highway Fund a sum equal to ten~~
17 ~~and four tenths percent (10.4%) of the net amount after refunds that was produced during the~~
18 ~~fiscal year by the tax imposed under Article 36C of Chapter 105 of the General Statutes and on~~
19 ~~the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. One-half~~
20 Upon appropriation of funds by the General Assembly to the Department of Transportation for
21 State aid to municipalities, one-half of the amount appropriated shall be allocated in cash on or
22 before October 1 of each year to the cities and towns of the State in accordance with this
23 section. The second one-half of the amount appropriated shall be allocated in cash on or before
24 January 1 of each year to the cities and towns of the State in accordance with this section.~~The~~
25 ~~appropriation from the Highway Fund shall be based on revenue collected during the fiscal year~~
26 ~~preceding the date the distribution is made.~~

27 Seventy-five percent (75%) of the funds appropriated for cities and towns shall be
28 distributed among the several eligible municipalities of the State in the percentage proportion
29 that the population of each eligible municipality bears to the total population of all eligible
30 municipalities according to the most recent annual estimates of population as certified to the
31 Secretary of Revenue by the State Budget Officer. This annual estimation of population shall
32 include increases in the population within the municipalities caused by annexations
33 accomplished through July 1 of the calendar year in which these funds are distributed.
34 Twenty-five percent (25%) of said fund shall be distributed among the several eligible
35 municipalities of the State in the percentage proportion that the mileage of public streets in
36 each eligible municipality which does not form a part of the State highway system bears to the
37 total mileage of the public streets in all eligible municipalities which do not constitute a part of
38 the State highway system.

39 It shall be the duty of the mayor of each municipality to report to the Department of
40 Transportation such information as it may request for its guidance in determining the eligibility
41 of each municipality to receive funds under this section and in determining the amount of
42 allocation to which each is entitled. Upon failure of any municipality to make such report
43 within the time prescribed by the Department of Transportation, the Department of
44 Transportation may disregard such defaulting unit in making said allotment.

45 The funds to be allocated under this section shall be paid in cash to the various eligible
46 municipalities on or before October 1 and January 1 of each year as provided in this section.
47 Provided that eligible municipalities are authorized within the discretion of their governing
48 bodies to enter into contracts for the purpose of maintenance, repair, construction,
49 reconstruction, widening, or improving streets of such municipalities at any time after January
50 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount
51 received by such municipality during the preceding fiscal year, in anticipation of the receipt of

1 funds under this section during the next fiscal year, to be paid for out of such funds when
2 received.

3 The Department of Transportation may withhold each year an amount not to exceed one
4 percent (1%) of the total amount appropriated for distribution under this section for the purpose
5 of correcting errors in allocations: Provided, that the amount so withheld and not used for
6 correcting errors will be carried over and added to the amount to be allocated for the following
7 year.

8 The word "street" as used in this section is hereby defined as any public road maintained by
9 a municipality and open to use by the general public, and having an average width of not less
10 than 16 feet. In order to obtain the necessary information to distribute the funds herein
11 allocated, the Department of Transportation may require that each municipality eligible to
12 receive funds under this section submit to it a statement, certified by a registered engineer or
13 surveyor of the total number of miles of streets in such municipality. The Department of
14 Transportation may in its discretion require the certification of mileage on a biennial basis."
15

16 **STUDY/IMPROVING SAFETY ON SECONDARY ROADS**

17 **SECTION 29.17E.(a)** Study. – The Department of Transportation shall study ways
18 to improve safety and decrease the number of traffic accidents and fatalities occurring on
19 secondary roads. The study shall include all of the following:

- 20 (1) An identification of the secondary roads with the highest number of traffic
21 accidents and fatalities.
- 22 (2) An identification of the most common causes listed for traffic accidents and
23 fatalities occurring on secondary roads.
- 24 (3) Any other matters or information the Department deems relevant to the
25 completion of the study.

26 **SECTION 29.17E.(b)** Report. – The Department shall report its findings and
27 recommendations, including any legislative proposals, to the Joint Legislative Transportation
28 Oversight Committee by February 1, 2016.
29

30 **RELOCATION COSTS/SALE OF VISITOR CENTER IN BOONE, NC**

31 **SECTION 29.17F.** If the visitor center located in the Town of Boone is sold or
32 otherwise disposed of during the 2015-2017 fiscal biennium, there is appropriated from the
33 Special Registration Plate Account the sum of fifty thousand dollars (\$50,000) in nonrecurring
34 funds to the North Carolina High Country Host, Inc., for the purpose of covering costs incurred
35 from renovating or upfitting the relocated visitor center. These funds shall be in addition to any
36 other funds the North Carolina High Country Host, Inc., may receive under G.S. 20-79.7 for the
37 operation of a visitor center.
38

39 **REPORT/USE OF COAL COMBUSTION RESIDUALS**

40 **SECTION 29.18.** Report. – By January 15, 2016, the Utilities Commission shall
41 submit a report to the Joint Legislative Commission on Governmental Operations, the Joint
42 Legislative Transportation Oversight Committee, and the Environmental Review Commission
43 on the incremental cost incentives related to coal combustion residuals surface impoundments
44 for investor-owned public utilities. The report shall include all of the following:

- 45 (1) The Utilities Commission policy on allowed incremental cost recoupment.
- 46 (2) The impact on utility customers' rates under the current policy on allowed
47 incremental cost recoupment.
- 48 (3) Possible revisions to the current policy on allowed incremental cost
49 recoupment that would promote reprocessing and other technologies that
50 allow the reuse of coal combustion residuals stored in surface impoundments
51 for concrete and other beneficial end uses.

1
2 **RAIL DIVISION/STUDY ESTABLISHING COMMERCIAL FREIGHT RAIL**
3 **SERVICE IN JACKSONVILLE**

4 **SECTION 29.21.(a)** Study. – The Rail Division of the Department of
5 Transportation, in collaboration with the Camp Lejeune Marine Corps Air Base, the
6 Jacksonville Urban Area Metropolitan Planning Organization, the City of Jacksonville, Onslow
7 County, and the Norfolk Southern Railway Company, shall study the feasibility and
8 advisability of establishing a commercial freight rail service along the Camp Lejeune rail line
9 located in Onslow County, North Carolina. The study shall include all of the following:

- 10 (1) An evaluation of the maintenance needs of the existing rail line and any
11 enhancements needed to support commercial freight access.
12 (2) An evaluation of the use of partnership opportunities to complete long-term
13 maintenance and enhancements in order to minimize the cost burden for all
14 parties involved.
15 (3) Any other matters that the Rail Division deems relevant to the study.

16 **SECTION 29.21.(b)** Report. – The Rail Division shall report its findings to the
17 Chairs of the Senate Appropriations Committee on the Department of Transportation and the
18 House of Representatives Committee on Transportation Appropriations by July 1, 2016.
19

20 **PASSENGER RAIL RECEIPT-GENERATING ACTIVITIES**

21 **SECTION 29.22.(a)** G.S. 136-18 is amended by adding a new subdivision to read:

22 "(44a) Where the Department owns or leases the passenger rail facility, owns or
23 leases the rail equipment, or holds leasehold or license rights for the purpose
24 of operating passenger stations, the Department may operate or contract for
25 the following receipt-generating activities and use the proceeds to fund
26 passenger rail operations:

- 27 a. Where the Department owns the passenger rail facility or owns or
28 leases the rail equipment, operation of concessions on State-funded
29 passenger trains and at passenger rail facilities to provide to
30 passengers food, drink, and other refreshments, personal comfort
31 items, Internet access, and souvenirs publicizing the passenger rail
32 system.
33 b. Where the Department holds leasehold or license rights for the
34 purpose of operating passenger stations, operation of concessions at
35 rail passenger facilities to provide food, drink, and other
36 refreshments, personal comfort items, Internet access, and souvenirs
37 publicizing the passenger rail system, in accordance with the terms of
38 the leasehold or license.
39 c. Advertising on or within the Department's passenger rail equipment
40 or facility, including display advertising and advertising delivered to
41 passengers through the use of video monitors, public address systems
42 installed in passenger areas, and other electronic media.
43 d. The sale of naming rights to Department-owned passenger rail
44 equipment or facilities."

45 **SECTION 29.22.(b)** G.S. 66-58(c)(21) reads as rewritten:

46 "(21) Any activity conducted or contracted for by the Department of
47 Transportation that is authorized by G.S. 136-18(44a) or G.S. 136-82(f)."
48

49 **FREIGHT RAIL & RAIL CROSSING SAFETY IMPROVEMENT FUND USES**

50 **SECTION 29.23.** G.S. 124-5.1 reads as rewritten:

51 "**§ 124-5.1. North Carolina Railroad Company dividends deposited to Highway Fund.**

1 Any dividends of the North Carolina Railroad Company received by the State shall be
2 deposited into the Freight Rail & Rail Crossing Safety Improvement Fund within the Highway
3 Fund and administered by the Rail Division of the Department of Transportation. The Fund
4 shall be used for the enhancement of freight rail service and railroad-roadway crossing safety,
5 which may include the following project types:

- 6 (1) Track and associated infrastructure improvements for freight service.
- 7 (2) Grade crossing protection, elimination, and hazard removal.
- 8 (3) Signalization improvements.
- 9 (4) Assistance for projects to improve rail access to industrial, port, and military
10 facilities and for freight intermodal facility improvements, provided that
11 funding assistance under this subdivision shall be subject to the same limits
12 as that for short-line railroads under G.S. 136-44.39.
- 13 (5) Corridor protection and reactivation.

14 The Fund may also be used to supplement funds allocated for freight rail or
15 railroad-roadway crossing safety projects approved as part of the Transportation Improvement
16 Program."
17

18 USE OF PROCEEDS GENERATED FROM SHIPYARD

19 SECTION 29.23A. G.S. 136-82 reads as rewritten:

20 "§ 136-82. Department of Transportation to establish and maintain ferries.

21 ...

22 (d) Use of Toll Proceeds. – The Department of Transportation shall credit the proceeds
23 from tolls collected on North Carolina Ferry System routes and certain receipts generated under
24 subsection (f) of this section to reserve accounts within the Highway Fund for each of the
25 Highway Divisions in which system terminals are located and fares are earned. For the
26 purposes of this subsection, fares are earned based on the terminals from which a passenger trip
27 originates and terminates. Commuter pass receipts shall be credited proportionately to each
28 reserve account based on the distribution of trips originating and terminating in each Highway
29 Division. The proceeds credited to each reserve account shall be used exclusively for
30 prioritized North Carolina Ferry System ferry passenger vessel replacement projects in the
31 Division in which the proceeds are earned. Proceeds may be used to fund ferry passenger vessel
32 replacement projects or supplement funds allocated for ferry passenger vessel replacement
33 projects approved in the Transportation Improvement Program.

34 ...

35 (f) Authority to Generate Certain Receipts. – The Department of Transportation,
36 notwithstanding any other provision of law, may operate or contract for the following
37 receipt-generating activities ~~and~~ and, except as otherwise provided in subsection (f1) of this
38 section, use the proceeds for ferry passenger vessel replacement projects in the manner set forth
39 in subsection (d) of this section:

40 ...

41 (f1) Use of Receipts Generated From Shipyard. – The Department of Transportation
42 shall credit the proceeds from receipts generated under subsection (f) of this section from
43 activities performed by the North Carolina State Shipyard to a reserve account within the
44 Highway Fund to be used exclusively for improvements to the Shipyard, including equipment
45 and associated infrastructure. Notwithstanding the restrictions on the use of proceeds set forth
46 in subsections (d) and (f) of this section, the Department may use a proportional amount of the
47 proceeds credited to each reserve account described in subsection (d) of this section to replace
48 or repair equipment in accordance with this subsection if there is an insufficient amount of
49 funds in the reserve account within the Highway Fund for the Shipyard.

50"
51

SET FEE FOR PRIORITY BOARDING ON FERRY

SECTION 29.23B.(a) G.S. 136-82(f) is amended by adding a new subdivision to read:

"(3a) Issuance of annual passes to individual passengers that entitle the passengers to priority when boarding a ferry passenger vessel. The Department of Transportation shall charge an annual fee of one hundred fifty dollars (\$150.00) for each pass issued under this subdivision. The fee shall be in addition to any applicable ferry toll. In addition to the purposes set forth in this subsection, proceeds from fees collected under this subdivision may be used for operating expenses of the route in which the fee was collected. Notwithstanding any other provision of law, the Department of Transportation shall not provide free of charge annual passes to individual passengers that entitle the passengers to priority when boarding a ferry passenger vessel."

SECTION 29.23B.(b) This section becomes effective July 1, 2015, and applies to passes issued on or after that date.

RFI AND STUDY/PRIVATIZATION OF FERRY SYSTEM

SECTION 29.23C.(a) Intent. – The General Assembly finds that the privatization of the North Carolina Ferry System would provide a more cost-effective service model for the citizens of the State. Therefore, it is the intent of the General Assembly to ascertain market interest for the private operation of the North Carolina Ferry System or its component parts.

SECTION 29.23C.(b) Request for Information. – The Board of Transportation shall issue a request for information (RFI) for the privatization of the North Carolina Ferry System.

SECTION 29.23C.(c) Report. – The Board of Transportation shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than February 1, 2016, on the results of the RFI and whether it is more cost-effective to privatize the North Carolina Ferry System.

SECTION 29.23C.(d) Study. – The Joint Legislative Transportation Oversight Committee shall study the feasibility and desirability of privatizing the North Carolina Ferry System. The study shall include ownership, governance, and regulatory issues related to (i) potential privatization of the North Carolina Ferry System and (ii) privately owned ferries currently operating in North Carolina. The Joint Legislative Transportation Oversight Committee shall report its findings and any legislative proposals to the 2016 Regular Session of the 2015 General Assembly.

USE OF FUNDS APPROPRIATED TO DIVISION OF AVIATION

SECTION 29.27. Of the funds appropriated in this act to the Division of Aviation of the Department of Transportation, the Division shall allocate (i) the sum of three million five hundred thousand dollars (\$3,500,000) in nonrecurring funds for the 2015-2016 fiscal year to the Cape Fear Regional Jetport to be used for improvements to the Jetport and (ii) the sum of one million dollars (\$1,000,000) in nonrecurring funds for the 2015-2016 fiscal year to the Albert J. Ellis Airport to be used for the establishment of an air traffic control tower. The remaining funds appropriated in this act to the Division may be used for time-sensitive, aviation-related economic development projects.

ADJUST MUNICIPAL VEHICLE TAX

SECTION 29.27A.(a) G.S. 20-97 reads as rewritten:

"§ 20-97. Taxes credited to Highway Fund; municipal vehicle taxes.

1 (a) State Taxes to Highway Fund. – All taxes levied under this Article are
 2 compensatory taxes for the use and privileges of the public highways of this State. The taxes
 3 collected shall be credited to the State Highway Fund. Except as provided in this section, no
 4 county or municipality shall levy any license or privilege tax upon any motor vehicle licensed
 5 by the State.

6 ~~(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than~~
 7 ~~five dollars (\$5.00) per year upon any vehicle resident in the city or town. The proceeds of the~~
 8 ~~tax may be used for any lawful purpose.~~

9 (b1) Municipal Vehicle Tax. – A city or town may levy an annual municipal vehicle tax
 10 upon any vehicle resident in the city or town. The aggregate annual municipal vehicle tax
 11 levied, including any annual municipal vehicle tax authorized by local legislation, may not
 12 exceed thirty dollars (\$30.00) per vehicle. A city or town may use the net proceeds from the
 13 municipal vehicle tax as follows:

14 (1) General purpose. – Not more than five dollars (\$5.00) of the tax levied may
 15 be used for any lawful purpose.

16 (2) Public transportation. – Not more than five dollars (\$5.00) of the tax levied
 17 may be used for financing, constructing, operating, and maintaining local
 18 public transportation systems. This subdivision only applies to a city or town
 19 that operates a public transportation system as defined in G.S. 105-550.

20 (3) Public streets. – The remainder of the tax levied may be used for
 21 maintaining, repairing, constructing, reconstructing, widening, or improving
 22 public streets in the city or town that do not form a part of the State highway
 23 system.

24 ~~(e) Municipal Vehicle Tax for Public Transportation. – A city or town that operates a~~
 25 ~~public transportation system as defined in G.S. 105-550 may levy a tax of not more than five~~
 26 ~~dollars (\$5.00) per year upon any vehicle resident in the city or town. The tax authorized by~~
 27 ~~this subsection is in addition to the tax authorized by subsection (b) of this section. A city or~~
 28 ~~town may not levy a tax under this section, however, to the extent the rate of tax, when added~~
 29 ~~to the general motor vehicle taxes levied by the city or town under subsection (b) of this section~~
 30 ~~and under any local legislation, would exceed thirty dollars (\$30.00) per year. The proceeds of~~
 31 ~~the tax may be used only for financing, constructing, operating, and maintaining local public~~
 32 ~~transportation systems. Cities and towns shall use the proceeds of the tax to supplement and not~~
 33 ~~to supplant or replace existing funds or other resources for public transportation systems. This~~
 34 ~~subsection does not apply to the cities and towns in Gaston County.~~

35 (d) Municipal Taxi Tax. – Cities and towns may levy a tax of not more than fifteen
 36 dollars (\$15.00) per year upon each vehicle operated in the city or town as a taxicab. The
 37 proceeds of the tax may be used for any lawful purpose.

38 (e) No Additional Local Tax. – No county, city or town may impose a franchise tax,
 39 license tax, or other fee upon a motor carrier unless the tax is authorized by this section."

40 **SECTION 29.27A.(b)** This section is effective when it becomes law. This section
 41 does not change, repeal, or affect any local modifications to G.S. 20-97(b) enacted on or before
 42 the effective date.

43
 44 **ADJUST DISTRIBUTION OF REVENUE FROM MOTOR FUEL EXCISE TAX RATE**

45 **SECTION 29.27B.(a)** G.S. 105-449.125 reads as rewritten:

46 "**§ 105-449.125. Distribution of tax revenue among various funds and accounts.**

47 The Secretary shall allocate the amount of revenue collected under this Article from an
 48 excise tax of one-half cent (1/2¢) a gallon to the following funds and accounts in the fraction
 49 indicated:

<u>Fund or Account</u>	<u>Amount</u>
50 Commercial Leaking Petroleum	

1	Underground Storage Tank Cleanup Fund	Nineteen thirty-seconds
2	Noncommercial Leaking Petroleum	
3	Underground Storage Tank Cleanup Fund	Three thirty-seconds
4	Water and Air Quality Account	Five-sixteenths.

5 The Secretary shall allocate ~~seventy-five percent (75%)~~ seventy percent (70%) of the remaining
 6 excise tax revenue collected under this Article to the Highway Fund and shall allocate
 7 ~~twenty-five percent (25%)~~ thirty percent (30%) to the Highway Trust Fund.

8 The Secretary shall charge a proportionate share of a refund allowed under this Article to
 9 each fund or account to which revenue collected under this Article is credited. The Secretary
 10 shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis."

11 **SECTION 29.27B.(b)** G.S. 105-449.125, as amended by subsection (a) of this
 12 section, reads as rewritten:

13 **"§ 105-449.125. Distribution of tax revenue among various funds and accounts.**

14 The Secretary shall allocate the amount of revenue collected under this Article from an
 15 excise tax of one-half cent (1/2¢) a gallon to the following funds and accounts in the fraction
 16 indicated:

17	<u>Fund or Account</u>	<u>Amount</u>
18	Commercial Leaking Petroleum	
19	Underground Storage Tank Cleanup Fund	Nineteen thirty-seconds
20	Noncommercial Leaking Petroleum	
21	Underground Storage Tank Cleanup Fund	Three thirty-seconds
22	Water and Air Quality Account	Five-sixteenths.

23 The Secretary shall allocate seventy percent (70%) of the remaining excise tax revenue
 24 collected under this Article to the Highway Fund and shall allocate thirty percent (30%) to the
 25 Highway Trust Fund.

26 The Secretary shall charge a proportionate share of a refund allowed under this Article to
 27 each fund or account to which revenue collected under this Article is credited. The Secretary
 28 shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis."

29 **SECTION 29.27B.(c)** Subsection (b) of this section becomes effective July 1,
 30 2016, and applies to revenue collected on or after that date.

31
 32 **INCREASE AND ADJUST DMV FEES**

33 **SECTION 29.30.(a)** G.S. 20-7(i1) reads as rewritten:

34 "(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to
 35 the provisions of this Chapter, other than G.S. 20-17(a)(2) shall pay a restoration fee of fifty
 36 dollars (\$50.00). A person whose drivers license has been revoked under G.S. 20-17(a)(2) shall
 37 pay a restoration fee of one hundred dollars (\$100.00). The fee shall be paid to the Division
 38 prior to the issuance to such person of a new drivers license or the restoration of the drivers
 39 license. The restoration fee shall be paid to the Division in addition to any and all fees which
 40 may be provided by law. This restoration fee shall not be required from any licensee whose
 41 license was revoked or voluntarily surrendered for medical or health reasons whether or not a
 42 medical evaluation was conducted pursuant to this Chapter. The fifty-dollar (\$50.00) fee, and
 43 ~~the first fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) of the one-hundred-dollar (\$100.00)
 44 fee, shall be deposited in the Highway Fund. Twenty-five dollars (\$25.00) of the
 45 one-hundred-dollar (\$100.00) fee shall be used to fund a statewide chemical alcohol testing
 46 program administered by the Forensic Tests for Alcohol Branch of the Chronic Disease and
 47 Injury Section of the Department of Health and Human Services. ~~The remainder of the~~
 48 ~~one-hundred-dollar (\$100.00) fee shall be deposited in the General Fund.~~ The Office of State
 49 Budget and Management shall annually report to the General Assembly the amount of fees
 50 ~~deposited in the General Fund and~~ transferred to the Forensic Tests for Alcohol Branch of the

1 Chronic Disease and Injury Section of the Department of Health and Human Services under
2 this subsection.

3 ~~Effective with the 2011-2012 fiscal year, from the funds deposited in the General Fund~~
4 ~~under this subsection the sum of five hundred thirty seven thousand four hundred fifty five~~
5 ~~dollars (\$537,455) shall be transferred annually to the Board of Governors of The University of~~
6 ~~North Carolina to be used for the operating expenses of the Bowles Center for Alcohol Studies~~
7 ~~at The University of North Carolina at Chapel Hill."~~

8 **SECTION 29.30.(a1)** G.S. 20-7, as amended by subsection (a) of this section,
9 reads as rewritten:

10 "**§ 20-7. Issuance and renewal of drivers licenses.**

11 ...

12 (i) Fees. – The fee for a regular drivers license is the amount set in the following table
13 multiplied by the number of years in the period for which the license is issued:

14 Class of Regular License	Fee for Each Year
15 Class A	\$4.00 <u>\$5.00</u>
16 Class B	\$4.00 <u>\$5.00</u>
17 Class C	\$4.00 <u>\$5.00</u>

18 The fee for a motorcycle endorsement is ~~one dollar and seventy five cents (\$1.75)~~ two dollars
19 (\$2.00) for each year of the period for which the endorsement is issued. The appropriate fee
20 shall be paid before a person receives a regular drivers license or an endorsement.

21 (i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to
22 the provisions of this Chapter, other than G.S. 20-17(a)(2) shall pay a restoration fee of ~~fifty~~
23 ~~dollars (\$50.00)~~ sixty dollars (\$60.00). A person whose drivers license has been revoked under
24 G.S. 20-17(a)(2) shall pay a restoration fee of ~~one hundred dollars (\$100.00)~~ one hundred
25 twenty dollars (\$120.00). The fee shall be paid to the Division prior to the issuance to such
26 person of a new drivers license or the restoration of the drivers license. The restoration fee shall
27 be paid to the Division in addition to any and all fees which may be provided by law. This
28 restoration fee shall not be required from any licensee whose license was revoked or voluntarily
29 surrendered for medical or health reasons whether or not a medical evaluation was conducted
30 pursuant to this Chapter. The ~~fifty dollar (\$50.00)~~ sixty-dollar (\$60.00) fee, and the first
31 ~~seventy five dollars (\$75.00)~~ ninety-five dollars (\$95.00) of the ~~one hundred dollar (\$100.00)~~
32 one-hundred-twenty-dollar (\$120.00) fee, shall be deposited in the Highway Fund. Twenty-five
33 dollars (\$25.00) of the ~~one hundred dollar (\$100.00)~~ one-hundred-twenty-dollar (\$120.00) fee
34 shall be used to fund a statewide chemical alcohol testing program administered by the
35 Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department
36 of Health and Human Services. The Office of State Budget and Management shall annually
37 report to the General Assembly the amount of fees transferred to the Forensic Tests for Alcohol
38 Branch of the Chronic Disease and Injury Section of the Department of Health and Human
39 Services under this subsection.

40 ...

41 (l) Learner's Permit. – A person who is at least 18 years old may obtain a learner's
42 permit. A learner's permit authorizes the permit holder to drive a specified type or class of
43 motor vehicle while in possession of the permit. A learner's permit is valid for a period of 18
44 months after it is issued. The fee for a learner's permit is ~~fifteen dollars (\$15.00)~~ eighteen
45 dollars (\$18.00). A learner's permit may be renewed, or a second learner's permit may be
46 issued, for an additional period of 18 months. The permit holder must, while operating a motor
47 vehicle over the highways, be accompanied by a person who is licensed to operate the motor
48 vehicle being driven and is seated beside the permit holder.

49"

50 **SECTION 29.30.(b)** G.S. 20-11(j) reads as rewritten:

"(j) Duration and Fee. — A limited learner's permit expires on the eighteenth birthday of the permit holder. A limited provisional license expires on the eighteenth birthday of the license holder. A limited learner's permit or limited provisional license issued under this section that expires on a weekend or State holiday shall remain valid through the fifth regular State business day following the date of expiration. A full provisional license expires on the date set under G.S. 20-7(f). The fee for a limited learner's permit or a limited provisional license is ~~fifteen dollars (\$15.00)~~ eighteen dollars (\$18.00). The fee for a full provisional license is the amount set under G.S. 20-7(i)."

SECTION 29.30.(c) G.S. 20-14 reads as rewritten:

§ 20-14. Duplicate licenses.

A person may obtain a duplicate of a license issued by the Division by paying a fee of ~~ten dollars (\$10.00)~~ twelve dollars (\$12.00) and giving the Division satisfactory proof that any of the following has occurred:

- (1) The person's license has been lost or destroyed.
- (2) It is necessary to change the name or address on the license.
- (3) Because of age, the person is entitled to a license with a different color photographic background or a different color border.
- (4) The Division revoked the person's license, the revocation period has expired, and the period for which the license was issued has not expired."

SECTION 29.30.(d) G.S. 20-16(e) reads as rewritten:

"(e) The Division may conduct driver improvement clinics for the benefit of those who have been convicted of one or more violations of this Chapter. Each driver attending a driver improvement clinic shall pay a fee of ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)."

SECTION 29.30.(e) G.S. 20-26(c) reads as rewritten:

"(c) The Division shall furnish copies of license records required to be kept by subsection (a) of this section in accordance with G.S. 20-43.1 to other persons for uses other than official upon prepayment of the following fees:

- (1) Limited extract copy of license record,
for period up to three years~~\$8.00~~\$10.00
- (2) Complete extract copy of license record~~8.00~~10.00
- (3) Certified true copy of complete license record~~11.00~~13.00.

All fees received by the Division under this subsection shall be credited to the Highway Fund."

SECTION 29.30.(f) G.S. 20-37.15(a1) reads as rewritten:

"(a1) The application must be accompanied by a nonrefundable application fee of ~~thirty dollars (\$30.00)~~ thirty-six dollars (\$36.00). This fee does not apply in any of the following circumstances:

- (1) When an individual surrenders a commercial driver learner's permit issued by the Division when submitting the application.
- (2) When the application is to renew a commercial drivers license issued by the Division.

This fee shall entitle the applicant to three attempts to pass the written knowledge test without payment of a new fee. No application fee shall be charged to an applicant eligible for a waiver under G.S. 20-37.13(c)."

SECTION 29.30.(g) G.S. 20-37.16(d) reads as rewritten:

"(d) The fee for a Class A, B, or C commercial drivers license is ~~fifteen dollars (\$15.00)~~ eighteen dollars (\$18.00) for each year of the period for which the license is issued. The fee for each endorsement is ~~three dollars (\$3.00)~~ four dollars (\$4.00) for each year of the period for which the endorsement is issued. The fees required under this section do not apply to employees of the Driver License Section of the Division who are designated by the Commissioner."

SECTION 29.30.(h) G.S. 20-42(b) reads as rewritten:

"(b) The Commissioner and officers of the Division designated by the Commissioner may prepare under the seal of the Division and deliver upon request a certified copy of any document of the Division for a fee. The fee for a document, other than an accident report under G.S. 20-166.1, is ~~ten dollars (\$10.00)~~ twelve dollars (\$12.00). The fee for an accident report is ~~five dollars (\$5.00)~~ six dollars (\$6.00). A certified copy shall be admissible in any proceeding in any court in like manner as the original thereof, without further certification. The certification fee does not apply to a document furnished for official use to a judicial official or to an official of the federal government, a state government, or a local government."

SECTION 29.30.(i) G.S. 20-85(a) reads as rewritten:

"(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

- (1) Each application for certificate of title ~~\$40.00~~\$48.00
- (2) Each application for duplicate or corrected certificate of title ~~15.00~~18.00
- (3) Each application of reposessor for certificate of title ~~15.00~~18.00
- (4) Each transfer of registration ~~15.00~~18.00
- (5) Each set of replacement registration plates ~~15.00~~18.00
- (6) Each application for duplicate registration card ~~15.00~~18.00
- (7) Each application for recording supplementary lien ~~15.00~~18.00
- (8) Each application for removing a lien from a certificate of title ~~15.00~~18.00
- (9) Each application for certificate of title for a motor vehicle transferred to a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale ~~15.00~~18.00
- (10) Each application for a salvage certificate of title made by an insurer or by a used motor vehicle dealer pursuant to subdivision (b)(2) or subsection (e1) of G.S. 20-109.1 ~~15.00~~18.00
- (11) Each set of replacement Stock Car Racing Theme plates issued under G.S. 20-79.4 ~~25.00~~25.00."

SECTION 29.30.(j) G.S. 20-85.1(b) reads as rewritten:

"(b) The Commissioner and the employees of the Division designated by the Commissioner may prepare and deliver upon request a certificate of title, charging a fee of ~~seventy five dollars (\$75.00)~~ ninety dollars (\$90.00) for one-day title service, in lieu of the title fee required by G.S. 20-85(a). The fee for one-day title service must be paid by cash or by certified check. This fee shall be credited to the Highway Trust Fund."

SECTION 29.30.(k) G.S. 20-87 reads as rewritten:

"§ 20-87. Passenger vehicle registration fees.

These fees shall be paid to the Division annually for the registration and licensing of passenger vehicles, according to the following classifications and schedules:

- (1) For-Hire Passenger Vehicles. – The fee for a passenger vehicle that is operated for compensation and has a capacity of 15 passengers or less is ~~seventy eight dollars (\$78.00)~~ ninety-four dollars (\$94.00). The fee for a passenger vehicle that is operated for compensation and has a capacity of more than 15 passengers is ~~one dollar and forty cents (\$1.40)~~ one dollar and seventy cents (\$1.70) per hundred pounds of empty weight of the vehicle.
- (2) U-Drive-It Vehicles. – U-drive-it vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity.....	\$18.00 <u>\$22.00</u>
	2-passenger capacity.....	22.00 <u>26.00</u>
	3-passenger capacity.....	26.00 <u>31.00</u>
Automobiles:	15 or fewer passengers	\$51.00 <u>\$61.00</u>

1	Buses:	16 or more passengers	\$2.00 <u>\$2.40</u> per
2			hundred
3			pounds of
4			empty weight
5	Trucks under		
6	7,000 pounds		
7	that do not		
8	haul products		
9	for hire:	4,000 pounds.....	\$41.50 <u>\$50.00</u>
10		5,000 pounds.....	\$51.00 <u>\$61.00</u>
11		6,000 pounds.....	\$61.00 <u>\$73.00</u> .

- 12 ...
- 13 (5) Private Passenger Vehicles. – There shall be paid to the Division annually,
- 14 as of the first day of January, for the registration and licensing of private
- 15 passenger vehicles, fees according to the following classifications and
- 16 schedules:
- 17 Private passenger vehicles of not more than
- 18 fifteen passengers ~~\$28.00~~\$34.00
- 19 Private passenger vehicles over fifteen passengers..... ~~31.00~~37.00
- 20 Provided, that a fee of only ~~one dollar (\$1.00)~~ one dollar and twenty cents
- 21 (\$1.20) shall be charged for any vehicle given by the federal government to
- 22 any veteran on account of any disability suffered during war so long as such
- 23 vehicle is owned by the original donee or other veteran entitled to receive
- 24 such gift under Title 38, section 252, United States Code Annotated.
- 25 (6) Private Motorcycles. – The base fee on private passenger motorcycles shall
- 26 be ~~fifteen dollars (\$15.00); eighteen dollars (\$18.00);~~ except that when a
- 27 motorcycle is equipped with an additional form of device designed to
- 28 transport persons or property, the base fee shall be ~~twenty-two dollars~~
- 29 ~~(\$22.00).~~ twenty-six dollars (\$26.00). An additional fee of three dollars
- 30 (\$3.00) is imposed on each private motorcycle registered under this
- 31 subdivision in addition to the base fee. The revenue from the additional fee,
- 32 in addition to any other funds appropriated for this purpose, shall be used to
- 33 fund the Motorcycle Safety Instruction Program created in G.S. 115D-72.
- 34 ...
- 35 (9) House Trailers. – In lieu of other registration and license fees levied on
- 36 house trailers under this section or G.S. 20-88, the registration and license
- 37 fee on house trailers shall be ~~eleven dollars (\$11.00)~~ thirteen dollars (\$13.00)
- 38 for the license year or any portion thereof.
- 39 ...
- 40 (11) Any vehicle fee determined under this section according to the weight of the
- 41 vehicle shall be increased by the sum of ~~three dollars (\$3.00)~~ four dollars
- 42 (\$4.00) to arrive at the total fee.
- 43 ...
- 44 (13) Additional fee for certain electric vehicles. – At the time of an initial
- 45 registration or registration renewal, the owner of a plug-in electric vehicle
- 46 that is not a low-speed vehicle and that does not rely on a nonelectric source
- 47 of power shall pay a fee in the amount of ~~one hundred dollars (\$100.00)~~ one
- 48 hundred twenty dollars (\$120.00) in addition to any other required
- 49 registration fees."

50 **SECTION 29.30.(1)** G.S. 20-88 reads as rewritten:

51 **"§ 20-88. Property-hauling vehicles.**

1 ...
 2 (b) The following fees are imposed on the annual registration of self-propelled
 3 property-hauling vehicles; the fees are based on the type of vehicle and its weight:

4 SCHEDULE OF WEIGHTS AND RATES
 5 Rates Per Hundred Pound Gross Weight

	Farmer Rate
6 Not over 4,000 pounds	\$0.29 <u>\$0.35</u>
7 4,001 to 9,000 pounds inclusive	.40 <u>.48</u>
8 9,001 to 13,000 pounds inclusive	.50 <u>.60</u>
9 13,001 to 17,000 pounds inclusive	.68 <u>.82</u>
10 Over 17,000 pounds	.77 <u>.92</u>

11 Rates Per Hundred Pound Gross Weight

	General Rate
12 Not over 4,000 pounds	\$0.59 <u>\$0.71</u>
13 4,001 to 9,000 pounds inclusive	.81 <u>.97</u>
14 9,001 to 13,000 pounds inclusive	1.00 <u>1.20</u>
15 13,001 to 17,000 pounds inclusive	1.36 <u>1.63</u>
16 Over 17,000 pounds	1.54 <u>1.85</u>

17 (1) The minimum fee for a vehicle licensed under this subsection is ~~twenty-four~~
 18 ~~dollars (\$24.00)~~ twenty-nine dollars (\$29.00) at the farmer rate and
 19 ~~twenty-eight dollars (\$28.00)~~ thirty-four dollars (\$34.00) at the general rate.

20 ...
 21 (6) There shall be paid to the Division annually the following fees for
 22 "wreckers" as defined under G.S. 20-4.01(50): a wrecker fully equipped
 23 weighing 7,000 pounds or less, ~~seventy-five dollars (\$75.00); ninety dollars~~
 24 ~~(\$90.00);~~ wreckers weighing in excess of 7,000 pounds shall pay one
 25 ~~hundred forty-eight dollars (\$148.00).~~ one hundred seventy-eight dollars
 26 ~~(\$178.00).~~ Fees to be prorated monthly. Provided, further, that nothing
 27 herein shall prohibit a licensed dealer from using a dealer's license plate to
 28 tow a vehicle for a customer.

29 (c) The fee for a semitrailer or trailer is ~~nineteen dollars (\$19.00)~~ twenty-three dollars
 30 (\$23.00) for each year or part of a year. The fee is payable each year. Upon the application of
 31 the owner of a semitrailer or trailer, the Division may issue a multiyear plate and registration
 32 card for the semitrailer or trailer for a fee of ~~seventy-five dollars (\$75.00).~~ ninety dollars
 33 (\$90.00). A multiyear plate and registration card for a semitrailer or trailer are valid until the
 34 owner transfers the semitrailer or trailer to another person or surrenders the plate and
 35 registration card to the Division. A multiyear plate may not be transferred to another vehicle.

36 The Division shall issue a multiyear semitrailer or trailer plate in a different color than an
 37 annual semitrailer or trailer plate and shall include the word "multiyear" on the plate. The
 38 Division may not issue a multiyear plate for a house trailer.

39 ...
 40 (i) Any vehicle fee determined under this section according to the weight of the vehicle
 41 shall be increased by the sum of ~~three dollars (\$3.00)~~ four dollars (\$4.00) to arrive at the total
 42 fee.

43"

44 **SECTION 29.30.(m)** G.S. 20-289(a) reads as rewritten:

45 "(a) The license fee for each fiscal year, or part thereof, shall be as follows:

46 (1) For motor vehicle dealers, distributors, distributor branches, and
 47 wholesalers, ~~seventy dollars (\$70.00)~~ eighty-four dollars (\$84.00) for each
 48 place of business.
 49
 50

1 the Division, within 10 days from the date the recipient receives the notice if
2 a judicial hearing is requested. If the certified mail notice has been returned
3 as undeliverable and the notice of a right to a judicial hearing has been given
4 to the owner of the motor vehicle in accordance with G.S. 20-28.4, no
5 further notice is required. Failure of the recipient to notify the Division or
6 lienor, as specified in the notice, within 10 days of the receipt of such notice
7 that a hearing is desired shall be deemed a waiver of the right to a hearing
8 prior to the sale of the property against which the lien is asserted, and the
9 lienor may proceed to enforce the lien by public or private sale as provided
10 in this section and the Division shall transfer title to the property pursuant to
11 such sale. If the Division or lienor, as specified in the notice, is notified
12 within the 10-day period provided above that a hearing is desired prior to
13 sale, the lien may be enforced by sale as provided in this section and the
14 Division will transfer title only pursuant to the order of a court of competent
15 jurisdiction.

16 If the certified mail notice has been returned as undeliverable, or if the
17 name of the person having legal title to the vehicle cannot reasonably be
18 ascertained and the fair market value of the vehicle is less than eight hundred
19 dollars (\$800.00), the lienor may institute a special proceeding in the county
20 where the vehicle is being held, for authorization to sell that vehicle. Market
21 value shall be determined by the schedule of values adopted by the
22 Commissioner under G.S. 105-187.3.

23 In such a proceeding a lienor may include more than one vehicle, but the
24 proceeds of the sale of each shall be subject only to valid claims against that
25 vehicle, and any excess proceeds of the sale shall be paid immediately to the
26 Treasurer for disposition pursuant to Chapter 116B of the General Statutes.

27 The application to the clerk in such a special proceeding shall contain the
28 notice of sale information set out in subsection (f) hereof. If the application
29 is in proper form the clerk shall enter an order authorizing the sale on a date
30 not less than 14 days therefrom, and the lienor shall cause the application
31 and order to be sent immediately by first-class mail pursuant to G.S. 1A-1,
32 Rule 5, to each person to whom notice was mailed pursuant to this
33 subsection. Following the authorized sale the lienor shall file with the clerk a
34 report in the form of an affidavit, stating that the lienor has complied with
35 the public or private sale provisions of G.S. 44A-4, the name, address, and
36 bid of the high bidder or person buying at a private sale, and a statement of
37 the disposition of the sale proceeds. The clerk then shall enter an order
38 directing the Division to transfer title accordingly.

39 If prior to the sale the owner or legal possessor contests the sale or lien in
40 a writing filed with the clerk, the proceeding shall be handled in accordance
41 with G.S. 1-301.2."

42 **SECTION 29.30.(p)** Article 1 of Chapter 20 of the General Statutes is amended by
43 adding a new section to read:

44 **"§ 20-4.02. Quadrennial adjustment of certain fees.**

45 (a) Adjustment for Inflation. – Beginning July 1, 2020, and every four years thereafter,
46 the Division shall adjust the fees charged pursuant to the statutes listed in this subsection for
47 inflation in accordance with the Consumer Price Index computed by the Bureau of Labor
48 Statistics, rounded to the nearest twenty-five cents (25¢):

49 (1) G.S. 20-7.

50 (2) G.S. 20-11.

51 (3) G.S. 20-14.

1 (4) G.S. 20-16.

2 (5) G.S. 20-26.

3 (6) G.S. 20-37.15.

4 (7) G.S. 20-37.16.

5 (8) G.S. 20-42(b).

6 (9) G.S. 20-85(a)(1) through (10).

7 (10) G.S. 20-85.1.

8 (11) G.S. 20-87, except for the additional fee set forth in G.S. 20-87(6) for private
9 motorcycles.

10 (12) G.S. 20-88.

11 (13) G.S. 20-289.

12 (14) G.S. 20-385.

13 (15) G.S. 44A-4(b)(1).

14 (b) Computation. – In determining the rate of inflation to use when adjusting the fees
15 pursuant to subsection (a) of this section, the Division shall base the rate on the percent change
16 in the annual Consumer Price Index over the preceding four-year period.

17 (c) Rules. – The provisions of Chapter 150B of the General Statutes shall not apply to
18 the adjustment of fees required by this section.

19 (d) Consultation and Publication. – At least 90 days prior to adjusting the fees pursuant
20 to subsection (a) of this section, the Division shall (i) consult with the Joint Legislative
21 Commission on Governmental Operations, (ii) provide a report to the chairs of the Senate
22 Appropriations Committee on the Department of Transportation and the House of
23 Representatives Committee on Transportation Appropriations, and (iii) publish notice of the
24 fees that will be in effect in the offices of the Division and on the Division's Web site."

25 **SECTION 29.30.(q)** G.S. 150B-1(d) is amended by adding a new subdivision to
26 read:

27 "(27) The Division of Motor Vehicles with respect to fee adjustments under
28 G.S. 20-4.02."

29 **SECTION 29.30.(r)** Subsections (a) and (r) of this section become effective July 1,
30 2015. Subsections (p) and (q) of this section become effective July 1, 2020. The remainder of
31 this section becomes effective January 1, 2016, and applies to issuances, renewals, restorations,
32 and requests on or after that date.

33 **DMV HEARING FEE SCHEDULE IMPLEMENTATION DATE**

34 **SECTION 29.30A.** Subsection (c) of Section 34.9 of S.L. 2014-100 reads as
35 rewritten:

36 **"SECTION 34.9.(c)** From funds appropriated to the Department of Transportation,
37 Information Technology Section for the 2014-2015 fiscal year, the Department shall implement
38 modifications to supporting information technology systems necessary to timely implement the
39 hearing fee schedule required by subsection (a) of this section. The Department shall
40 implement the hearing fee schedule required by subsection (a) of this section by no later than
41 January 1, 2016.~~July 1, 2017.~~"

42 **DISTRIBUTION OF FUNDS IN SPECIAL REGISTRATION PLATE ACCOUNT**

43 **SECTION 29.30B.** G.S. 20-79.7(c)(3) reads as rewritten:

44 (3) The Division shall transfer fifty percent (50%) of the remaining revenue in
45 the Special Registration Plate Account quarterly, and funds are hereby
46 appropriated, as follows: to the Department of Transportation to be used
47 solely for the purpose of beautification of highways. These funds shall be
48 administered by the Department of Transportation for beautification
49 purposes not inconsistent with good landscaping and engineering principles.
50
51

1 The Division shall transfer the remaining revenue in the Special Registration
2 Plate Account quarterly to the Highway Fund.

3 a. ~~Thirty three percent (33%) to the account of the Department of~~
4 ~~Commerce to aid in financing out of state print and other media~~
5 ~~advertising under the program for the promotion of travel and~~
6 ~~industrial development in this State.~~

7 b. ~~Fifty percent (50%) to the Department of Transportation to be used~~
8 ~~solely for the purpose of beautification of highways. These funds~~
9 ~~shall be administered by the Department of Transportation for~~
10 ~~beautification purposes not inconsistent with good landscaping and~~
11 ~~engineering principles.~~

12 c. ~~Seventeen percent (17%) to the account of the Department of Health~~
13 ~~and Human Services to promote travel accessibility for disabled~~
14 ~~persons in this State. These funds shall be used to collect and update~~
15 ~~site information on travel attractions designated by the Department of~~
16 ~~Commerce in its publications, to provide technical assistance to~~
17 ~~travel attractions concerning accommodation of disabled tourists, and~~
18 ~~to develop, print, and promote the publication ACCESS NORTH~~
19 ~~CAROLINA as provided in G.S. 168-2. Any funds allocated for~~
20 ~~these purposes that are neither spent nor obligated at the end of the~~
21 ~~fiscal year shall be transferred to the Department of Administration~~
22 ~~for removal of man-made barriers to disabled travelers at~~
23 ~~State-funded travel attractions. Guidelines for the removal of~~
24 ~~man-made barriers shall be developed in consultation with the~~
25 ~~Department of Health and Human Services."~~

27 ENFORCING PENALTIES FOR LAPSE IN FINANCIAL RESPONSIBILITY

28 **SECTION 29.31.(a)** G.S. 20-311 reads as rewritten:

29 **"§ 20-311. Action by the Division when notified of a lapse in financial responsibility.**

30 (a) Action. – When the Division receives evidence, by a notice of termination of a
31 motor vehicle liability policy or otherwise, that the owner of a motor vehicle registered or
32 required to be registered in this State does not have financial responsibility for the operation of
33 the vehicle, the Division shall send the owner a letter. The letter shall notify the owner of the
34 evidence and inform the owner that the owner shall respond to the letter within 10 days of the
35 date on the letter and explain how the owner has met the duty to have continuous financial
36 responsibility for the vehicle. Based on the owner's response, the Division shall take the
37 appropriate action listed:

38 (1) Division correction. – If the owner responds within the required time and the
39 response establishes that the owner has not had a lapse in financial
40 responsibility, the Division shall correct its records.

41 (2) Penalty only. – If the owner responds within the required time and the
42 response establishes all of the following, the Division shall assess the owner
43 a penalty in the amount set in subsection (b) of this section:

44 a. The owner had a lapse in financial responsibility, but the owner now
45 has financial responsibility.

46 b. The vehicle was not involved in an accident during the lapse in
47 financial responsibility.

48 c. The owner did not operate the vehicle or allow the vehicle to be
49 operated during the lapse with knowledge that the owner had no
50 financial responsibility for the vehicle.

(3) Penalty and revocation. – If the owner responds within the required time and the response establishes ~~any either~~ of the following, the Division shall assess the owner a penalty in the amount set in subsection (b) of this section and revoke the registration of the owner's vehicle for the period set in subsection (c) of this section:

- a. The owner had a lapse in financial responsibility and still does not have financial responsibility.
- b. The owner now has financial responsibility even though the owner had a lapse, but the response also establishes any of the following:
 - 1. The vehicle was involved in an accident during the lapse, the lapse.
 - 2. The owner operated the vehicle during the lapse with knowledge that the owner had no financial responsibility for the vehicle, or both vehicle.
 - 3. The owner allowed the vehicle to be operated during the lapse with knowledge that the owner had no financial responsibility for the vehicle.

~~(4) Revocation pending response. Penalty and revocation for failure to respond. – If Except as otherwise provided in this subdivision, if the owner does not respond within the required time, the Division shall assess a penalty in the applicable amount set forth in subsection (b) of this section and shall revoke the registration of the owner's vehicle for the period set in subsection (c) of this section. When the owner responds, the Division shall take the appropriate action listed in subdivisions (1) through (3) of this subsection as if the response had been timely. If the owner does not respond within the required time, but later responds and establishes that the owner has not had a lapse in financial responsibility, the Division shall correct its records, rescind any revocation under this subdivision of the registration of the owner's vehicle, and the owner shall not be responsible for any fee or penalty arising under this section from the owner's failure to timely respond.~~

(b) Penalty Amount. – The following table determines the amount of a penalty payable under this section by an owner who has had a lapse in financial responsibility; the amount is based on the number of times the owner has been assessed a penalty under this section during the three-year period before the date the owner's current lapse began:

Number of Lapses in Previous Three Years	Penalty Amount
None	\$50.00
One	\$100.00
Two or More	\$150.00

(c) Revocation Period. – The revocation period for a revocation based on a response that establishes that a vehicle owner does not have financial responsibility is indefinite and ends when the owner obtains financial responsibility or transfers the vehicle to an owner who has financial responsibility. The revocation period for a revocation based on a response that establishes the occurrence of an accident during a lapse in financial responsibility or the knowing operation of a vehicle without financial responsibility is 30 days. The revocation period for a revocation based on failure of a vehicle owner to respond is indefinite and ends when the owner ~~responds~~ (i) establishes that the owner has not had a lapse in financial responsibility, (ii) obtains financial responsibility, or (iii) transfers the vehicle to an owner who has financial responsibility, whichever occurs first.

(d) Revocation Notice. – When the Division revokes the registration of an owner's vehicle, it shall notify the owner of the revocation. The notice shall inform the owner of the following:

- 1 (1) That the owner shall return the vehicle's registration plate and registration
2 card to the Division, if the owner has not done so already, and that failure to
3 do so is a Class 2 misdemeanor under G.S. 20-45.
- 4 (2) That the vehicle's registration plate and registration card are subject to
5 seizure by a law enforcement officer.
- 6 (3) That the registration of the vehicle cannot be renewed while the registration
7 is revoked.
- 8 (4) That the owner shall pay any penalties ~~assessed~~, assessed within 30 days of
9 the date of the notice, a restoration fee, and the fee for a registration plate
10 when the owner applies to the Division to register a vehicle whose
11 registration was revoked.
- 12 (5) That failure of an owner to pay any penalty or fee assessed pursuant to this
13 section shall result in the Division withholding the registration renewal of
14 any motor vehicle registered in that owner's name.

15 (e) Registration After Revocation. – A vehicle whose registration has been revoked
16 may not be registered during the revocation period in the name of the owner, a child of the
17 owner, the owner's spouse, or a child of the owner's spouse. This restriction does not apply to a
18 spouse who is living separate and apart from the owner. At the end of a revocation period, a
19 vehicle owner who has financial responsibility may apply to register a vehicle whose
20 registration was revoked. The owner shall provide proof of current financial responsibility and
21 pay any penalty assessed, a restoration fee of fifty dollars (\$50.00), and the fee for a
22 registration plate. Pursuant to G.S. 20-54, failure of an owner to pay any penalty or fee assessed
23 pursuant to this section shall result in the Division withholding the registration renewal of any
24 motor vehicle registered in that owner's name.

25 ...

26 (g) Military Waiver. – Notwithstanding the penalty and restoration fee provisions of
27 this section, any monetary penalty or restoration fee shall be waived for any person who, at the
28 time of notification of a lapse in ~~coverage~~, financial responsibility, was deployed as a member
29 of the Armed Forces of the United States outside of the continental United States for a total of
30 45 or more days. In addition, no insurance points under the Safe Driver Incentive Plan shall be
31 assessed for any violation for which a monetary penalty or restoration fee is waived pursuant to
32 this subsection. ~~Any~~ All of the following apply to a person qualifying under this subsection
33 shall:

- 34 (1) ~~Have~~ The person shall have an affirmative defense to any criminal charge
35 based upon the failure to return any registration card or registration plate to
36 the ~~Division~~; Division.
- 37 (2) Upon reregistration, the person shall receive without cost from the Division
38 all necessary registration cards or ~~plates~~; and plates.
- 39 (3) Upon notice of revocation, the person shall be permitted to transfer the
40 vehicle's registration immediately to his or her spouse, child, or spouse's
41 child, notwithstanding the provisions of subsection (e) of this section.

42 (h) Applicability. – The penalty and revocation imposed under this section do not apply
43 when the sole owner of a vehicle dies and that owner had financial responsibility for the vehicle
44 as of the date of the owner's death."

45 **SECTION 29.31.(b)** G.S. 20-54 is amended by adding a new subdivision to read:

46 "(12) The owner of the vehicle has failed to pay any penalty or fee imposed
47 pursuant to G.S. 20-311."

48 **SECTION 29.31.(c)** G.S. 20-311(h), as enacted by subsection (a) of this section, is
49 effective when this act becomes law. The remainder of this section becomes effective
50 December 1, 2015, and applies to lapses in financial responsibility occurring on or after that
51 date.

LPA CONTRACT STANDARDS

SECTION 29.32.(a) G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the office of the Division located in Wake, Cumberland, or Mecklenburg Counties and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina, including military installations within this State, with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection allows or permits the operation of fewer outlets in any county in this State than are now being operated.

~~Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation.~~ The terms of a commission contract entered under this subsection shall specify the duration of the contract and either include or incorporate by reference standards by which the Division may supervise and evaluate the performance of the commission contractor. The duration of an initial commission contract may not exceed eight years and the duration of a renewal commission contract may not exceed two years. The Division may award monetary performance bonuses, not to exceed an aggregate total of ninety thousand dollars (\$90,000) annually, to commission contractors based on their performance.

The amount of compensation payable to a commission contractor is determined on a per transaction basis. The collection of the highway use tax is considered a separate transaction for which one dollar and ~~twenty seven cents (\$1.27)~~ thirty cents (\$1.30) compensation shall be paid. The issuance of a limited registration "T" sticker and the collection of property tax are each considered a separate transaction for which compensation at the rate of one dollar and ~~twenty seven cents (\$1.27)~~ thirty cents (\$1.30) and one dollar and ~~six cents (\$1.06)~~ eight cents (\$1.08) respectively, shall be paid by counties and municipalities as a cost of the combined motor vehicle registration renewal and property tax collection system. The performance at the same time of one or more of the transactions below is considered a single transaction for which one dollar and ~~forty three cents (\$1.43)~~ forty-six cents (\$1.46) compensation shall be paid:

- (1) Issuance of a registration plate, a registration card, a registration sticker, or a certificate of title.
- (2) Issuance of a handicapped placard or handicapped identification card.
- (3) Acceptance of an application for a personalized registration plate.
- (4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
- (5) Cancellation of a title because the vehicle has been junked.
- (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
- (7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

- 1 (8) Acceptance of a notice of failure to maintain financial responsibility for a
2 motor vehicle.
3 (8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
4 (8b), (9) Repealed by Session Laws 2013-372, s. 2(a), effective July 1, 2013.
5 (10) Acceptance of a temporary lien filing.
6 (11) Conversion of an existing paper title to an electronic lien upon request of a
7 primary lienholder."

8 **SECTION 29.32.(b)** All commission contracts entered into by the Division of
9 Motor Vehicles under G.S. 20-63(h) after the effective date of this subsection shall specify the
10 duration of the contract and include or incorporate by reference the standards required under
11 subsection (a) of this section. No later than July 1, 2018, all other commission contracts entered
12 into by the Division of Motor Vehicles shall specify the duration of the contract and include or
13 incorporate by reference the standards required under subsection (a) of this section.

14 **SECTION 29.32.(c)** This section becomes effective July 1, 2015, and applies to
15 transactions on or after that date.
16

17 DMV/UMSTEAD ACT CLARIFICATION

18 **SECTION 29.33.** G.S. 66-58(c) is amended by adding a new subdivision to read:

19 "(c) The provisions of subsection (a) shall not prohibit:

20 ...

21 (22) The operation by the Division of Motor Vehicles of digital advertising and
22 automated teller machines in offices of the Division or contract license plate
23 agencies."
24

25 HIGHWAY USE TAX CLARIFICATION

26 **SECTION 29.34.(a)** G.S. 105-187.6(c) reads as rewritten:

27 "(c) Out-of-state Vehicles. – A maximum tax of one hundred fifty dollars (\$150.00)
28 applies when a certificate of title is issued for a motor vehicle that, at the time of applying for a
29 certificate of title, is and has been titled in the name of the owner of the motor vehicle in
30 another state for at least 90 days prior to the date of application for a certificate of title in
31 this State."

32 **SECTION 29.34.(b)** This section is effective when this act becomes law.
33

34 ADJUST MAXIMUM HIGHWAY USE TAX IMPOSED FOR CERTAIN MOTOR 35 VEHICLES

36 **SECTION 29.34A.(a)** G.S. 105-187.3(a1) reads as rewritten:

37 "(a1) Tax Rate. – The tax rate is three percent (3%). The maximum tax is ~~one-two~~
38 ~~thousand dollars (\$1,000)-(\$2,000)~~ for each certificate of title issued for a Class A or Class B
39 motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. ~~The maximum~~
40 ~~tax is one thousand five hundred dollars (\$1,500)-G.S. 20-4.01, and for each certificate of title~~
41 ~~issued for a recreational vehicle that is not subject to the one thousand dollar (\$1,000)~~
42 ~~maximum tax-vehicle.~~ The tax is payable as provided in G.S. 105-187.4."

43 **SECTION 29.34A.(b)** G.S. 105-187.6(c), as amended by Section 29.34 of this act,
44 reads as rewritten:

45 "(c) Out-of-state Vehicles. – A maximum tax of ~~one-two~~ hundred fifty dollars ~~(\$150.00)~~
46 (\$250.00) applies when a certificate of title is issued for a motor vehicle that, at the time of
47 applying for a certificate of title, is and has been titled in the name of the owner of the motor
48 vehicle in another state for at least 90 days prior to the date of application for a certificate of
49 title in this State."

50 **SECTION 29.34A.(c)** This section becomes effective January 1, 2016, and applies
51 to sales made on or after that date.

ELIMINATE 10-DAY TRIP PERMIT AND INCREASE TEMPORARY TAG FEE

SECTION 29.35.(a) G.S. 20-183.4C reads as rewritten:

"§ 20-183.4C. When a vehicle must be inspected; 10-day trip permit temporary license plate.

...
(b) Permit Temporary License Plate. – The Division may issue a 10-day trip permit temporary license plate under and in accordance with G.S. 20-50(b) that is valid for 10 days to a person that authorizes the person to drive a vehicle whose inspection authorization or registration has expired. ~~The permit may only be issued when the person has furnished proof of financial responsibility. The permit must describe the vehicle whose inspection authorization or registration has expired. The permit authorizes the person to drive the described vehicle for a period not to exceed 10 days from the date of issuance.~~

...."

SECTION 29.35.(b) G.S. 20-50(b) reads as rewritten:

"(b) The Division may issue a temporary license plate for a vehicle. A temporary license plate is valid for the period set by the Division. The period may not be less than 10 days nor more than 60 days.

A person may obtain a temporary license plate for a vehicle by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division.

The fee for a temporary license plate that is valid for 10 days is ~~five-ten~~ dollars (~~\$5.00~~). (\$10.00). The fee for a temporary license plate that is valid for more than 10 days is the amount that would be required with an application for a license plate for the vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more than 10 days and files an application for a license plate for that vehicle before the temporary license plate expires, the person is not required to pay the fee that would otherwise be required for the license plate.

A temporary license plate is subject to the following limitations and conditions:

- (1) It may be issued only upon proper proof that the applicant has met the applicable financial responsibility requirements.
- (2) It expires on midnight of the day set for expiration.
- (3) It may be used only on the vehicle for which issued and may not be transferred, loaned, or assigned to another.
- (4) If it is lost or stolen, the person who applied for it must notify the Division.
- (5) It may not be issued by a dealer.
- (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license plates apply to temporary license plates insofar as possible."

SECTION 29.35.(c) Ten-day trip permits issued under G.S. 20-183.4C(b) prior to the effective date of this section shall remain valid for the duration of the issuance.

SECTION 29.35.(d) This section becomes effective July 1, 2015, and applies to temporary license plates issued on or after that date.

TECHNICAL CORRECTION/REMOTE RENEWAL OF DRIVERS LICENSE

SECTION 29.36. G.S. 20-7(f)(6) reads as rewritten:

"(6) Remote renewal. – The Subject to the following requirements and limitations, the Division may offer remote renewal of a drivers license issued by the Division. For purposes of this subdivision, "remote renewal" means renewal of a drivers license by mail, telephone, electronic device, or other secure means approved by the Commissioner:Division:

- a. Requirements. – To be eligible for remote renewal under this subdivision, a person must meet all of the following requirements:

1. The license holder possesses a valid, unexpired Class C drivers license that was issued when the person was at least 18 years old.
 2. The license holder's current license includes no restrictions other than a restriction for corrective lenses.
 3. The license holder attests, in a manner designated by the Division, that (i) the license holder is a resident of the State and currently resides at the address on the license to be renewed, (ii) the license holder's name as it appears on the license to be renewed has not changed, and (iii) all other information required by the Division for an in-person renewal under this Article has been provided completely and truthfully.
 4. The most recent renewal was an in-person renewal and not a remote renewal under this subdivision.
 5. The license holder is otherwise eligible for renewal under this subsection.
- b. Waiver of requirements. – When renewing a drivers license pursuant to this subdivision, the Division may waive the examination and photograph that would otherwise be required for the renewal.
- c. Duration of remote renewal. – A renewed drivers license issued to a person by remote renewal under this subdivision expires according to the following schedule:
1. For a person at least 18 years old but less than 66 years old, on the birthday of the licensee in the eighth year after issuance.
 2. For a person at least 66 years old, on the birthday of the licensee in the fifth year after issuance.
- d. Rules. – The Division shall adopt rules to implement this subdivision.
- e. Federal law. – Nothing in this subdivision shall be construed to supersede any more restrictive provisions for renewal of drivers licenses prescribed by federal law or regulation.
- f. Definition. – For purposes of this subdivision, "remote renewal" means renewal of a drivers license by mail, telephone, electronic device, or other secure means approved by the Commissioner.

VISITOR CENTERS FUNDING TECHNICAL CORRECTION

SECTION 29.36A. G.S. 20-79.7(c)(2)d. 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) to provide operating assistance for the Visitor Centers:

...
 d. ~~in the Town of Boone, Watauga County,~~ ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
"

STOP LAMPS ON MOTOR VEHICLE/CLARIFICATION

SECTION 29.36B.(a) G.S. 20-129(g), as amended by Section 1 of S.L. 2015-31, reads as rewritten:

"(g) No person shall sell or operate on the highways of the State any motor vehicle manufactured after December 31, 1955, and on or before December 31, 1970, unless it shall be equipped with a stop lamp on the rear of the vehicle. No person shall sell or operate on the highways of the State any motor vehicle, manufactured after December 31, 1970, unless it shall be equipped with stop lamps, one on each side of the rear of the vehicle. No person shall sell or operate on the highways of the State any motorcycle or motor-driven cycle, manufactured after December 31, 1970, unless it shall be equipped with a stop lamp on the rear of the motorcycle or motor-driven cycle. The stop lamps shall emit, reflect, or display a red or amber light visible from a distance of not less than 100 feet to the rear in normal sunlight, and shall be actuated upon application of the service (foot) brake. The stop lamps may be incorporated into a unit with one or more other rear lamps."

SECTION 29.36B.(b) This section becomes effective October 1, 2015, and applies to offenses committed on or after that date.

POSITIONS IN SUPPORT OF THE COMBINED MOTOR VEHICLE REGISTRATION AND PROPERTY TAX COLLECTION SYSTEM

SECTION 29.37. Section 24.10(a) of S.L. 2012-142 reads as rewritten:

"**SECTION 24.10.(a)** Upon request from the Department of Transportation and notwithstanding any other provision of law to the contrary, the Office of State Budget and Management may authorize the creation of time-limited, full-time equivalent positions within the Department of Transportation and its Division of Motor Vehicles in excess of the positions authorized by this act for the sole purposes of implementing and administering the combined motor vehicle registration and property tax collection system, in accordance with the funding authorizations in G.S. 105-330.5 and G.S. 105-330.10. Positions created under this authorization shall terminate no later than ~~June 30, 2014.~~ June 30, 2017. Following the approval of a request, the Office of State Budget and Management shall direct the transfer of funds from the Combined Motor Vehicle and Registration Account, also known as the Division of Motor Vehicles Taxation Interest Fund for Integrated Computer System, to support personnel and related operating costs for the positions approved under this section."

DMV/TITLE AND LICENSE PERSONAL WATERCRAFT

SECTION 29.38. G.S. 20-39(e) reads as rewritten:

"(e) The Commissioner is authorized to cooperate with and provide assistance to the Environmental Management Commission, or appropriate local government officials, and to develop, adopt, and ensure enforcement of necessary rules and regulations, regarding programs of motor vehicle emissions inspection/maintenance required for areas in which ambient air pollutant concentrations exceed National Ambient Air Quality Standards. The Commissioner is further authorized to allow offices of the Division that provide vehicle titling and registration services and commission contractors of the Division under G.S. 20-63 to serve, upon agreement with the Wildlife Resources Commission, as vessel agents under G.S. 75A-5.2."

GRADUATED DRIVER LICENSING SYSTEM/REPEAL REQUIREMENT OF DRIVER EDUCATION AND ADJUST PASSING SCORE FOR WRITTEN TEST

SECTION 29.39.(a) G.S. 20-11(b)(1) is repealed.

SECTION 29.39.(b) G.S. 20-11(h) reads as rewritten:

"(h) Exception for Persons 16 to 18 Who Have an Unrestricted Out-of-State License. — A person who is at least 16 years old but less than 18 years old, who was a resident of another state and has an unrestricted drivers license issued by that state, and who becomes a resident of

1 this State may obtain one of the following upon the submission of a driving eligibility
2 certificate or a high school diploma or its equivalent:

- 3 (1) ~~A temporary permit, if the person has not completed a drivers education~~
4 ~~program that meets the requirements of the Superintendent of Public~~
5 ~~Instruction but is currently enrolled in a drivers education program that~~
6 ~~meets these requirements. A temporary permit is valid for the period~~
7 ~~specified in the permit and authorizes the holder of the permit to drive a~~
8 ~~specified type or class of motor vehicle when in possession of the permit,~~
9 ~~subject to any restrictions imposed by the Division concerning time of~~
10 ~~driving, supervision, and passenger limitations. The period must end within~~
11 ~~10 days after the expected completion date of the drivers education program~~
12 ~~in which the applicant is enrolled.~~
- 13 (2) A full provisional license, if the person ~~has completed a drivers education~~
14 ~~program that meets the requirements of the Superintendent of Public~~
15 ~~Instruction,~~ has held the license issued by the other state for at least 12
16 ~~months, months~~ and has not been convicted during the preceding six months
17 of a motor vehicle moving violation, a seat belt infraction, or an offense
18 committed in another jurisdiction that would be a motor vehicle moving
19 violation or seat belt infraction if committed in this State.
- 20 (2a) A full provisional license, if the person ~~has completed a drivers education~~
21 ~~program that meets the requirements of the Superintendent of Public~~
22 ~~Instruction,~~ has held both a learner's permit and a restricted license from
23 another state for at least six months each, the Commissioner finds that the
24 requirements for the learner's permit and restricted license are comparable to
25 the requirements for a learner's permit and restricted license in this State, and
26 the person has not been convicted during the preceding six months of a
27 motor vehicle moving violation, a seat belt infraction, or an offense
28 committed in another jurisdiction that would be a moving violation or a seat
29 belt infraction if committed in this State.
- 30 (3) A limited provisional license, if the person ~~has completed a drivers~~
31 ~~education program that meets the requirements of the Superintendent of~~
32 ~~Public Instruction but either did not hold the license issued by the other state~~
33 ~~for at least 12 months or was convicted during the preceding six months of a~~
34 ~~motor vehicle moving violation, a seat belt infraction, or an offense~~
35 ~~committed in another jurisdiction that would be a motor vehicle moving~~
36 ~~violation or seat belt infraction if committed in this State."~~

37 **SECTION 29.39.(c)** G.S. 20-11(h1) reads as rewritten:

38 "(h1) Exception for Persons 16 to 18 Who Have an Out-of-State Restricted License. — A
39 person who is at least 16 years old but less than 18 years old, who was a resident of another
40 state and has a restricted drivers license issued by that state, and who becomes a resident of this
41 State may obtain one of the following:

- 42 (1) A limited provisional license, if the person ~~has completed a drivers~~
43 ~~education program that meets the requirements of the Superintendent of~~
44 ~~Public Instruction,~~ held the restricted license issued by the other state for at
45 least 12 ~~months, months~~ and ~~whose the person's~~ parent or guardian certifies
46 that the person has not been convicted during the preceding six months of a
47 motor vehicle moving violation, a seat belt infraction, or an offense
48 committed in another jurisdiction that would be a motor vehicle moving
49 violation or seat belt infraction if committed in this State.
- 50 (2) A limited learners permit, if the person ~~has completed a drivers education~~
51 ~~program that meets the requirements of the Superintendent of Public~~

1 ~~Instruction but either~~ did not hold the restricted license issued by the other
2 state for at least 12 months or was convicted during the preceding six
3 months of a motor vehicle moving violation, a seat belt infraction, or an
4 offense committed in another jurisdiction that would be a motor vehicle
5 moving violation or seat belt infraction if committed in this State. A person
6 who qualifies for a limited learners permit under this subdivision and whose
7 parent or guardian certifies that the person has not been convicted of a
8 moving violation in the preceding six months shall be deemed to have held a
9 limited learners permit in this State for each month the person held a
10 restricted license in another state."

11 **SECTION 29.39.(d)** G.S. 20-11(h2) reads as rewritten:

12 "(h2) Exception for Persons Age 15 Who Have an Out-of-State Unrestricted or Restricted
13 License. — A person who is age 15, who was a resident of another state, has an unrestricted or
14 restricted drivers license issued by that state, and who becomes a resident of this State may
15 obtain a limited learners permit if the ~~person has completed a drivers education program that~~
16 ~~meets the requirements of the Superintendent of Public Instruction. A person who qualifies for~~
17 ~~a limited learners permit under this subsection and whose person's~~ parent or guardian certifies
18 that the person has not been convicted of a moving violation in the preceding six ~~months~~
19 months. A person who qualifies for a limited learners permit under this subsection shall be
20 deemed to have held a limited learners permit in this State for each month the person held an
21 unrestricted or restricted license in another state."

22 **SECTION 29.39.(e)** G.S. 20-11(h3) reads as rewritten:

23 "(h3) Exception for Persons Less Than Age 18 Who Have a Federally Issued Unrestricted
24 or Restricted License. — A person who is less than age 18, who has an unrestricted or
25 restricted drivers license issued by the federal government, and who becomes a resident of this
26 State may obtain a limited provisional license or a provisional license if the ~~person has~~
27 ~~completed a drivers education program substantially equivalent to the drivers education~~
28 ~~program that meets the requirements of the Superintendent of Public Instruction. A person who~~
29 ~~qualifies for a limited provisional license or a provisional license under this subsection and~~
30 ~~whose person's~~ parent or guardian certifies that the person has not been convicted of a moving
31 violation in the preceding six ~~months~~ months. A person who qualifies for a limited provisional
32 license or a provisional license under this subsection shall be deemed to have held a limited
33 provisional license or a provisional license in this State for each month the person held an
34 unrestricted or restricted license issued by the federal government."

35 **SECTION 29.39.(f)** G.S. 20-11(d)(5) reads as rewritten:

36 "(5) Has completed a driving log, on a form approved by the Division, detailing a
37 minimum of ~~60~~ 85 hours as the operator of a motor vehicle of a class for
38 which the driver has been issued a limited learner's permit. The log must
39 show at least 10 hours of the required driving occurred during nighttime
40 hours. Driving completed by the driver as part of a course of driver
41 instruction offered in accordance with G.S. 115D-76.5 or at a licensed
42 commercial driver training school may be counted toward the 85-hour
43 requirement upon the driver providing proof acceptable to the Division of
44 the number of hours he or she drove as part of the course. No more than 10
45 hours of driving per week may be counted toward the ~~60-hour~~ 85-hour
46 requirement. The driving log must be signed by the supervising driver and
47 submitted to the Division at the time the applicant seeks to obtain a limited
48 provisional license. If the Division has cause to believe that a driving log has
49 been falsified, the limited learner's permit holder shall be required to
50 complete a new driving log with the same requirements and shall not be
51 eligible to obtain a limited provisional license for six months."

SECTION 29.39.(g) G.S. 20-7(c) reads as rewritten:

"(c) Tests. – To demonstrate physical and mental ability, a person must pass an examination. The examination may include road tests, vision tests, oral tests, and, in the case of literate applicants, written tests, as the Division may require. The tests must ensure that an applicant recognizes the handicapped international symbol of access, as defined in G.S. 20-37.5. If the Division requires a written test on the person's knowledge of the rules of the road, the person must answer at least eighty-five percent (85%) of the questions correctly in order to pass the test. The Division may not require a person who applies to renew a license that has not expired to take a written test or a road test unless one or more of the following applies:

- (1) The person has been convicted of a traffic violation since the person's license was last issued.
- (2) The applicant suffers from a mental or physical condition that impairs the person's ability to drive a motor vehicle.

The Division may not require a person who is at least 60 years old to parallel park a motor vehicle as part of a road test."

SECTION 29.39.(h) G.S. 20-11(b)(2) reads as rewritten:

"(2) Passes a written test administered by the Division. The person must answer at least eighty-five percent (85%) of the questions correctly in order to pass the test."

SECTION 29.39.(i) Subsections (a) through (e) and (i) of this section are effective when this act becomes law. The remainder of this section becomes effective July 1, 2016, and applies to applications for permits and licenses received by the Division on or after that date.

PART XXX. SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE

SECTION 30.1.(a) The salary of the Governor as provided by G.S. 147-11(a) shall remain unchanged for the 2015-2017 fiscal biennium.

SECTION 30.1.(b) The annual salaries for members of the Council of State, payable monthly, shall remain unchanged for the 2015-2017 fiscal biennium, as follows:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$125,676
Attorney General	125,676
Secretary of State	125,676
State Treasurer	125,676
State Auditor	125,676
Superintendent of Public Instruction	125,676
Agriculture Commissioner	125,676
Insurance Commissioner	125,676
Labor Commissioner	125,676

SECTION 30.1.(c) The Office of State Human Resources shall study the compensation of the Council of State, as follows:

- (1) Examine the salary, retirement and deferred compensation plans, health and other insurance coverages, per diem rates, travel reimbursement rates, use of State vehicles, and any other expense reimbursements or benefits other than salary.
- (2) Review any comparative information from other states and current salary levels for similar statewide elected constitutional officers.
- (3) Review market data for any comparable private sector executive positions.

1 (4) Consider whether Council of State salaries should be restructured and set in
2 a different manner.

3 (5) Consider any other matters pertaining to the compensation of the Council of
4 State.

5 **SECTION 30.1.(d)** By May 1, 2016, the Office of State Human Resources shall
6 report to the chairs of the Senate Appropriations/Base Budget Committee and the House of
7 Representatives Appropriations Committee on the review of Council of State compensation
8 required by subsection (c) of this section.
9

10 CERTAIN EXECUTIVE BRANCH OFFICIALS

11 **SECTION 30.2.** The annual salaries, payable monthly, for the following executive
12 branch officials shall remain unchanged for the 2015-2017 fiscal biennium, as follows:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	\$111,868
State Controller	156,159
Commissioner of Banks	125,676
Chair, Board of Review, Division of Employment Security	123,255
Members, Board of Review, Division of Employment Security	121,737
Chairman, Parole Commission	102,235
Members of the Parole Commission	94,464
Chairman, Utilities Commission	139,849
Members of the Utilities Commission	125,676
Executive Director, North Carolina Agricultural Finance Authority	108,915

26 JUDICIAL BRANCH SALARIES

27 **SECTION 30.3.(a)** The annual salaries, payable monthly, for specified judicial
28 branch officials shall remain unchanged for the 2015-2017 fiscal biennium, as follows:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$143,623
Associate Justice, Supreme Court	139,896
Chief Judge, Court of Appeals	137,682
Judge, Court of Appeals	134,109
Judge, Senior Regular Resident Superior Court	130,492
Judge, Superior Court	126,875
Chief Judge, District Court	115,301
Judge, District Court	111,684
District Attorney	121,737
Administrative Officer of the Courts	129,259
Assistant Administrative Officer of the Courts	118,152
Public Defender	121,737
Director of Indigent Defense Services	125,498

39 **SECTION 30.3.(b)** The annual salaries of permanent full-time employees of the
40 Judicial Department whose salaries are not itemized in this act shall not be legislatively
41 increased for the 2015-2017 fiscal biennium, but may be increased as otherwise allowed by
42 law.
43

44 **SECTION 30.3.(c)** Salary reserves generated by the clerk of superior court offices
45 during the 2015-2016 fiscal year shall be used exclusively by the clerks of superior court. The
46 clerks of superior court may use these funds to award salary increases in addition to those
47 specifically provided for deputy and assistant clerks under the respective salary plans. Any
48 additional increases may be awarded at the discretion of each elected clerk of superior court.
49
50
51

1 The Administrative Office of the Courts shall (i) allocate funds for additional discretionary
2 salary adjustments on a per capita basis and (ii) adopt a plan for distribution of the funds in
3 consultation with the Conference of Clerks of Superior Court.

5 LEGISLATIVE BRANCH SALARIES

6 **SECTION 30.4.(a)** For the 2015-2017 fiscal biennium, the salaries of members
7 and officers of the General Assembly shall remain unchanged at the amounts set under
8 G.S. 120-3, as provided in 1994 by the 1993 General Assembly.

9 **SECTION 30.4.(b)** The annual salaries of the Legislative Services Officer and of
10 nonelected employees of the General Assembly in effect on June 30, 2015, shall not be
11 legislatively increased for the 2015-2017 fiscal biennium, but may be increased as otherwise
12 allowed by law.

14 COMMUNITY COLLEGES PERSONNEL

15 **SECTION 30.5.(a)** The minimum salaries for nine-month, full-time curriculum
16 community college faculty for the 2015-2017 fiscal biennium shall remain unchanged as
17 follows:

18 <u>Education Level</u>	19 <u>Minimum Salary</u>
20 Vocational Diploma/Certificate or Less	21 \$35,314
22 Associate Degree or Equivalent	23 35,819
24 Bachelor's Degree	25 38,009
26 Master's Degree or Education Specialist	27 39,952
28 Doctoral Degree	29 42,753

30 No full-time faculty member shall earn less than the minimum salary for his or her
31 education level.

32 The pro rata hourly rate of the minimum salary for each education level shall be
33 used to determine the minimum salary for part-time faculty members.

34 **SECTION 30.5.(b)** For the 2015-2017 fiscal biennium, the community college
35 boards of trustees may provide instructional personnel a salary increase pursuant to the policies
36 adopted by the State Board of Community Colleges. Funds for compensation increases may be
37 used for any one or more of the following purposes: (i) merit pay, (ii) across-the-board
38 increases, (iii) recruitment bonuses, (iv) retention increases, and (v) any other compensation
39 increase pursuant to policies adopted by the State Board of Community Colleges. The State
40 Board of Community Colleges shall make a report on the use of these funds to the 2016
41 Regular Session of the 2015 General Assembly no later than March 1, 2016.

37 UNIVERSITY OF NORTH CAROLINA SYSTEM

38 **SECTION 30.6.** Effective for the 2015-2017 fiscal biennium, the annual
39 compensation of all full-time University of North Carolina SHRA and EHRA employees shall
40 not be legislatively increased for the 2015-2017 fiscal biennium, but may be increased as
41 otherwise allowed by law.

43 STATE AGENCY TEACHERS

44 **SECTION 30.7.** Employees of schools operated by the Department of Health and
45 Human Services, the Department of Public Safety, and the State Board of Education who are
46 paid on the Teacher Salary Schedule shall receive any experience step increases authorized in
47 Section 9.1 of this act.

49 ALL STATE-SUPPORTED PERSONNEL

50 **SECTION 30.8.(a)** For the 2015-2017 fiscal biennium, except as provided by Part
51 9 and Section 30.5 of this act, the annual compensation of all employees subject to or exempt

1 from the North Carolina Human Resources Act shall not be legislatively increased, but may be
2 increased as otherwise provided by law.

3 **SECTION 30.8.(b)** Salaries and Related Benefits for Positions That Are Funded. –

4 (1) Partially from the General Fund or Highway Fund and partially from sources
5 other than the General Fund or Highway Fund shall be increased from the
6 General Fund or Highway Fund appropriation only to the extent of the
7 proportionate part of the salaries paid from the General Fund or Highway
8 Fund.

9 (2) Fully from sources other than the General Fund or Highway Fund shall be
10 increased as provided by this act. The Director of the Budget may increase
11 expenditures of receipts from these sources by the amount necessary to
12 provide the legislative increase to receipt-supported personnel in the
13 certified budget.

14 **SECTION 30.8.(c)** The salary increases provided in this act become effective July
15 1, 2015, and do not apply to persons separated from State service due to resignation, dismissal,
16 reduction in force, death, or retirement, or whose last workday is prior to July 1, 2015.

17 **SECTION 30.8.(d)** Payroll checks issued to employees after July 1, 2015, that
18 represent payment of services provided prior to July 1, 2015, shall not be eligible for salary
19 increases provided for in this act. This subsection applies to all employees paid from State
20 funds, whether or not subject to or exempt from the North Carolina Human Resources Act,
21 including employees of public schools, community colleges, and The University of North
22 Carolina.

23 **SECTION 30.8.(e)** Nothing in this act authorizes the transfer of funds between the
24 General Fund and the Highway Fund for salary increases.

25
26 **MOST STATE EMPLOYEES**

27 **SECTION 30.9.** For the 2015-2017 fiscal biennium, the salaries in effect June 30,
28 2015, for the following employees shall not be legislatively increased, but may be increased as
29 otherwise allowed by law:

- 30 (1) Permanent full-time State officials and persons whose salaries are set in
31 accordance with the State Human Resources Act.
32 (2) Permanent full-time State officials and persons in positions exempt from the
33 State Human Resources Act.
34 (3) Permanent part-time State employees.
35 (4) Temporary and permanent hourly State employees.

36
37 **USE OF FUNDS APPROPRIATED FOR COMPENSATION INCREASES**

38 **SECTION 30.10.(a)** The appropriations set forth in Section 2.1 of this act include
39 appropriations for compensation increases in amounts set forth in the committee report
40 described in Section 33.2 of this act. The Office of State Budget and Management shall ensure
41 that those funds are used only for salary increases as provided by this act or otherwise allowed
42 by law.

43 **SECTION 30.10.(b)** If the Director of the Budget determines that funds
44 appropriated to a State agency for salary increases exceed the amount required by that agency
45 for that purpose, the Director may reallocate those funds to other State agencies that received
46 insufficient funds for salary increases.

47 **SECTION 30.10.(c)** No later than January 1, 2016, the Office of State Budget and
48 Management shall report to the Joint Legislative Commission on Governmental Operations on
49 the expenditure of funds for salary increases. This report shall include at least the following
50 information for each State agency for the 2015-2016 fiscal year:

- 51 (1) The total amount of funds that the agency received for salary increases.

- 1 (2) The total amount of funds transferred from the agency to other State
2 agencies pursuant to subsection (b) of this section. This section of the report
3 shall identify the amounts transferred to each recipient State agency.
4 (3) The total amount of funds used by the agency for salary increases.
5 (4) The total amount of funds received by the agency for salary increases that
6 are anticipated to revert at the end of the fiscal year.
7

8 MONITOR SALARY INCREASES

9 **SECTION 30.11.(a)** The Office of State Budget and Management and the Office
10 of State Human Resources shall submit a semiannual report to the Joint Legislative
11 Commission on Governmental Operations on nonlegislative salary increases in (i) State
12 agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the
13 judicial branch; and (iii) The University of North Carolina and its constituent institutions. The
14 reports required by this section shall include the following information:

- 15 (1) For agencies reporting through the BEACON HR/Payroll system, (i) a
16 breakdown by action type (including, but not limited to, promotion,
17 reallocation, career progression, salary adjustment, and any similar actions
18 increasing employee pay) of the number and annual amount of those
19 increases and (ii) a breakdown by action reason (including in-range higher
20 level, acting pay, trainee adjustment, and other similar action reasons) of the
21 number and annual amount of those action types coded as salary adjustment.
22 (2) For The University of North Carolina and its constituent institutions, a
23 breakdown of the number and annual amount of those increases categorized
24 by the University as promotions, changes in job duties or responsibilities,
25 Distinguished Professorships, retention pay, career progression, and any
26 other similar actions increasing employee pay.
27 (3) A summary of actions taken by the Office of State Budget and Management
28 and the Office of State Personnel with respect to unauthorized salary
29 increases.

30 **SECTION 30.11.(b)** The Legislative Services Officer shall report semiannually to
31 the President Pro Tempore of the Senate and the Speaker of the House of Representatives on
32 nonlegislative salary increases.
33

34 COMPENSATION LIMITATIONS/LOTTERY COMMISSION

35 **SECTION 30.12.** For the 2015-2017 fiscal biennium, notwithstanding the
36 provisions of G.S. 18C-114(a)(11) and G.S. 18C-120(b)(3), the Lottery Commission shall not
37 expend funds for compensation bonuses or for merit-based or performance-based increases.
38

39 SALARY ADJUSTMENT FUND

40 **SECTION 30.12A.(a)** Funds appropriated or otherwise transferred to the General
41 Fund Salary Adjustment by this act or any other provision of law shall be used to fund agency
42 requests for salary range revisions, special minimum rates, grade to band transfers, and
43 geographic site differential adjustments to provide competitive salary rates for affected job
44 classifications or groups in response to changes in labor market rates as documented through
45 data collection and analysis according to accepted human resource professional practices and
46 standards. Funds shall only be used for salary adjustments that are in compliance with State
47 Human Resources Commission policies. Funding shall not be used for other purposes,
48 including in-range adjustments, career progression adjustments, or other adjustments as these
49 terms may be defined by State human resources policy.

1 physical, chemical, and biological hazards in the workplace; communicating potential hazards
2 to employees; and assuring adequate housekeeping and sanitation.

3 **"§ 143-582. Program requirements.**

4 The written program required under this Article shall describe at a minimum:

- 5 (1) The methods to be used to identify, analyze, and control new or existing
6 hazards, conditions, and operations.
- 7 (2) How managers, supervisors, and employees are responsible for
8 implementing the program, controlling accident-related expenditures, and
9 how continued participation of management and employees will be
10 established, measured, and maintained.
- 11 (3) How the plan will be communicated to all affected employees so that they
12 are informed of work-related physical, chemical, or biological hazards, and
13 controls necessary to prevent injury or illness.
- 14 (4) How managers, supervisors, and employees will receive training in
15 avoidance of job-related injuries and health impairment.
- 16 (5) How workplace accidents will be reported and investigated and how
17 corrective actions will be implemented.
- 18 (6) How safe work practices and rules will be communicated and enforced.
- 19 (7) The safety and health training program that will be made available to
20 employees.
- 21 (8) How employees can make complaints concerning safety and health problems
22 without fear of retaliation.
- 23 (9) How employees will receive medical attention following a work-related
24 injury or illness.

25 **"§ 143-583. Model program; technical assistance; reports.**

26 (a) ~~The State Human Resources Commission, through the Office of State Human~~
27 ~~Resources, shall:~~ Resources shall:

- 28 (1) Maintain a model program of safety and health requirements to guide State
29 agencies in the development of their individual programs and in complying
30 with the provisions of G.S. 95-148 and this Article.
- 31 (2) Establish guidelines for the creation and operation of State agency safety and
32 health committees.
- 33 (3) Adopt policies that shall govern the administration of the workers'
34 compensation program and monitor compliance with Chapter 97 of the
35 General Statutes.
- 36 (4) Establish guidelines for the delegation of certain administrative functions as
37 necessary for the administration of the workers' compensation program to
38 State agencies, as defined in this section.

39 (b) ~~The Office of State Human Resources shall:~~

- 40 (1) ~~Provide consultative and technical services to assist State agencies in~~
41 ~~establishing and administering their workplace safety and health programs~~
42 ~~and to address specific technical problems.~~
- 43 (2) ~~Monitor compliance with this Article.~~

44 (c) The Office of State Human Resources Commission shall report by September 1, and
45 annually thereafter, to the Joint Legislative Commission on Governmental Operations on the
46 safety and health—safety, health, and workers' compensation activities of State agencies,
47 compliance with this Article, and the fines levied against State agencies pursuant to Article 16
48 of Chapter 95 of the General Statutes.

49 **"§ 143-584. State agency safety and health committees.**

50 ~~Each State agency—~~ The Office of State Human Resources shall create, pursuant to
51 guidelines adopted under subsection (a) of G.S. 143-583, safety and health—committees to

1 perform workplace inspections, review injury and illness records, make advisory
2 recommendations to the agency's managers, and perform other functions determined by the
3 Office of State Human Resources Commission to be necessary for the effective implementation
4 of the State Employees Workplace Requirements Program for Safety and ~~Health~~ the workers'
5 compensation program.

6 "**§§ 143-585 through 143-588. Reserved for future codification purposes.**

7 "Part 2. Legislative and Judicial Branch Programs.

8 "**§ 143-589. Legislative and judicial branch safety and health programs.**

9 The Legislative Services Commission and the Administrative Office of the Courts are
10 authorized to separately establish safety and health programs for their employees."

11 **SECTION 30.18.(c)** G.S. 143-166.14 reads as rewritten:

12 "**§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation**
13 **Act applicable after two years; duration of payment.**

14 The salary of any eligible person shall be paid as long as the person's employment in that
15 position continues, notwithstanding the person's total or partial incapacity to perform any duties
16 to which the person may be lawfully assigned, if that incapacity is the result of an injury or
17 injuries ~~proximately caused by the heightened risk and special hazards directly related to the~~
18 ~~violent nature of~~ resulting from or arising out of an episode of violence, resistance, or due to
19 other special hazards that occur while the eligible person's person is performing official duties,
20 except if that incapacity continues for more than two years from its inception, the person shall,
21 during the further continuance of that incapacity, be subject to the provisions of Chapter 97 of
22 the General Statutes pertaining to workers' compensation. The time period for which an eligible
23 person receives benefits pursuant to this section shall be deducted from the eligible person's
24 total eligibility for benefits pursuant to G.S. 97-29 and G.S. 97-30. For purposes of this section,
25 the term "salary" shall be defined as the total base pay of the person reflected on the person's
26 salary statement and shall not include overtime pay, shift differential pay, holiday pay, or other
27 additional earnings to which the person may have been entitled prior to such incapacity. Salary
28 paid to an eligible person pursuant to this Article shall cease upon the resumption of the
29 person's regularly assigned duties, retirement, resignation, or death, whichever first occurs,
30 except that temporary return to duty shall not prohibit payment of salary for a subsequent
31 period of incapacity which can be shown to be directly related to the original injury."

32 **SECTION 30.18.(d)** By February 1, 2016, the Office of State Human Resources
33 shall report to the Joint Legislative Commission on Governmental Operations and Fiscal
34 Research Division on the implementation of this section.

35 **SECTION 30.18.(e)** The Department of Administration shall reclassify three
36 vacant positions within the Department and assign the positions to the Office of State Human
37 Resources to staff the Office's Workers' Compensation program for implementation of the
38 provisions of Article 63 of Chapter 143 of the General Statutes as amended by this act.

40 **SALARY-RELATED CONTRIBUTIONS**

41 **SECTION 30.20.(a)** Effective for the 2015-2017 fiscal biennium, required
42 employer salary-related contributions for employees whose salaries are paid from department,
43 office, institution, or agency receipts shall be paid from the same source as the source of the
44 employee's salary. If an employee's salary is paid in part from the General Fund or Highway
45 Fund and in part from department, office, institution, or agency receipts, required employer
46 salary-related contributions may be paid from the General Fund or Highway Fund only to the
47 extent of the proportionate part paid from the General Fund or Highway Fund in support of the
48 salary of the employee, and the remainder of the employer's requirements shall be paid from the
49 source that supplies the remainder of the employee's salary. The requirements of this section as
50 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 **SECTION 30.20.(b)** Effective July 1, 2015, the State's employer contribution rates
4 budgeted for retirement and related benefits as a percentage of covered salaries for the
5 2015-2017 fiscal biennium are (i) fifteen and twenty-one hundredths percent (15.21%) –
6 Teachers and State Employees; (ii) twenty and twenty-one hundredths percent (20.21%) – State
7 Law Enforcement Officers; (iii) twelve and seventy-four hundredths percent (12.74%) –
8 University Employees' Optional Retirement Program; (iv) twelve and seventy-four hundredths
9 percent (12.74%) – Community College Optional Retirement Program; (v) thirty-two and
10 seventy hundredths percent (32.70%) – Consolidated Judicial Retirement System; and (vi)
11 seven and twenty-nine hundredths percent (7.29%) – Legislative Retirement System. Each of
12 the foregoing contribution rates includes five and forty-nine hundredths percent (5.49%) for
13 hospital and medical benefits. The rate for the Teachers and State Employees, State Law
14 Enforcement Officers, University Employees' Optional Retirement Program, and the
15 Community College Optional Retirement Program includes forty-one hundredths percent
16 (0.41%) for the Disability Income Plan. The rates for Teachers and State Employees and State
17 Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits
18 Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental
19 Retirement Income. The rate for Teachers and State Employees and State Law Enforcement
20 Officers includes one hundredth percent (0.01%) for the Qualified Excess Benefit
21 Arrangement.

22 **SECTION 30.20.(c)** Effective July 1, 2015, the maximum annual employer
23 contributions, payable monthly, by the State for each covered employee or retiree for the
24 2015-2016 fiscal year to the State Health Plan for Teachers and State Employees are (i)
25 Medicare-eligible employees and retirees – four thousand one hundred seventy-nine dollars
26 (\$4,179) and (ii) non-Medicare-eligible employees and retirees – five thousand three hundred
27 seventy-eight dollars (\$5,378).

28
29 **ALLOW RETIREES WHO RETURN TO WORK FOR THE STATE IN**
30 **NONPERMANENT POSITIONS TO RETAIN THEIR COVERAGE OPTIONS**
31 **UNDER THE STATE HEALTH PLAN FOR TEACHERS AND STATE**
32 **EMPLOYEES RATHER THAN LIMITING SUCH RETIREES' COVERAGE**
33 **OPTIONS TO THE "BRONZE LEVEL" HIGH-DEDUCTIBLE HEALTH PLAN**
34 **NECESSITATED BY THE AFFORDABLE CARE ACT**

35 **SECTION 30.25.(a)** G.S. 135-48.40 reads as rewritten:

36 **"§ 135-48.40. Categories of eligibility.**

37 ...

38 (b) Partially Contributory Coverage. – The following persons are eligible for coverage
39 under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:

40 (1) All permanent full-time employees of an employing unit who meet either of
41 the following conditions:

42 a. Paid from general or special State funds.

43 b. Paid from non-State funds and in a group for which his or her
44 employing unit has agreed to provide coverage.

45 Employees of State agencies, departments, institutions, boards, and
46 commissions not otherwise covered by the Plan who are employed in
47 permanent job positions on a recurring basis and who work 30 or more hours
48 per week for nine or more months per calendar year are covered by the
49 provisions of this subdivision.

50 (1a) All retirees who (i) are employed by an employing unit, (ii) do not qualify
51 for coverage under subdivision (1) of this subsection, and (iii) are

1 determined to be "full-time" by their employing unit in accordance with
2 section 4980H of the Internal Revenue Code and the applicable regulations,
3 as amended. The employing unit shall pay the employer premiums for
4 retirees who enroll under this subdivision.

5 ...

6 (e) Other Contributory Coverage. – Any employee of an employing unit is eligible for
7 coverage under this section on a contributory basis, subject to the provisions of G.S. 135-48.43
8 and of this section, if (i) the employee's employing unit determines that the employee is a
9 full-time employee and (ii) the employee does not qualify for coverage under subdivision (1),
10 (1a), (5), (6), (7), (8), (9), or (10) of G.S. 135-48.40(b). For the purposes of this subsection, the
11 full-time status of an employee shall be determined by the employing unit, in its sole discretion,
12 in accordance with Section 4980H of the Internal Revenue Code and the applicable regulations,
13 as amended. The coverage offered and the contribution required for coverage under this section
14 shall be determined by the Treasurer and approved by the Board of Trustees. Such coverage
15 shall do all of the following:

- 16 (1) Be designed to meet the requirements of minimum essential coverage under
17 the Patient Protection and Affordable Care Act, P.L. 111-148, and the
18 applicable regulations, as amended (Affordable Care Act).
- 19 (2) Provide no greater coverage than a bronze-level plan, as defined under the
20 Affordable Care Act.
- 21 (3) Minimize the required employer contribution in an administratively feasible
22 manner."

23 **SECTION 30.25.(b)** G.S. 135-48.41(j) reads as rewritten:

24 "(j) If a retiree has been hired by an employing unit and is eligible for coverage under
25 subdivision (1), (1a), (5), (6), (7), (8), (9), or (10) of G.S. 135-48.40(b) or under
26 G.S. 135-48.40(e), then the hired retiree shall not, during the time of employment, be eligible
27 for retiree coverage under G.S. 135-48.40(a)(1), G.S. 135-48.40(b)(3), G.S. 135-48.40(c)(2), or
28 G.S. 135-48.40(d)(11)."

30 INTEREST RATE USED TO CALCULATE EMPLOYER CONTRIBUTION RATES

31 **SECTION 30.29.(a)** G.S. 135-6(o) reads as rewritten:

32 "(o) On the basis of such tables and interest assumption rate as the Board of Trustees
33 shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds
34 of the System created by this Chapter. Notwithstanding the Board's general authority to set
35 interest assumption rates for the annual valuation, for purposes of the calculation of employer
36 contribution rates, the Board shall use an interest rate of seven and twenty-hundredths percent
37 (7.20%) in the valuation prepared as of December 31, 2013, and shall reduce that interest rate
38 in each subsequent annual valuation by five-hundredths percent (0.05%) relative to the
39 previous year's valuation."

40 **SECTION 30.29.(b)** G.S. 135-69(e) reads as rewritten:

41 "(e) The normal contribution rate and the accrued liability contribution rate shall be
42 determined after each annual valuation of the Retirement System and shall remain in effect
43 until a new valuation is made. In setting the contribution rates under this section, the Board
44 shall use the same interest rate as that required under G.S. 135-6(o)."

46 CLARIFY AND AMEND THE LAW PROVIDING FOR PURCHASE OF SERVICE BY 47 MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT 48 SYSTEM FOR EDUCATIONAL LEAVE

49 **SECTION 30.30.** G.S. 135-8(b)(5) reads as rewritten:

50 "(5) The Board of Trustees may approve the purchase of creditable service by
51 any member for leaves of absence or for interrupted service to an employer

1 for the sole ~~purpose~~purposes of acquiring knowledge, talents, or abilities and
2 ~~to increase~~increasing the efficiency of service to the ~~employer~~employer,
3 subject to the provisions of this subdivision. A leave of absence or
4 interrupted service may be approved for purchase under this subdivision for
5 a period of employment as a teacher in a charter school. Any other leave of
6 absence or interrupted service shall qualify for purchase under this
7 subdivision only if (i) during the time of the leave or interrupted service the
8 member is enrolled and participates in a full-time degree program at an
9 accredited institution of higher education, (ii) the member is not paid for the
10 activity in which he or she is acquiring knowledge, talents, or abilities, and
11 (iii) the service is not purchased for any month in which the member
12 performed any services for any of the organizations listed in G.S. 135-27(a)
13 or G.S. 135-27(f), or a successor to any of those organizations. This approval
14 Approval by the Board under this subdivision shall be made prior to the
15 purchase of the creditable service, is limited to a career total of six years for
16 each member, and may be obtained in the following manner:

- 17 a. Approved leave of absence. – Where the employer grants an
18 approved leave of absence, a member may make monthly
19 contributions to the annuity savings fund on the basis of
20 compensation the member was earning immediately prior to such
21 leave of absence. The employer shall make monthly contributions
22 equal to the normal and accrued liability contribution on such
23 compensation or, in lieu thereof, the member may pay into the
24 annuity savings fund monthly an amount equal to the employer's
25 normal and accrued liability contribution when the policy of the
26 employer is not to make such payment.
- 27 b. No educational leave policy. – Where the employer has a policy of
28 not granting educational leaves of absence or the member has
29 unsuccessfully petitioned for leave of absence and the member has
30 interrupted service for educational purposes, the member may make
31 monthly contributions into the annuity savings fund in an amount
32 equal to the employee contribution plus the employer normal and
33 accrued liability contribution on the basis of the compensation the
34 member was earning immediately prior to the interrupted service.
- 35 c. Educational program prior to July 1, 1981. – Creditable service for
36 leaves of absence or interrupted service for educational purposes
37 prior to July 1, 1981, may be purchased by a member, before or after
38 retirement, who returned as a contributing employee or teacher
39 within 12 months after completing the educational program and
40 completed 10 years of subsequent membership service, by making a
41 lump sum payment into the annuity savings fund equal to the full
42 cost of the service credits calculated on the basis of the assumptions
43 used for purposes of the actuarial valuation of the system's liabilities
44 and shall take into account the retirement allowance arising on
45 account of the additional service credit commencing at the earliest
46 age at which the member could retire on an unreduced retirement
47 allowance as determined by the Board of Trustees upon the advice of
48 the consulting actuary, plus a fee to be determined by the Board of
49 Trustees.
- 50 d. Employment in a charter school. – Notwithstanding subparagraph a.
51 of this subdivision, where the employer grants an approved leave of

1 absence for the member to be employed in a charter school or where
2 the member's service is interrupted by employment in a charter
3 school, authorized under Part 6A of Article 16 of Chapter 115C of
4 the General Statutes, the member may make monthly contributions
5 into the annuity savings fund in an amount equal to the employee
6 contribution plus the employer normal and accrued liability
7 contribution on the basis of the compensation the member was
8 earning immediately prior to the interrupted service.

9 Payments required to be made by the member, the employer, or both
10 under subparagraphs a or b are due by the 15th of the month following the
11 month for which the service credit is allowed and payments made after the
12 due date shall be assessed a penalty, in lieu of interest, of one percent (1%)
13 per month or fraction thereof the payment is made beyond the due date;
14 provided, that these payments shall be made prior to retirement and provided
15 further, that if the member did not become a contributing member within 12
16 months after completing the educational program and failed to complete
17 three years of subsequent membership service, except in the event of death
18 or disability, any payment made by the member including penalty shall be
19 refunded with regular interest thereon and the service credits cancelled prior
20 to or at retirement."
21

22 STATE HEALTH PLAN CASH RESERVE

23 **SECTION 30.31.(a)** During the 2015-2017 fiscal biennium, the State Health Plan
24 for Teachers and State Employees shall maintain a cash reserve of at least twenty percent
25 (20%) of its annual costs. For purposes of this section, the term "cash reserve" means the total
26 balance in the Public Employee Health Benefit Fund and the Health Benefit Reserve Fund
27 established in G.S. 135-48.5 plus the Plan's administrative account, and the term "annual costs"
28 means the total of all medical claims, pharmacy claims, administrative costs, fees, and premium
29 payments for coverage outside of the Plan.

30 **SECTION 30.31.(b)** On and after January 1, 2016, if the State Health Plan for
31 Teachers and State Employees projects a cash reserve of less than the minimum cash reserve
32 required by this section at any time during the remainder of the 2015-2017 fiscal biennium, or
33 the Fiscal Research Division of the General Assembly notifies the Plan that it projects such a
34 deficiency, the Department of State Treasurer shall report to the Joint Legislative Commission
35 on Governmental Operations within 60 days of that projection or notification on actions the
36 Department plans to take in order to maintain that required minimum cash reserve.
37

38 STATE HEALTH PLAN ELIGIBILITY/PREMIUMS FOR ALTERNATIVE 39 COVERAGE OPTIONS

40 **SECTION 30.32.(a)** G.S. 135-48.1(18) reads as rewritten:

41 "(18) Retired employee (retiree). – Retired teachers, State employees, and
42 members of the General Assembly who (i) are receiving monthly retirement
43 benefits from ~~any retirement system supported in whole or in part by~~
44 ~~contributions of the State of North Carolina,~~ the Teachers' and State
45 Employees' Retirement System, the Consolidated Judicial Retirement
46 System, the Legislative Retirement System, or the Optional Retirement
47 Program and (ii) earned contributory retirement service in one of these
48 retirement systems prior to January 1, 2016, and did not withdraw that
49 service, so long as the retiree is enrolled."

50 **SECTION 30.32.(b)** G.S. 135-48.40 reads as rewritten:

51 "§ 135-48.40. Categories of eligibility.

- 1 (a) Noncontributory Coverage. – The following persons are eligible for coverage under
2 the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-48.43:
- 3 (1) ~~Retired teachers, State employees, members of the General Assembly,~~
4 Retired employees as defined in G.S. 135-48.1(18) and retired State law
5 enforcement officers who retired under the Law Enforcement Officers'
6 Retirement System prior to January 1, 1985. Except as otherwise provided in
7 this subdivision, on and after January 1, 1988, a retiring employee or retiree
8 must have completed at least five years of contributory retirement service
9 with an employing unit prior to retirement from any State-supported
10 retirement system in order to be eligible for group benefits under this Part as
11 a retired employee or retiree. For employees first hired on and after October
12 1, 2006, and members of the General Assembly first taking office on and
13 after February 1, 2007, future coverage as retired employees and retired
14 members of the General Assembly is subject to a requirement that the future
15 retiree have 20 or more years of retirement service credit in order to be
16 covered by the provisions of this subdivision.
17 ...
- 18 (b) Partially Contributory Coverage. – The following persons are eligible for coverage
19 under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:
20 ...
- 21 (3) ~~Retired teachers, State employees, members of the General Assembly,~~
22 Retired employees as defined in G.S. 135-48.1(18) and retired State law
23 enforcement officers who retired under the Law Enforcement Officers'
24 Retirement System prior to January 1, 1985. Except as otherwise provided in
25 this subdivision, on and after January 1, 1988, a retiring employee or retiree
26 must have completed at least five years of contributory retirement service
27 with an employing unit prior to retirement from any State-supported
28 retirement system in order to be eligible for group benefits under this Part as
29 a retired employee or retiree. For employees first hired on and after October
30 1, 2006, and members of the General Assembly first taking office on and
31 after February 1, 2007, future coverage as retired employees and retired
32 members of the General Assembly is subject to a requirement that the future
33 retiree have 20 or more years of retirement service credit in order to be
34 covered by the provisions of this subdivision.
35 ...
- 36 (c) One-Half Contributory Coverage. – The following persons are eligible for coverage
37 under the Plan, on a one-half contributory basis, subject to the provisions of G.S. 135-48.43:
38 ...
- 39 (2) ~~Employees and members of the General Assembly~~Retired employees as
40 defined in G.S. 135-48.1(18) with 10 but less than 20 years of retirement
41 service credit provided the employees were first hired on or after October 1,
42 2006, and the members first took office on or after February 1, 2007. For
43 such future retirees, the State shall pay fifty percent (50%) of the Plan's total
44 employer premiums. Individual retirees shall pay the balance of the total
45 premiums not paid by the State.
- 46 (d) Fully Contributory Coverage. – The following persons shall be eligible for coverage
47 under the Plan, on a fully contributory basis, subject to the provisions of G.S. 135-48.43:
48 ...
- 49 (11) ~~Retired teachers, State employees, and members of the General Assembly~~
50 Retired employees as defined in G.S. 135-48.1(18) with less than 10 years of
51 retirement service credit, provided the teachers and State employees were

first hired on or after October 1, 2006, and the members first took office on or after February 1, 2007.

...."

SECTION 30.32.(c) G.S. 135-48.30(a) is amended by adding a new subdivision to read as follows:

"(a) The State Treasurer shall have the following powers and duties:

...

(17) Optionally offer Medicare-related options under G.S. 135-48.38.

(18) Optionally offer to pay premiums to purchase alternative coverage in lieu of coverage under the Plan under G.S. 135-48.39."

SECTION 30.32.(d) Part 3 of Article 3B of Chapter 135 of the General Statutes is amended by adding a new section to read as follows:

"§ 135-48.39. Premiums to purchase alternative coverage for retirees in lieu of coverage under the Plan.

(a) The State Treasurer may offer to pay or reimburse premiums for alternative health benefit plan coverage in lieu of coverage under the State Health Plan. If the State Treasurer elects to offer premium payments in lieu of coverage, then the State Treasurer shall adopt rules for and limitations on doing so.

(b) Premium payments in lieu of coverage shall be limited to persons eligible for coverage under the following, and the State Treasurer may vary the amounts of premium payments depending on the category of eligibility:

(1) G.S. 135-48.40(a)(1).

(2) G.S. 135-48.40(a)(2).

(3) G.S. 135-48.40(b)(3).

(4) G.S. 135-48.40(b)(4).

(5) G.S. 135-48.40(c)(2).

(c) Notwithstanding the eligibility for coverage provided in Part 4 of this Article, coverage outside of the Plan shall be in lieu of coverage under the Plan during the period for which the Plan member chooses premium payments in lieu of coverage."

PART XXXI. CAPITAL APPROPRIATIONS

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 31.1. The appropriations made by the 2015 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 31.2. There is appropriated from the General Fund for the 2015-2017 fiscal biennium the following amounts for capital improvements:

Capital Improvements – General Fund	2015-2016	2016-2017
Department of Agriculture and Consumer Services		
Dorton Arena Roof Replacement	2,305,000	–
Department of Cultural Resources		
USS North Carolina Hull Repair and Cofferdam	3,500,000	–
Department of Environment and Natural Resources		

1	Water Resources Development	5,083,000	–
2			
3	Department of Public Safety		
4	Armory and Facility Development Projects	618,000	5,087,500
5			
6	General Assembly		
7	Legislative Building Roof Replacement and		
8	Asbestos Abatement	9,500,000	–
9			
10	Repairs and Renovations Reserve	144,889,100	
11			
12	Responsible Capital Planning Commission		
13	Capital Improvement Planning Fund	5,000,000	–
14			
15	University of North Carolina		
16	North Carolina School of Science and		
17	Mathematics – Upgrades and Building Repair	4,000,000	–
18			
19	TOTAL CAPITAL IMPROVEMENTS –		
20	GENERAL FUND	\$174,895,100	5,087,500

WATER RESOURCES DEVELOPMENT PROJECTS

SECTION 31.3.(a) The Department of Environment and Natural Resources shall allocate funds for water resources development projects in accordance with the schedule that follows. The amounts set forth in the schedule include funds appropriated in this act for water resources development 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 forty-four million three hundred fifty-three thousand dollars (\$44,353,000) in federal funds.

	Name of Project	2015-2016
33	(1) Jordan Water Supply	\$200,000
34	(2) Wilmington Harbor Study	225,000
35	(3) Planning Assistance	25,000
36	(4) Wilmington Harbor Deepening	600,000
37	(5) Wilmington Harbor Maintenance	-
38	(6) Morehead City Harbor Maintenance	-
39	(7) Carolina Beach Storm Damage Reduction	1,400,000
40	(8) Carolina Beach Storm Damage Reduction 15-Year Extension Study	81,000
41	(9) Kure Beach Storm Damage Reduction	1,450,000
42	(10) Wrightsville Storm Damage Reduction Reevaluation Report	81,000
43	(11) Ocean Isle Storm Damage Reduction Reevaluation Report	81,000
44	(12) Bogue Banks Storm Damage Reduction Preconstruction,	
45	Engineering, and Design	165,000
46	(13) Surf City/North Topsail Preconstruction Activities	135,000
47	(14) West Onslow Beach Preconstruction Activities	135,000
48	(15) NRCS EQIP (65/35)	1,000,000
49	(16) Planning for S.L. 2010-143	75,000
50	(17) State-Local Projects	1,000,000
51	(18) Lock and Dam #2 – Fish Ramp – Phase 1	250,000

1	(19)	Linville River Restoration	250,000
2	(20)	Assistance to Counties – EAP Preparation	250,000
3	(21)	North Topsail Shoreline Protection – Phase 2	500,000
4			
5		TOTALS	\$7,903,000

7 **SECTION 31.3.(b)** It is the intent of the General Assembly that funds carried
8 forward from previous fiscal years be used to supplement the five million eighty-three thousand
9 dollars (\$5,083,000) appropriated for water resources development projects in Section 31.2 of
10 this act. Therefore, the following funds carried forward from previous fiscal years shall be used
11 for the following projects:

13		Name of Project	Amount Carried Forward
15	(1)	Wilmington Harbor Study	\$225,000
16	(2)	Planning Assistance	25,000
17	(3)	Wilmington Harbor Deepening	600,000
18	(4)	Carolina Beach Storm Damage Reduction	727,000
19	(5)	Kure Beach Storm Damage Reduction	808,000
20	(6)	Bogue Banks Storm Damage Reduction Preconstruction,	
21		Engineering, and Design	165,000
22	(7)	Surf City/North Topsail Preconstruction Activities	135,000
23	(8)	West Onslow Beach Preconstruction Activities	135,000
24			
25		TOTALS	\$2,820,000

27 **SECTION 31.3.(c)** Where the actual costs are different from the estimated costs
28 under subsection (a) of this section, the Department may adjust the allocations among projects
29 as needed. If any projects funded under subsection (a) of this section are delayed and the
30 budgeted State funds cannot be used during the 2015-2016 fiscal year or if the projects funded
31 under subsection (a) of this section are accomplished at a lower cost, the Department may use
32 the resulting fund availability to fund any of the following:

- 33 (1) U.S. Army Corps of Engineers project feasibility studies.
- 34 (2) U.S. Army Corps of Engineers projects whose schedules have advanced and
35 require State matching funds in the 2015-2016 fiscal year.
- 36 (3) State-local water resources development projects.

37 Funds subject to this subsection that are not expended or encumbered for the purposes set forth
38 in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of
39 the 2016-2017 fiscal year.

40 **SECTION 31.3.(d)** The Department shall make semiannual reports on the use of
41 these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal
42 Research Division, and the Office of State Budget and Management. Each report shall include
43 all of the following:

- 44 (1) All projects listed in this section.
- 45 (2) The estimated cost of each project.
- 46 (3) The date that work on each project began or is expected to begin.
- 47 (4) The date that work on each project was completed or is expected to be
48 completed.
- 49 (5) The actual cost of the 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 31.3.(e) 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 2015-2017 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 31.4.(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	
	FY 2015-2016	FY 2016-2017
Department of Agriculture and Consumer Services		
WNC Farmers Market Improvements/Robert G. Shaw Piedmont Triad Farmers Market Improvements	\$3,000,000	—
WNC Agricultural Center Events/Restroom Building	500,000	—
NC Forest Service Mountain Island Educational Forest-Visitor and Interpretive Center	4,000,000	—
Deer Fence on Research Stations	200,000	—
Aviary Egg Layer Research Building	1,750,000	—
State Fair Renovations/Infrastructure Improvements	2,500,000	—
State Fair Horse Complex	1,000,000	—
Animal Disease Diagnostic Laboratory Equipment	500,000	—
Department of Environment and Natural Resources		
Fort Fisher Aquarium Seawall	590,000	590,000
Gorilla Expansion	450,000	—
Department of Public Safety		
National Guard – Wilmington Replacement	14,200,000	—
Department of Transportation		
Anson County Blacksmith Shop	195,000	—
Nash County Equipment Shop	194,200	2,590,800
Gaston County Equipment Shop	2,409,000	—
Statewide Local Truck Storage Shed	—	194,800
Lee County Resident Engineers Office	—	1,198,000
Watauga County District Engineers	—	1,165,000
Surry County District Engineers Office	—	1,197,000
Guilford County Bridge Maintenance Facility	—	1,024,000
Scotland County Maintenance Office	—	1,109,000

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Wildlife Resources Commission		
Boating Access New Construction	3,750,000	3,750,000
Land Acquisition	900,000	900,000
Jordan Lake Depot	500,000	—
Fishing Access Construction	—	200,000
TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED	\$36,638,200	13,918,600

SECTION 31.4.(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 seventy-five thousand dollars (\$75,000) for the 2015-2016 fiscal year and the sum of seventy-five thousand dollars (\$75,000) for the 2016-2017 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 31.5.(a) Of the funds in the Reserve for Repairs and Renovations for the 2015-2016 and the 2016-2017 fiscal years, the following allocations shall be made to the following agencies for repairs and renovations pursuant to G.S. 143C-4-3:

- (1) Fifty percent (50%) of the funds shall be allocated to the Board of Governors of The University of North Carolina.
- (2) Fifty percent (50%) of the funds 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(d). The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations in accordance with G.S. 143C-4-3(d).

SECTION 31.5.(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

1 improvements, and the constituent institution's ability to pay for the
2 installation of fire sprinklers in all residence halls.

- 3 (5) The total cost of each proposed project, including the cost of installing fire
4 sprinklers and the cost of other construction, such as asbestos removal and
5 additional water supply needs.

6 The Board of Governors shall submit progress reports to the Joint Legislative
7 Commission on Governmental Operations. Reports shall include the status of completed,
8 current, and planned projects. Reports also shall include information on the financial status of
9 each constituent institution's housing system, the constituent institution's ability to pay for fire
10 protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be
11 submitted on January 1 and July 1 until all residence halls have fire sprinklers.

12 **SECTION 31.5.(c)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to
13 the Board of Governors of The University of North Carolina in subsection (a) of this section, a
14 portion shall be used each fiscal year by the Board of Governors for campus public safety
15 improvements allowable under G.S. 143C-4-3(b).

16 **SECTION 31.5.(d)** In making campus allocations of funds allocated to the Board
17 of Governors of The University of North Carolina in subsection (a) of this section, the Board of
18 Governors shall negatively weight the availability of non-State resources and carry forward
19 funds available for repair and renovations and shall include information about the manner in
20 which this subsection was complied with in any report submitted pursuant to G.S. 143C-4-3(d).

21 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

22 **SECTION 31.6.** The appropriations made by the 2015 General Assembly for
23 capital improvements shall be disbursed for the purposes provided by this act. Expenditure of
24 funds shall not be made by any State department, institution, or agency until an allotment has
25 been approved by the Governor as Director of the Budget. The allotment shall be approved
26 only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.
27 Prior to the award of construction contracts for projects to be financed in whole or in part with
28 self-liquidating appropriations, the Director of the Budget shall approve the elements of the
29 method of financing of those projects, including the source of funds, interest rate, and
30 liquidation period. Provided, however, that if the Director of the Budget approves the method
31 of financing a project, the Director shall report that action to the Joint Legislative Commission
32 on Governmental Operations at its next meeting.

33 Where direct capital improvement appropriations include the purpose of furnishing
34 fixed and movable equipment for any project, those funds for equipment shall not be subject to
35 transfer into construction accounts except as authorized by the Director of the Budget. The
36 expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and
37 approved by the Director of the Budget prior to commitment of funds.

38 Capital improvement projects authorized by the 2015 General Assembly shall be
39 completed, including fixed and movable equipment and furnishings, within the limits of the
40 amounts of the direct or self-liquidating appropriations provided, except as otherwise provided
41 in this act. Capital improvement projects authorized by the 2015 General Assembly for the
42 design phase only shall be designed within the scope of the project as defined by the approved
43 cost estimate filed with the Director of the Budget, including costs associated with site
44 preparation, demolition, and movable and fixed equipment.

45 **REPORTING ON CAPITAL PROJECTS**

46 **SECTION 31.7.(a)** Definitions. – The following definitions apply in this section:

- 47 (1) Capital project. – Any capital improvement, as that term is defined in
48 G.S. 143C-1-1, that is not complete by the effective date of this section and
49 that is funded in whole or in part with State funds, including receipts,
50
51

1 non-General Fund sources, or statutorily or constitutionally authorized
2 indebtedness of any kind. This term includes only projects with a total cost
3 of one hundred thousand dollars (\$100,000) or more.

4 (2) Construction phase. – The status of a particular capital project as described
5 using the terms customarily employed in the design and construction
6 industries.

7 (3) New capital project. – A capital project that is authorized in this act or
8 subsequent to the effective date of this act.

9 **SECTION 31.7.(b)** Reporting. – The following reports are required:

10 (1) By October 1, 2015, and every six months thereafter, each State agency shall
11 report on the status of agency capital projects to the Joint Legislative
12 Commission on Governmental Operations.

13 (2) By October 1, 2015, and quarterly thereafter, each State agency shall report
14 on the status of agency capital projects to the Fiscal Research Division of the
15 General Assembly and to the Office of State Budget and Management.

16 **SECTION 31.7.(c)** The reports required by subsection (b) of this section shall
17 include at least the following information about every agency capital project:

18 (1) The current construction phase of the project.

19 (2) The anticipated time line from the current construction phase to project
20 completion.

21 (3) Information about expenditures that have been made in connection with the
22 project, regardless of source of the funds expended.

23 (4) Information about the adequacy of funding to complete the project,
24 including estimates of how final expenditures will relate to initial estimates
25 of expenditures, and whether or not scope reductions will be necessary in
26 order to complete the project within its budget.

27 (5) For new capital projects only, an estimate of the operating costs for the
28 project for the first five fiscal years of its operation.

29 **SECTION 31.7.(d)** In addition to the other reports required by this section, on
30 October 1, 2015, and every six months thereafter, the Office of State Construction shall report
31 on the status of the Facilities Condition Assessment Program (FCAP) to the Joint Legislative
32 Commission on Governmental Operations. The report shall include (i) summary information
33 about the average length of time that passes between FCAP assessments for an average State
34 building; (ii) detailed information about when the last FCAP assessment was for each State
35 building complex; and (iii) detailed information about the condition and repairs and renovations
36 needs of each State building complex.

37 **SECTION 31.7.(e)** In addition to the other reports required by this section, on
38 October 1, 2015, and quarterly thereafter, the State Construction Office shall report to the Joint
39 Legislative Oversight Committee on Capital Improvements on the status of plan review,
40 approval, and permitting for each State capital improvement project and community college
41 capital improvement project over which the Office exercises plan review, approval, and
42 permitting authority. Each report shall include (i) summary information about the workload of
43 the Office during the previous quarter, including information about the average length of time
44 spent by the State Construction Office on each major function it performs that is related to
45 capital project approval, and (ii) detailed information about the amount of time spent engaged
46 in those functions for each project that the State Construction Office worked on during the
47 previous quarter.

48 NATIONAL GUARD PROJECTS

49 **SECTION 31.8.(a)** The Department of Public Safety shall allocate the funds
50 appropriated for armory and facility development projects in Section 31.2 of this act to projects
51

1 designated by the Adjutant General of the North Carolina National Guard. The Adjutant
2 General shall allocate funds only to projects that were included in the latest Armory and
3 Facilities Development Plan developed pursuant to G.S. 127A-210 and may determine which
4 fiscal year of the biennium each designated project shall be funded. These funds will provide a
5 State match for federal funds made available for this purpose.

6 **SECTION 31.8.(b)** No later than June 1, 2017, and every two years thereafter, the
7 Department shall report on the use of these funds to the Joint Legislative Commission on
8 Governmental Operations, the Fiscal Research Division of the General Assembly, and the
9 Office of State Budget and Management. Each report shall include all of the following:

- 10 (1) The status of all projects undertaken pursuant to this section.
- 11 (2) The estimated total cost of each project.
- 12 (3) The date that work on each project began or is expected to begin.
- 13 (4) The date that work on each project was completed or is expected to be
14 completed.
- 15 (5) The actual cost of each project, including federal matching funds.
- 16 (6) Facilities planned for closure or reversion.
- 17 (7) A list of projects advanced in schedule, those projects delayed in schedule,
18 and an estimate of the amount of funds expected to revert to the General
19 Fund.

20 21 **PLAN FOR RELOCATING ALL DHHS OFFICES TO ONE LOCATION**

22 **SECTION 31.10.(a)** The Department of Health and Human Services, in
23 consultation with the Department of Administration, shall develop a plan for relocating the
24 personnel and resources of the Department of Health and Human Services that are located on
25 the Dorothea Dix campus and on other property leased or owned by the State in the Greater
26 Triangle area (consisting of Durham, Orange, Johnston, and Wake Counties) to one site
27 available to the State. The Department shall report the plan to the Joint Legislative Oversight
28 Committee on Health and Human Services and the Fiscal Research Division by the earlier of
29 October 1, 2016, or six months prior to the date on which the Department is required to move
30 some or all of its personnel and resources from the Dorothea Dix campus under the terms of an
31 agreement between the State and the City of Raleigh. The plan required by this section shall
32 include at least all of the following information:

- 33 (1) The location to which the personnel and resources of the Department of
34 Health and Human Services will be relocated.
- 35 (2) The square footage needed in order to accommodate the relocation.
- 36 (3) A statement of anticipated costs or benefits associated with the relocation.
- 37 (4) A schedule for implementation of the relocation plan.
- 38 (5) Identification of any potential obstacles to the relocation plan.
- 39 (6) Options for financing the relocation plan developed in conjunction with the
40 State Treasurer and the State Controller.

41 **SECTION 31.10.(b)** Notwithstanding any other provision of law, neither the
42 Department of Health and Human Services nor the Department of Administration shall enter
43 into any lease or other agreement to move the personnel or resources of the Department of
44 Health and Human Services that currently reside on the Dorothea Dix campus or on other
45 property leased or owned by the State in the Greater Triangle area to another site until
46 specifically authorized to do so by the General Assembly.

47 48 **MODIFY SPECIAL INDEBTEDNESS PROVISIONS**

49 **SECTION 31.11.(a)** G.S. 143-128.1C reads as rewritten:
50 **"§ 143-128.1C. Public-private partnership construction contracts.**

- 51 (a) Definitions for purposes of this section:

1 ...
 2 (4) Development contract. – Any contract between a governmental entity and a
 3 private developer under this section and, as part of the contract, the private
 4 developer is required to provide at least fifty percent (50%) of the financing
 5 for the total cost necessary to deliver the capital improvement project,
 6 whether through lease or ownership, for the governmental entity. For
 7 purposes of determining whether the private developer is providing the
 8 minimum percentage of the total financing costs, the calculation shall not
 9 include any payment made by a public entity or proceeds of financing
 10 arrangements by a private entity where the source of repayment is a public
 11 entity.

12 ...
 13 (10) State-supported financing arrangement. – Any installment financing
 14 arrangement, lease-purchase arrangement, arrangement under which funds
 15 are to be paid in the future based upon the availability of an asset or funds
 16 for payment, or any similar arrangement in the nature of a financing, under
 17 which a State entity agrees to make payments to acquire or obtain ownership
 18 or beneficial use of a capital asset for the State entity or any other State
 19 entity for a term, including renewal options, of greater than one year. Any
 20 arrangement that results in the identification of a portion of a lease payment,
 21 installment payment, or similar scheduled payment thereunder by a State
 22 entity as "interest" for purposes of federal income taxation shall
 23 automatically be a State-supported financing arrangement for purposes of
 24 this section. A true operating lease is not a State-supported financing
 25 arrangement.

26 ...
 27 (k) Leases and other agreements entered into under this section are subject to approval
 28 as follows:

29 ...
 30 (2) If a capital lease ~~is~~ or other agreement entered into by a State entity ~~that~~
 31 constitutes a State-supported financing arrangement and requires payments
 32 thereunder that are payable, whether directly or indirectly, and whether or
 33 not subject to the appropriation of funds for such payment, by payments
 34 from the General Fund of the State or other funds and accounts of the State
 35 that are funded from the general revenues and other taxes and fees of the
 36 State or State entities, not including taxes and fees that are required to be
 37 deposited to the Highway Fund or Highway Trust Fund, Fund to be used to
 38 make payments under capital leases or other agreements for projects covered
 39 under Article 14B of Chapter 136 of the General Statutes, that capital lease
 40 or other agreement shall be subject to the approval procedures required for
 41 special indebtedness by G.S. 142-83 and G.S. 142-84. This requirement shall
 42 not apply to any arrangement where bonds or other obligations are issued or
 43 incurred by a State entity to carry out a financing program authorized by the
 44 General Assembly under which such bonds or other obligations are payable
 45 from monies derived from specified, limited, nontax sources, so long as the
 46 payments under that arrangement by a State entity are limited to the sources
 47 authorized by the General Assembly.

48"

49 **SECTION 31.11.(b)** This section is effective when this act becomes law.

1 **SECTION 31.14.(a)** Notwithstanding G.S. 143C-8-7, a State agency may
2 undertake repairs and renovations projects so long as each project satisfies the following
3 requirements:

- 4 (1) Total project costs do not exceed three hundred thousand dollars (\$300,000).
- 5 (2) The project satisfies the requirements of G.S. 143C-4-3(b).
- 6 (3) The project is paid for with funds available to the agency.

7 **SECTION 31.14.(b)** Projects undertaken pursuant to this section shall be reported
8 to the Fiscal Research Division on a quarterly basis. A report under this subsection shall
9 include information about all of the following for each project:

- 10 (1) The facility at which the project is being undertaken.
- 11 (2) The nature and scope of the project.
- 12 (3) The source of funds for the project.
- 13 (4) The category of projects set forth in G.S. 143C-4-3(b) that the project falls
14 within.

16 **CREATE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL** 17 **IMPROVEMENTS**

18 **SECTION 31.16.(a)** Article 29 of Chapter 120 of the General Statutes is amended
19 by adding three new sections to read:

20 "§ 120-261. Creation and membership of Joint Legislative Oversight Committee on 21 Capital Improvements.

22 The Joint Legislative Oversight Committee on Capital Improvements is established. The
23 Committee consists of 16 members as follows:

- 24 (1) Eight members of the House of Representatives appointed by the Speaker of
25 the House of Representatives, at least two of whom are members of the
26 minority party.
- 27 (2) Eight members of the Senate appointed by the President Pro Tempore of the
28 Senate, at least two of whom are members of the minority party.

29 Terms on the Committee are for two years and begin on the convening of the General
30 Assembly in each odd-numbered year, except the terms of the initial members, which begin on
31 appointment and end on the day of the convening of the 2017 General Assembly. Members
32 may complete a term of service on the Committee even if they do not seek reelection or are not
33 reelected to the General Assembly, but resignation or removal from service in the General
34 Assembly constitutes resignation or removal from service on the Committee.

35 A member continues to serve until the member's successor is appointed. A vacancy shall be
36 filled within 30 days by the officer who made the original appointment.

37 "§ 120-262. Purpose and powers of the Committee.

38 (a) The Joint Legislative Oversight Committee on Capital Improvements shall have the
39 power to do all of the following:

- 40 (1) Examine, on a continuing basis, capital improvements requested by,
41 authorized for, and undertaken by or on behalf of State agencies.
- 42 (2) Have oversight over implementation of the six-year capital improvements
43 plan developed pursuant to G.S. 143C-8-5.
- 44 (3) Make recommendations to the General Assembly on ways to improve the
45 planning, financing, design, construction, and maintenance of State capital
46 improvements.
- 47 (4) Make reports and recommendations to the General Assembly regarding
48 which capital improvements requested by State agencies should be
49 authorized and how they should be funded.
- 50 (5) Examine any other topic the Committee believes to be related to its purpose.

1 (b) As used in this section, the term "capital improvement" shall have the same meaning
2 as in G.S. 143C-1-1.

3 **"§ 120-263. Organization of Committee.**

4 (a) The President Pro Tempore of the Senate and the Speaker of the House of
5 Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on
6 Capital Improvements. The Committee shall meet upon the call of the cochairs.

7 (b) A quorum of the Committee is nine members. No action may be taken except by a
8 majority vote at a meeting at which a quorum is present. While in the discharge of its official
9 duties, the Committee has the powers of a joint committee under G.S. 120-19 through
10 G.S. 120-19.4.

11 (c) Members of the Committee receive subsistence and travel expenses as provided in
12 G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance
13 with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services
14 Officer, shall assign professional staff to assist the Committee in its work. Upon the direction
15 of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the
16 House of Representatives shall assign clerical staff to the Committee. The expenses for clerical
17 employees shall be borne by the Committee.

18 (d) The cochairs of the Committee may call upon other knowledgeable persons or
19 experts to assist the Committee in its work."

20 **SECTION 31.16.(b)** G.S. 120-76(9) is repealed.

21
22 **REQUIRE UNC CARRYFORWARD FUNDS TO BE USED FOR REPAIRS AND**
23 **RENOVATIONS**

24 **SECTION 31.17.(a)** G.S. 116-30.3(f) reads as rewritten:

25 "(f) Funds carried forward pursuant to subsection (a) of this section may be used for
26 one-time expenditures, provided, however, that the expenditures shall not impose additional
27 financial obligations on the State and shall not be used to support positions only for projects
28 that are eligible to receive funds from the Repairs and Renovations Reserve under
29 G.S. 143C-4-3(b)."

30 **SECTION 31.17.(b)** This section becomes effective June 30, 2015.

31
32 **MCGOUGH ARENA REPAIR PROJECT CHANGES**

33 **SECTION 31.18.** Section 36.12(f)(5) of S.L. 2014-100 reads as rewritten:

34 "**SECTION 36.12.(f)** Allocation of Proceeds. – The proceeds of bonds and notes shall be
35 allocated and expended as provided in this subsection:

36 ...

37 (5) A maximum aggregate principal amount of two million dollars (\$2,000,000)
38 to finance the capital facility costs of repairing or renovating the roof of the
39 McGough Arena and other facilities at the Western North Carolina
40 Agricultural Center."

41
42 **TECHNICAL CORRECTION RELATING TO USS NORTH CAROLINA**
43 **BATTLESHIP REPAIRS**

44 **SECTION 31.19.** Section 36.10 of S.L. 2014-100 reads as rewritten:

45 "**SECTION 36.10.** The General Assembly authorizes USS North Carolina Battleship hull
46 and cofferdam repairs to be funded at a maximum cost of thirteen million dollars (\$13,000,000)
47 in accordance with this section. The sum of three million dollars (\$3,000,000) of the proceeds
48 of bonds issued pursuant to Section 36.12(f)(7) of this act shall be used for this project. The
49 remainder of the project shall be funded with receipts or from other non-General Fund sources
50 available to the Department of Cultural Resources, and those funds are hereby appropriated for
51 that purpose."

1
2 **CAPITAL IMPROVEMENT REFORM**

3 **SECTION 31.20.(a)** Article 9 of Chapter 143B of the General Statutes is amended
4 by adding a new Part to read:

5 "Part 3A. Responsible Capital Planning Commission.

6 **"§ 143B-374.1. Creation of Responsible Capital Planning Commission; membership;**
7 **compensation; meetings; quorum; office space and staffing.**

8 (a) Creation. – There is created the Responsible Capital Planning Commission. The
9 Commission shall be located administratively within the Department of Administration but
10 shall exercise all of its prescribed statutory powers independently of the Secretary of
11 Administration.

12 (b) Membership. – The Responsible Capital Planning Commission shall consist of the
13 following seven members who shall serve at the pleasure of the Governor:

14 (1) Two capital projects coordinators from State agencies other than The
15 University of North Carolina.

16 (2) Two capital projects coordinators from The University of North Carolina
17 system.

18 (3) Two capital projects coordinators from community colleges in this State.

19 (4) The State Budget Director, who shall be the chair of the Commission.

20 (c) Compensation. – The Commission members shall receive no salary as a result of
21 serving on the Commission but shall receive per diem, subsistence, and travel expenses in
22 accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

23 (d) Meetings. – The chair shall convene the Commission. Meetings shall be held as
24 often as necessary, but not less than four times a year.

25 (e) Quorum. – A majority of the members of the Commission shall constitute a quorum
26 for the transaction of business. The affirmative vote of a majority of the members present at
27 meetings of the Commission shall be necessary for action to be taken by the Commission.

28 (f) Office Space and Staffing. – The Department of Administration shall provide office
29 space in Raleigh for use as offices by the Commission, and the Department of Administration
30 shall receive no reimbursement from the Commission for the use of the property during the life
31 of the Commission. The Secretary of the Department of Administration shall be responsible for
32 staffing the Commission.

33 **"§ 143B-374.2. Powers and duties of the Responsible Capital Planning Commission.**

34 The Responsible Capital Planning Commission shall have the following powers and duties:

35 (1) To determine whether State agency capital improvement projects have been
36 responsibly planned, in accordance with G.S. 143C-8-13.

37 (2) To provide funds for advanced planning of State agency capital
38 improvements, in accordance with G.S. 143C-8-14.

39 (3) To adopt rules to accomplish the purposes set forth in this section in
40 accordance with Chapter 150B of the General Statutes."

41 **SECTION 31.20.(b)** Article 8 of Chapter 143C of the General Statutes is amended
42 by adding two new sections to read:

43 **"§ 143C-8-13. Capital improvements require certification of responsible planning.**

44 (a) Certification of Responsible Planning. – The Responsible Capital Planning
45 Commission shall have the power and duty to certify that State agency capital improvements
46 have been responsibly planned. The Commission shall deem a project to have been responsibly
47 planned if advanced planning for the project is complete and the resulting plans satisfy all of
48 the requirements of G.S. 143C-8-14(c)(2) and (3).

49 (b) State Agencies Shall Submit Plans to Commission. – A State agency that has
50 completed advanced planning of a large capital improvement shall submit those plans and any
51 additional information requested to the Responsible Capital Planning Commission so that the

1 Commission can determine whether or not to issue a certification of responsible planning
2 pursuant to subsection (a) of this section. This subsection applies to all large capital
3 improvements undertaken by State agencies, regardless of the source or sources of funding for
4 advanced planning or for project completion.

5 (c) Reporting. – The Responsible Capital Planning Commission shall report
6 certifications of responsible planning issued pursuant to subsection (a) of this section to the
7 Office of State Budget and Management and to the Fiscal Research Division of the Legislative
8 Services Commission within 10 days of their issuance. Each report shall include all of the
9 following:

10 (1) Details of the basis for the determination that the certification should be
11 issued, including information about the manner in which each of the criteria
12 set forth in G.S. 143-8-14(c)(2) and (3) is satisfied.

13 (2) The total estimated cost to complete the project.

14 (3) The estimated amount of non-State funding that the project will receive.

15 (4) An estimate of the operating costs for the completed project for the first five
16 and 10 years of its operation.

17 (5) A history of the revision of the project plans in response to feedback from
18 the Commission, including any previous denials of certifications.

19 (d) General Assembly Intent. – It is the intent of the General Assembly not to
20 appropriate funds for large capital improvements, or to authorize large capital improvements to
21 be funded with non-General Fund sources, beyond the advanced planning phase until the
22 Responsible Capital Planning Commission has issued a certification of responsible planning
23 pursuant to subsection (a) of this section.

24 (e) Effect of Appropriation or Authorization to Proceed Beyond Advanced Planning
25 Phase. – If the General Assembly appropriates funds for a large capital improvement beyond
26 the advanced planning phase, or authorizes a large capital improvement project to proceed
27 beyond that phase, no funds from any source shall be spent or encumbered for work on phases
28 beyond the advanced planning phase until the Responsible Capital Planning Commission issues
29 a certification of responsible planning pursuant to subsection (a) of this section.

30 (f) Large Capital Improvement. – A capital improvement with an estimated total cost
31 that exceeds five million dollars (\$5,000,000). The term does not include a repairs and
32 renovations project, as described in G.S. 143C-4-3(b).

33 **"§ 143C-8-14. Funds for advanced planning of State capital improvement projects.**

34 (a) Capital Improvement Planning Fund. – The Capital Improvement Planning Fund is
35 established as a special fund in the Responsible Capital Planning Commission of the
36 Department of Administration. It is the intent of the General Assembly to fund appropriations
37 for advanced planning of State agency capital improvement projects exclusively through this
38 Fund using the procedures set forth in this section.

39 (b) Use of Funds. – Funds in the Capital Improvement Planning Fund shall be available
40 for expenditure only upon appropriation by the General Assembly and shall be used only for
41 the advanced planning of State capital improvement projects.

42 (c) Procedure for Allocation of Funds. – The Responsible Capital Planning
43 Commission shall implement a competitive process for awarding funds from the Capital
44 Improvement Planning Fund and those funds shall be allocated to fund the advanced planning
45 of a State agency capital improvement project only if all of the following conditions are
46 satisfied:

47 (1) The project was included in the budget requests made to the Director of the
48 Budget in accordance with Article 3 of Chapter 143C of the General
49 Statutes.

50 (2) The Responsible Capital Planning Commission determines that there is or is
51 likely to be a State need for the project in the future and the need is

- 1 substantial enough to justify funding the planning of the project. The
2 assessment of the need for the project shall include an analysis of the
3 following:
- 4 a. The estimated statewide impact of the project.
 - 5 b. Whether or not the requesting agency adequately uses the space and
6 facilities currently allocated to it.
 - 7 c. Whether the project will mitigate immediate safety or environmental
8 concerns.
 - 9 d. The availability of non-State investment in and support for the
10 project.
 - 11 e. The estimated economic impact the project will have on the State.
 - 12 f. Any other aspect of the project that the Commission deems to be
13 relevant.
- 14 (3) The Responsible Capital Planning Commission determines that all of the
15 following conditions are satisfied:
- 16 a. The project is justified with respect to the capital improvement needs
17 criteria developed by the Office of State Budget and Management
18 pursuant to G.S. 143C-8-3.
 - 19 b. The project, or components of the project, will be planned using a
20 standard, reusable design as determined by the Department of
21 Administration.
 - 22 c. The project will minimize the inclusion of design elements that are
23 not related to the core function of the project.
 - 24 d. The estimated total cost of the project is lower than the total cost of
25 similar facilities or otherwise meets the need of the State agency at
26 the lowest possible cost to taxpayers.
 - 27 e. The project will incorporate design elements that have yielded
28 documented operating cost savings in similar facilities.
 - 29 f. The requesting agency's total repairs and renovations needs are not
30 excessive.
- 31 (4) The State agency that requested planning funds agrees to abide by any
32 limitations on the scope of the planning imposed by the Responsible Capital
33 Planning Commission.
- 34 (5) If the allocation of funds to plan a particular project exceeds five million
35 dollars (\$5,000,000), the Responsible Capital Planning Commission consults
36 with the Joint Legislative Commission on Governmental Operations prior to
37 the allocation and reports the allocation to the Joint Legislative Oversight
38 Committee on Capital Improvements.
- 39 (6) If the allocation of funds to plan a particular project is less than or equal to
40 five million dollars (\$5,000,000), the Responsible Capital Planning
41 Commission reports the allocation to the Joint Legislative Commission on
42 Governmental Operations and to the Joint Legislative Oversight Committee
43 on Capital Improvements within 60 days of the expenditure or reallocation.
- 44 (7) The amount of planning funds allocated for the project does not exceed four
45 percent (4%) of the estimated total cost to complete the project.
- 46 (8) The request for the project is accompanied by an estimate of the operating
47 costs for the completed facility for the first five and 10 years of its operation.
- 48 (9) The requesting agency agrees not to spend any of the funds allocated to it
49 from the Capital Improvement Planning Fund to seek LEED Certification
50 from the U.S. Green Building Council.

1 (d) Funding of Planning Does Not Constitute Authority to Complete Full Project. – An
2 allocation of funds for advanced planning of a project under this section shall not be construed
3 to authorize completion of any phase of a project beyond the advanced planning phase. The
4 General Assembly shall not be required to appropriate funds to complete a project that was
5 planned pursuant to this section.

6 (e) Timing of Department Allocations. – To the extent feasible, the Responsible Capital
7 Planning Commission shall ensure that the timing of allocations of funds from the Capital
8 Improvement Planning Fund is managed in a way that allows State agencies and the General
9 Assembly to provide for timely commencement and completion of post-planning stages of a
10 project when the General Assembly decides to authorize completion of a project beyond the
11 planning stage."

12 **SECTION 31.20.(c)** G.S. 143C-3-3 reads as rewritten:

13 **"§ 143C-3-3. Budget requests from State agencies in the executive branch.**

14 ...

15 (d) Capital Funds Request. – In addition to any other information requested by the
16 Director, any State agency proposing to (i) acquire real property, (ii) construct a new facility,
17 (iii) expand the building area (sq. ft.) of an existing facility, or (iv) rehabilitate an existing
18 facility to accommodate new or expanded uses shall accompany that request with all of the
19 following:

- 20 (1) An estimate of its space needs and other physical requirements, together
21 with a review and evaluation of that estimate prepared by the Department of
22 Administration, except that in the case of a project of The University of
23 North Carolina for which advance planning has not been completed, the
24 estimate of space needs may be a preliminary estimate.
- 25 (2) An estimate of project costs and cash flow requirements approved by the
26 Department of Administration.
- 27 (3) A certification of project feasibility as described in G.S. 143-341, except that
28 in the case of a project of The University of North Carolina for which
29 advance planning has not been completed, the request may be submitted
30 without this certification.
- 31 (4) An explanation of the method by which the acquisition, construction, or
32 rehabilitation is to be financed.
- 33 (5) An estimate of maintenance and operating costs, including personnel, for the
34 project, covering the first five and 10 years of operation.
- 35 (6) An estimate of revenues, if any, to be derived from the project, covering the
36 first five years of operation.
- 37 (7) A certification of responsible planning as described in G.S. 143C-8-13 if the
38 project is required to have one pursuant to that section.

39 This subsection does not apply to requests for State resources for railroad, highway, or
40 bridge construction or renovation."

41 **SECTION 31.20.(d)** No later than October 1, 2015, the Responsible Capital
42 Planning Commission shall report to the Joint Legislative Commission on Governmental
43 Operations on the process it will use to make allocation decisions under G.S. 143C-8-14, as
44 enacted by subsection (b) of this section. The report shall specifically include information about
45 the way that the Department will ensure that the process is competitive.

46 **SECTION 31.20.(e)** The Department of Administration and the Office of State
47 Construction shall collaborate with the Government Data Analytics Center (GDAC) in order to
48 leverage existing public-private partnerships and subject matter expertise that can facilitate
49 improvements in capital planning and analysis. The GDAC shall allocate sufficient resources
50 for this purpose and shall integrate financial and budget data with the Department's
51 comprehensive facilities data system.

1 **SECTION 31.20.(f)** This section is effective when this act becomes law, except
2 that it does not apply to projects (i) for which advanced planning was complete before that date
3 or (ii) that are authorized during the 2015-2017 fiscal biennium to be financed with the
4 proceeds of general obligation bonds.

5
6 **PART XXXII. FINANCE PROVISIONS**

7
8 **JDIG MODIFICATIONS**

9 **SECTION 32.11.(a)** G.S. 143B-437.51 is amended by adding new subdivisions to
10 read:

11 **"§ 143B-437.51. Definitions.**

12 The following definitions apply in this Part:

- 13 (1) Agreement. – A community economic development agreement under
14 G.S. 143B-437.57.
- 15 (2) Base period. – The period of time set by the Committee during which new
16 employees are to be hired for the positions on which the grant is based.
- 17 (3) Business. – A corporation, sole proprietorship, cooperative association,
18 partnership, S corporation, limited liability company, nonprofit corporation,
19 or other form of business organization, located either within or outside this
20 State.
- 21 (4) Committee. – The Economic Investment Committee established pursuant to
22 G.S. 143B-437.54.
- 23 (4a) Development tier. – The classification assigned to an area pursuant to
24 G.S. 143B-437.08.
- 25 (5) Eligible position. – A position created by a business and filled by a new
26 full-time employee in this State during the base period.
- 27 (6) Full-time employee. – A person who is employed for consideration for at
28 least 35 hours a week, whose wages are subject to withholding under Article
29 4A of Chapter 105 of the General Statutes, and who is determined by the
30 Committee to be employed in a permanent position according to criteria it
31 develops in consultation with the Attorney General. The term does not
32 include any person who works as an independent contractor or on a
33 consulting basis for the business.
- 34 (6a) High-yield project. – A project for which the agreement requires that a
35 business invest at least seven hundred fifty million dollars (\$750,000,000) in
36 private funds and create at least 2,000 eligible positions.
- 37 (6b) through (6j) Reserved.
- 38 (6k) Major market community. – A county in which the average weekly wage for
39 all insured private employers in the county is one of the three highest in the
40 State.
- 41 (7) New employee. – A full-time employee who represents a net increase in the
42 number of the business's employees statewide.
- 43 (8) Overdue tax debt. – Defined in G.S. 105-243.1.
- 44 (9) Related member. – Defined in G.S. 105-130.7A.
- 45 (10) Withholdings. – The amount withheld by a business from the wages of
46 employees in eligible positions under Article 4A of Chapter 105 of the
47 General Statutes."

48 **SECTION 32.11.(b)** G.S. 143B-437.52 reads as rewritten:

49 **"§ 143B-437.52. Job Development Investment Grant Program.**

50 (a) Program. – There is established the Job Development Investment Grant Program to
51 be administered by the Economic Investment Committee. In order to foster job creation and

1 investment in the economy of this State, the Committee may enter into agreements with
2 businesses to provide grants in accordance with the provisions of this Part. The Committee, in
3 consultation with the Attorney General, shall develop criteria to be used in determining whether
4 the conditions of this section are satisfied and whether the project described in the application
5 is otherwise consistent with the purposes of this Part. Before entering into an agreement, the
6 Committee must find that all the following conditions are met:

- 7 (1) The project proposed by the business will create, during the term of the
8 agreement, a net increase in employment in this State by the business.
- 9 (2) The project will benefit the people of this State by increasing opportunities
10 for employment and by strengthening this State's economy by, for example,
11 providing worker training opportunities, constructing and enhancing critical
12 infrastructure, increasing development in strategically important industries,
13 or increasing the State and local tax base.
- 14 (3) The project is consistent with economic development goals for the State and
15 for the area where it will be located.
- 16 (4) A grant under this Part is necessary for the completion of the project in this
17 State.
- 18 (5) The total benefits of the project to the State outweigh its costs and render the
19 grant appropriate for the project.
- 20 (6) For a project located in a development tier three area, the affected local
21 governments have participated in recruitment and offered incentives in a
22 manner appropriate to the project.

23 (b) Priority. – In selecting between applicants, a project that is located in an
24 Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project
25 that is not located in a certified Eco-Industrial Park.

26 (c) ~~Awards.~~ Award Limitations. – The following limitations apply to grants awarded
27 under this Part:

- 28 (1) Maximum liability. – The maximum amount of total annual liability for
29 grants awarded in any single calendar year under this Part, including
30 amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is
31 fifteen million dollars ~~(\$15,000,000).~~ ~~(\$15,000,000)~~ for a year in which no
32 grants are awarded for a high-yield project and is thirty million dollars
33 (\$30,000,000) for a year in which a grant is awarded for a high-yield project.
34 No agreement may be entered into that, when considered together with other
35 existing agreements governing grants awarded during a single calendar year,
36 could cause the State's potential total annual liability for grants awarded in a
37 single calendar year to exceed ~~this~~ ~~the~~ applicable amount. The Department
38 shall make every effort to ensure that the average percentage of withholdings
39 of eligible positions for grants awarded under this Part does not exceed the
40 average of the range provided in G.S. 143B-437.56(a).
- 41 (2) Semiannual commitment limitations. – Of the amount authorized in
42 subdivision (1) of this subsection, no more than fifty percent (50%),
43 excluding roll-over amounts, may be awarded in any single calendar
44 semiannual period. A roll-over amount is any amount from a previous
45 semiannual period in the same calendar year that was not awarded as a grant.
46 The limitation of this subdivision does not apply to a grant awarded to a
47 high-yield project.

48 (d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and
49 G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate
50 that the increase or maintenance of employment is measured at the level of a division or

1 another operating unit of a business, rather than at the business level, if both of the following
 2 conditions are met:

- 3 (1) The Committee makes an explicit finding that the designation is necessary to
 4 secure the project in this State.
- 5 (2) The agreement contains terms to ensure that the business does not create
 6 eligible positions by transferring or shifting to the project existing positions
 7 from another project of the business or a related member of the business."

8 **SECTION 32.11.(c)** G.S. 143B-437.53 reads as rewritten:

9 **"§ 143B-437.53. Eligible projects.**

10 (a) ~~Minimum Number of Standards for Eligible Positions.~~ – A business may apply to
 11 the Committee for a grant for any project that creates the minimum number of eligible positions
 12 satisfying the wage standard as set out in the table below. If the project will be located in more
 13 than one ~~development tier area, area designation,~~ the location with the highest ~~development tier~~
 14 ~~area designation~~ determines the minimum number of eligible positions that must be
 15 ~~created.~~created and the applicable wage standard. The wage standard is met if the business pays
 16 an average weekly wage for all eligible positions that is equal to or greater than the percentage
 17 provided below of the average wage for all insured private employers in the county. Before
 18 using standards greater than the applicable minimum standards established by this subsection
 19 for a project located in a development tier one or two area, the Committee must find that the
 20 deviation from the minimum standards disproportionately increases the beneficial economic
 21 impact of the project and shall include the information for each project on which the finding is
 22 based in the report required by G.S. 143B-437.55(c).

<u>Development Tier-Area Designation</u>	<u>Number of Eligible Positions</u>	<u>Wage Standard</u>
<u>Development Tier One</u>	<u>1020</u>	<u>100%</u>
<u>Development Tier Two</u>	<u>2050</u>	<u>105%</u>
<u>Development Tier Three</u>	<u>20100</u>	<u>110%</u>
<u>Major Market Community</u>	<u>250</u>	<u>120%</u>

23
24
25
26
27
28"

29 **SECTION 32.11.(d)** G.S. 143B-437.55(c) reads as rewritten:

30 "(c) Annual Reports. – The Committee shall publish a report on the Job Development
 31 Investment Grant Program on or before April 30 of each year. The Committee shall submit the
 32 report electronically to the House of Representatives Finance Committee, the Senate Finance
 33 Committee, the House of Representatives Appropriations Subcommittee on Natural and
 34 Economic Resources, the Senate Appropriations Committee on Natural and Economic
 35 Resources, and the Fiscal Research Division. The report shall include the following:

- 36 ...
- 37 (11) A listing of all businesses making an application under this Part and an
 38 explanation of whether each business ultimately located the project in this
 39 State regardless of whether the business was awarded a grant for the project
 40 under this Part.
- 41 (11a) A listing, itemized by development tier, of the number of offers that have
 42 been calculated, estimated, or extended but were not accepted and the total
 43 award value of the offers.

44"

45 **SECTION 32.11.(e)** G.S. 143B-437.56 reads as rewritten:

46 **"§ 143B-437.56. Calculation of minimum and maximum grants; factors considered.**

47 (a) Subject to the ~~limitations provisions of subsection-subsections (a1) and (d) of this~~
 48 section, the amount of the grant awarded in each case shall be a percentage of the withholdings
 49 of eligible positions. ~~The percentage shall be no less than ten percent (10%) and no more than~~
 50 ~~seventy five percent (75%) of the withholdings of the eligible positions for a period of years.~~
 51 The percentage shall be no more than eighty percent (80%) for a development tier one area, no

1 more than seventy percent (70%) for a development tier two area, no more than sixty percent
2 (60%) for a development tier three area, and no more than fifty percent (50%) for a major
3 market community. If the project will be located in more than one area designation, the location
4 with the highest area designation determines the maximum percentage to be used. The
5 percentage used to determine the amount of the grant shall be based on criteria developed by
6 the Committee, in consultation with the Attorney General, after considering at least the
7 following:

- 8 (1) The number of eligible positions to be created.
- 9 (2) The expected duration of those positions.
- 10 (3) The type of contribution the business can make to the long-term growth of
11 the State's economy.
- 12 (4) The amount of other financial assistance the project will receive from the
13 State or local governments.
- 14 (5) The total dollar investment the business is making in the project.
- 15 (6) Whether the project utilizes existing infrastructure and resources in the
16 community.
- 17 (7) Whether the project is located in a development zone.
- 18 (8) The number of eligible positions that would be filled by residents of a
19 development zone.
- 20 (9) The extent to which the project will mitigate unemployment in the State and
21 locality.

22 (a1) Notwithstanding the percentage specified by subsection (a) of this section, if the
23 project is a high-yield project, the business has met the investment and job creation
24 requirements, and, for three consecutive years, the business has met all terms of the agreement,
25 the amount of the grant awarded shall be no more than one hundred percent (100%) of the
26 withholdings of eligible positions for each consecutive year the business maintains the
27 minimum job creation requirement and meets all terms of the agreement. A business receiving
28 an enhanced percentage of the withholdings of eligible positions under this subsection that fails
29 to maintain the minimum job creation requirement or meet all terms of the agreement will be
30 disqualified from receiving the enhanced percentage and will have the applicable percentage set
31 forth in subsection (a) of this section applied in the year in which the failure occurs and all
32 remaining years of the grant term.

33 (b) The term of the grant shall not exceed ~~12 years starting with the first year a grant~~
34 ~~payment is made.~~ the duration listed in this subsection. The first grant payment must be made
35 within six years after the date on which the grant was awarded. The number of years in the base
36 period for which grant payments may be made shall not exceed five years.

- 37 (1) For high-yield projects in which the business receives the enhanced
38 percentage pursuant to subsection (a1) of this section, 20 years starting with
39 the first year a grant payment is made. If a business is disqualified from the
40 enhanced percentage in one of the first 12 years, the term of the grant shall
41 not exceed 12 years starting with the first year a grant payment is made. If a
42 business is disqualified from receiving the enhanced percentage after the
43 first 12 years, the term of the grant ends in the year the disqualification
44 occurs.

- 45 (2) For all other projects, 12 years starting with the first year a grant payment is
46 made.

47 (c) The grant may be based only on eligible positions created during the base period.

48 (d) For any eligible position that is located in a major market community, eighty-five
49 percent (85%) of the annual grant approved for disbursement shall be payable to the business,
50 and fifteen percent (15%) shall be payable to the Utility Account pursuant to
51 G.S. 143B-437.61. For any eligible position that is located in a development tier three area,

1 ~~seventy five percent (75%)~~ ninety percent (90%) of the annual grant approved for disbursement
2 shall be payable to the business, and ~~twenty five percent (25%)~~ ten percent (10%) shall be
3 payable to the Utility Account pursuant to G.S. 143B-437.61. For any eligible position that is
4 located in a development tier two area, ~~eighty five percent (85%)~~ ninety-five percent (95%) of
5 the annual grant approved for disbursement shall be payable to the business, and ~~fifteen percent~~
6 ~~(15%)~~ five percent (5%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61.
7 A position is located in the development tier area that has been assigned to the county in which
8 the project is located at the time the application is filed with the Committee. This subsection
9 does not apply to a high-yield project in years in which the business receives the enhanced
10 percentage pursuant to subsection (a1) of this section.

11 (e) A business that is receiving any other grant by operation of State law may not
12 receive an amount as a grant pursuant to this Part that, when combined with any other grants,
13 exceeds seventy-five percent (75%) of the withholdings of the business, unless the Committee
14 makes an explicit finding that the additional grant is necessary to secure the project.

15 (f) The amount of a grant associated with any specific eligible position, including any
16 amount transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed six
17 thousand five hundred dollars (\$6,500) in any year."

18 **SECTION 32.11.(f)** G.S. 143B-437.57(a) reads as rewritten:

19 "(a) Terms. – Each community economic development agreement shall include at least
20 the following:

21 ...

22 (10) A provision that requires the business to maintain operations at the project
23 location or another location approved by the Committee for at least one
24 hundred fifty percent (150%) of the term of the grant and a provision to
25 ~~permit~~ require the Committee to recapture ~~all or part an appropriate portion~~
26 of the grant ~~at its discretion~~ if the business does not remain at the site for the
27 required term.

28 (11) A provision that requires the business to maintain employment levels in this
29 State at the greater of the level of the year immediately preceding the base
30 period employment on the date of the application or the level of employment
31 on the date of the award.

32"

33 **SECTION 32.11.(g)** G.S. 143B-437.62 reads as rewritten:

34 "**§ 143B-437.62. Expiration.**

35 The authority of the Committee to award new grants expires January 1, ~~2016~~ 2018."

36 **SECTION 32.11.(h)** Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

37 "**SECTION 15.19.(a1)** Notwithstanding G.S. 143B-437.52(c), for the ~~2013-2015 fiscal~~
38 ~~biennium~~, period from July 1, 2013, to December 31, 2015, the maximum total liability for
39 grants awarded, including amounts transferred to the Utility Account pursuant to
40 G.S. 143B-437.61, is ~~twenty two million five hundred thousand dollars (\$22,500,000)~~ and, for
41 ~~the period from July 1, 2015, to December 31, 2015~~, the maximum total liability for grants
42 awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is
43 ~~seven million five hundred thousand dollars (\$7,500,000)~~. thirty-five million dollars
44 (\$35,000,000) if no grant is awarded for a high-yield project and is fifty million dollars
45 (\$50,000,000) if a grant is awarded for a high-yield project. No agreement may be entered into
46 that, when considered together with other existing agreements governing grants awarded during
47 an applicable time period provided in this subsection, could cause the State's potential total
48 annual liability for grants awarded in that time period to exceed the designated maximum
49 amount."

50 **SECTION 32.11.(i)** Subsections (d) and (h) of this section are effective when this
51 act becomes law. The remainder of this section becomes effective July 1, 2015, and applies to

1 awards made under Part 2G of Article 10 of Chapter 143B of the General Statutes on or after
2 that date.

3 4 **ONE NC MODIFICATIONS**

5 **SECTION 32.12.(a)** G.S. 143B-437.72(c) reads as rewritten:

6 "(c) Local Government Grant Agreement. – An agreement between the State and one or
7 more local governments shall contain the following provisions:

8 (1) A commitment on the part of the local government to match the funds
9 allocated by the ~~State~~. State, as provided in this subdivision. A local match
10 may include cash, fee waivers, in-kind services, the donation of assets, the
11 provision of infrastructure, or a combination of these.

12 a. For a local government in a development tier one area, as defined in
13 G.S. 143B-437.08, the State shall provide no more than three dollars
14 (\$3.00) for every one dollar (\$1.00) provided by the local
15 government.

16 b. For a local government in a development tier two area, as defined in
17 G.S. 143B-437.08, the State shall provide no more than two dollars
18 (\$2.00) for every one dollar (\$1.00) provided by the local
19 government.

20 c. For a local government in a development tier three area, as defined in
21 G.S. 143B-437.08, the State shall provide no more than one dollar
22 (\$1.00) for every one dollar (\$1.00) provided by the local
23 government.

24 d. For a local government in a major market community, as defined in
25 G.S. 143B-437.51, the State shall provide no more than one dollar
26 (\$1.00) for every two dollars (\$2.00) provided by the major market
27 community.

28"

29 **SECTION 32.12.(b)** This section is effective when this act becomes law.

30 31 **CORPORATE INCOME TAX RATE REDUCTION AND TAX BASE EXPANSION**

32 **SECTION 32.13.(a)** Effective for taxable years beginning on or after January 1,
33 2016, G.S. 105-130.3 reads as rewritten:

34 **"§ 105-130.3. Corporations.**

35 A tax is imposed on the State net income of every C Corporation doing business in this
36 State at the rate of ~~five percent (5%)~~. four percent (4%). An S Corporation is not subject to the
37 tax levied in this section."

38 **SECTION 32.13.(b)** Effective for taxable years beginning on or after January 1,
39 2017, G.S. 105-130.3, as rewritten by subsection (a) of this section, reads as rewritten:

40 **"§ 105-130.3. Corporations.**

41 A tax is imposed on the State net income of every C Corporation doing business in this
42 State at the rate of ~~four percent (4%)~~. three percent (3%). An S Corporation is not subject to the
43 tax levied in this section."

44 **SECTION 32.13.(c)** G.S. 105-130.3C is repealed.

45 **SECTION 32.13.(d)** G.S. 105-130.5 reads as rewritten:

46 **"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

47 ...

48 (b) The following deductions from federal taxable income shall be made in determining
49 State net income:

50 ...

- 1 ~~(6) Amortization in excess of depreciation allowed under the Code on the cost~~
2 ~~of any sewage or waste treatment plant, and facilities or equipment used for~~
3 ~~purposes of recycling or resource recovery of or from solid waste, or for~~
4 ~~purposes of reducing the volume of hazardous waste generated as provided~~
5 ~~in G.S. 105-130.10.~~
- 6 ~~(7) Depreciation of emergency facilities acquired prior to January 1, 1955. Any~~
7 ~~corporation shall be permitted to depreciate any emergency facility, as such~~
8 ~~is defined in section 168 of the Code, over its useful life, provided such~~
9 ~~facility was acquired prior to January 1, 1955, and no amortization has been~~
10 ~~claimed on such facility for State income tax purposes.~~
- 11 ~~...~~
- 12 ~~(11) If a deduction for an ordinary and necessary business expense was required~~
13 ~~to be reduced or was not allowed under the Code because the corporation~~
14 ~~claimed a federal tax credit against its federal income tax liability for the~~
15 ~~income year in lieu of a deduction, the amount by which the deduction was~~
16 ~~reduced and the amount of the deduction that was disallowed.—This~~
17 ~~deduction is allowed only to the extent that a similar credit is not allowed by~~
18 ~~this Chapter for the amount.~~
- 19 ~~(12) Reasonable expenses, in excess of deductions allowed under the Code, paid~~
20 ~~for reforestation and cultivation of commercially grown trees; provided, that~~
21 ~~this deduction shall be allowed only to those corporations in which the real~~
22 ~~owners of all the shares of such corporation are natural persons actively~~
23 ~~engaged in the commercial growing of trees, or the spouse, siblings, or~~
24 ~~parents of such persons. Provided, further, that in no case shall a corporation~~
25 ~~be allowed a deduction for the same reforestation or cultivation expenditure~~
26 ~~more than once.~~
- 27 ~~(13) The eligible income of an international banking facility to the extent~~
28 ~~included in determining federal taxable income, determined as follows:~~
- 29 ~~a. "International banking facility" shall have the same meaning as is set~~
30 ~~forth in the laws of the United States or regulations of the board of~~
31 ~~governors of the federal reserve system.~~
- 32 ~~b. The eligible income of an international banking facility for the~~
33 ~~taxable year shall be an amount obtained by multiplying State taxable~~
34 ~~income as determined under G.S. 105-130.3 (determined without~~
35 ~~regard to eligible income of an international banking facility and~~
36 ~~allocation and apportionment, if applicable) for such year by a~~
37 ~~fraction, the denominator of which shall be the gross receipts for~~
38 ~~such year derived by the bank from all sources, and the numerator of~~
39 ~~which shall be the adjusted gross receipts for such year derived by~~
40 ~~the international banking facility from:~~
- 41 ~~1. Making, arranging for, placing or servicing loans to foreign~~
42 ~~persons substantially all the proceeds of which are for use~~
43 ~~outside the United States;~~
- 44 ~~2. Making or placing deposits with foreign persons which are~~
45 ~~banks or foreign branches of banks (including foreign~~
46 ~~subsidiaries or foreign branches of the taxpayer) or with other~~
47 ~~international banking facilities; or~~
- 48 ~~3. Entering into foreign exchange trading or hedging~~
49 ~~transactions related to any of the transactions described in this~~
50 ~~paragraph.~~

- 1 e. ~~The adjusted gross receipts shall be determined by multiplying the~~
- 2 ~~gross receipts of the international banking facility by a fraction the~~
- 3 ~~numerator of which is the average amount for the taxable year of all~~
- 4 ~~assets of the international banking facility which are employed~~
- 5 ~~outside the United States and the denominator of which is the~~
- 6 ~~average amount for the taxable year of all assets of the international~~
- 7 ~~banking facility.~~
- 8 d. For the purposes of this subsection the term "foreign person" means:
- 9 1. An individual who is not a resident of the United States;
- 10 2. A foreign corporation, a foreign partnership or a foreign trust,
- 11 ~~as defined in section 7701 of the Code, other than a domestic~~
- 12 ~~branch thereof;~~
- 13 3. A foreign branch of a domestic corporation (including the
- 14 ~~taxpayer);~~
- 15 4. A foreign government or an international organization or an
- 16 ~~agency of either, or~~
- 17 5. An international banking facility.
- 18 For purposes of this paragraph, the terms "foreign" and
- 19 ~~"domestic" shall have the same meaning as set forth in section 7701~~
- 20 ~~of the Code.~~
- 21 ...
- 22 (15) ~~The amount paid during the income year, pursuant to 7 U.S.C. § 1445-2, as~~
- 23 ~~marketing assessments on tobacco grown by the corporation in North~~
- 24 ~~Carolina.~~
- 25 ...
- 26 (18) ~~Interest, investment earnings, and gains of a trust, the settlors of which are~~
- 27 ~~two or more manufacturers that signed a settlement agreement with this~~
- 28 ~~State to settle existing and potential claims of the State against the~~
- 29 ~~manufacturers for damages attributable to a product of the manufacturers, if~~
- 30 ~~the trust meets all of the following conditions:~~
- 31 a. The purpose of the trust is to address adverse economic
- 32 ~~consequences resulting from a decline in demand of the~~
- 33 ~~manufactured product potentially expected to occur because of~~
- 34 ~~market restrictions and other provisions in the settlement agreement.~~
- 35 b. A court of this State approves and retains jurisdiction over the trust.
- 36 c. Certain portions of the distributions from the trust are made in
- 37 ~~accordance with certifications that meet the criteria in the agreement~~
- 38 ~~creating the trust and are provided by a nonprofit entity, the~~
- 39 ~~governing board of which includes State officials.~~
- 40 (19) ~~To the extent included in federal taxable income, the amount paid to the~~
- 41 ~~taxpayer during the taxable year from the Hurricane Floyd Reserve Fund in~~
- 42 ~~the Office of State Budget and Management for hurricane relief or~~
- 43 ~~assistance, but not including payments for goods or services provided by the~~
- 44 ~~taxpayer.~~
- 45 ...
- 46 (22) ~~To the extent included in federal taxable income, the amount paid to the~~
- 47 ~~taxpayer during the taxable year from the Disaster Relief Reserve Fund in~~
- 48 ~~the Office of State Budget and Management for hurricane relief or~~
- 49 ~~assistance, but not including payments for goods or services provided by the~~
- 50 ~~taxpayer.~~
- 51 ...

1 (c) The following other adjustments to federal taxable income shall be made in
2 determining State net income:

- 3 ...
- 4 ~~(4) The taxpayer shall add to federal taxable income the amount of any recovery~~
5 ~~during the taxable year not included in federal taxable income, to the extent~~
6 ~~the taxpayer's deduction of the recovered amount in a prior taxable year~~
7 ~~reduced the taxpayer's tax imposed by this Part but, due to differences~~
8 ~~between the Code and this Part, did not reduce the amount of the taxpayer's~~
9 ~~tax imposed by the Code. The taxpayer may deduct from federal taxable~~
10 ~~income the amount of any recovery during the taxable year included in~~
11 ~~federal taxable income under section 111 of the Code, to the extent the~~
12 ~~taxpayer's deduction of the recovered amount in a prior taxable year reduced~~
13 ~~the taxpayer's tax imposed by the Code but, due to differences between the~~
14 ~~Code and this Part, did not reduce the amount of the taxpayer's tax imposed~~
15 ~~by this Part.~~
- 16 ~~(5) A savings and loan association may deduct interest earned on deposits at the~~
17 ~~Federal Home Loan Bank of Atlanta, or its successor, to the extent included~~
18 ~~in federal taxable income.~~

19"

20 **SECTION 32.13.(e)** G.S. 105-130.6A(e), (f), (g), and (h) are repealed.

21 **SECTION 32.13.(f)** G.S. 105-130.5(a) is amended by adding a new subdivision to

22 read:

23 "(a) The following additions to federal taxable income shall be made in determining
24 State net income:

25 ...

- 26 (25) The amount of net interest expense to a related member as determined under
27 G.S. 105-130.7B."

28 **SECTION 32.13.(g)** G.S. 105-130.5(b) is amended by adding a new subdivision to

29 read:

30 "(b) The following deductions from federal taxable income shall be made in determining
31 State net income:

32 ...

- 33 (28) The amount of qualified interest expense to a related member as determined
34 under G.S. 105-130.7B."

35 **SECTION 32.13.(h)** Part 1 of Article 4 of Chapter 105 of the General Statutes is
36 amended by adding a new section to read:

37 **"§ 105-130.7B. Limitation on qualified interest for certain indebtedness.**

38 (a) Limitation. – In determining State net income, a deduction is allowed only for
39 qualified interest paid or accrued by the taxpayer to a related member during a taxable year.
40 This section does not limit the Secretary's authority to adjust a taxpayer's net income as it
41 relates to payments to or charges by a parent, subsidiary, or affiliated corporation in excess of
42 fair compensation in an intercompany transaction under G.S. 105-130.5(a)(9).

43 (b) Definitions. – The definitions in G.S. 105-130.7A apply in this section. In addition,
44 the following definitions apply in this section:

- 45 (1) Adjusted taxable income. – State net income of the taxpayer determined
46 without regard to this section and other adjustments as the Secretary may by
47 rule provide.

- 48 (2) Net interest expense. – The excess of the interest paid or accrued by the
49 taxpayer to a related member during the taxable year over the amount of
50 interest from a related member includible in the gross income of the taxpayer
51 for the taxable year.

1 (3) Qualified interest. – The amount of net interest paid or accrued to a related
2 member in a taxable year not to exceed thirty percent (30%) of the taxpayer's
3 adjusted taxable income. This limitation does not apply to interest paid or
4 accrued to a related member if one or more of the following applies:

5 a. Tax is imposed by the State under this Article on the related member
6 with respect to the interest.

7 b. The related member pays a net income tax or gross receipts tax to
8 another state with respect to the interest income.

9 c. The related member is organized under the laws of a foreign country
10 that has a comprehensive income tax treaty with the United States,
11 and that country taxes the interest income at a rate equal to or greater
12 than G.S. 105-130.3."

13 **SECTION 32.13.(i)** G.S. 105-130.7A(a) reads as rewritten:

14 "(a) Purpose. – Royalty payments received for the use of intangible property in this State
15 are income derived from doing business in this State. This section provides taxpayers with an
16 option concerning the method by which these royalties can be reported for taxation when the
17 recipient and the payer are related members. As provided in this section, these royalty
18 payments can be either (i) deducted by the payer and included in the income of the recipient, or
19 (ii) added back to the income of the payer and excluded from the income of the recipient.
20 Exercising the royalty reporting income option provided in this section does not prevent a
21 taxpayer from having taxable nexus in this State as otherwise provided in this Article and does
22 not permit the recipient of the income to exclude royalty payments from its calculation of sales
23 as defined in G.S. 105-130.4."

24 **SECTION 32.13.(j)** G.S. 105-102.3 is repealed.

25 **SECTION 32.13.(k)** Except as otherwise provided, subsections (a) through (c) of
26 this section are effective when this act becomes law. Subsections (d) through (h) of this section
27 are effective for taxable years beginning on or after January 1, 2016. Subsection (j) of this
28 section becomes effective July 1, 2016. The remainder of this section is effective when it
29 becomes law.

30 31 **PHASE-IN SINGLE SALES FACTOR APPORTIONMENT AND ADOPT** 32 **MARKET-BASED SOURCING**

33 **SECTION 32.14.(a)** Effective for taxable years beginning on or after January 1,
34 2016, G.S. 105-130.4(i) reads as rewritten:

35 "(i) ~~All Apportionable Income. – Except as otherwise provided in this section, all~~
36 ~~apportionable income of corporations other than public utilities, excluded corporations, and~~
37 ~~qualified capital intensive corporations~~ shall be apportioned to this State by multiplying the
38 income by a fraction, the numerator of which is the property factor plus the payroll factor plus
39 ~~twice~~ three times the sales factor, and the denominator of which is ~~four~~ five. If the sales factor
40 does not exist, the denominator of the fraction is the number of existing factors and if the sales
41 factor exists but the payroll factor or the property factor does not exist, the denominator of the
42 fraction is the number of existing factors plus ~~one~~ two."

43 **SECTION 32.14.(b)** Effective for taxable years beginning on or after January 1,
44 2017, G.S. 105-130.4(i), as amended by subsection (a) of this section, reads as rewritten:

45 "(i) Apportionable Income. – Except as otherwise provided in this section, all
46 apportionable income of corporations shall be apportioned to this State by multiplying the
47 income by a fraction, the numerator of which is the property factor plus the payroll factor plus
48 ~~three~~ four times the sales factor, and the denominator of which is ~~five~~ six. If the sales factor
49 does not exist, the denominator of the fraction is the number of existing factors and if the sales
50 factor exists but the payroll factor or the property factor does not exist, the denominator of the
51 fraction is the number of existing factors plus ~~two~~ three."

1 **SECTION 32.14.(c)** Effective for taxable years beginning on or after January 1,
2 2018, G.S. 105-130.4(i), as amended by subsection (b) of this section, reads as rewritten:

3 "(i) Apportionable Income. – Except as otherwise provided in this section, all
4 apportionable income of corporations shall be apportioned to this State by multiplying the
5 income by a fraction, the numerator of which is the property factor plus the payroll factor plus
6 four times the sales factor, and the denominator of which is six. If the sales factor does not
7 exist, the denominator of the fraction is the number of existing factors and if the sales factor
8 exists but the payroll factor or the property factor does not exist, the denominator of the
9 fraction is the number of existing factors plus three. the sales factor as determined under
10 subsection (l) of this section."

11 **SECTION 32.14.(d)** Effective for taxable years beginning on or after January 1,
12 2018, G.S. 105-130.4(a)(6), (a)(9), (j), (k), (s1), and (r) are repealed.

13 **SECTION 32.14.(e)** Effective for taxable years beginning on or after January 1,
14 2016, G.S. 106-130.4, as amended by subsection (a) of this section, reads as rewritten:

15 **"§ 105-130.4. Allocation and apportionment of income for corporations.**

16 (a) ~~As used in this section, unless the context otherwise requires:~~Definitions. – The
17 following definitions apply in this section:

18 (1) ~~"Apportionable income" means all Apportionable income. – All income that~~
19 ~~is apportionable under the United States Constitution.~~Constitution, including
20 income that arises from one or more of the following:

21 a. Transactions and activities in the regular course of the taxpayer's
22 trade or business.

23 b. Tangible and intangible property if the acquisition, management,
24 employment, development, or disposition of the property is or was
25 related to the operation of the taxpayer's trade or business.

26 (2) Business activity. – Any activity by a corporation that would establish nexus
27 pursuant to 15 U.S.C. § 381.

28 (3) Casual sale of property. – The sale of any property that was not purchased,
29 produced, or acquired primarily for sale in the corporation's regular trade or
30 business.

31 (4) ~~"Commercial domicile" means the Commercial domicile. – The principal~~
32 ~~place from which the trade or business of the taxpayer is directed or~~
33 ~~managed.~~

34 (3)(5) ~~"Compensation" means wages, Compensation. – Wages, salaries,~~
35 ~~commissions and any other form of remuneration paid to employees for~~
36 ~~personal services.~~

37 (4)(6) ~~"Excluded corporation" means any Excluded corporation. – Any corporation~~
38 ~~engaged in business as a building or construction contractor, a securities~~
39 ~~dealer, or a loan company or a corporation that receives more than fifty~~
40 ~~percent (50%) of its ordinary gross income from intangible property.~~

41 (7) Net dividends. – Gross dividend income received less related expenses.

42 (5)(8) ~~"Nonapportionable income" means all Nonapportionable income. – All~~
43 ~~income other than apportionable income.~~

44 (6)(9) ~~"Public utility" means any corporation~~Public utility. – A corporation that
45 owns or operates for public use any plant, equipment, property, franchise, or
46 license for the production, storage, transmission, sale, delivery, or furnishing
47 of electricity, water, steam, oil, oil products, or natural gas and that is subject
48 to control of one or more of the following entities: the North Carolina
49 Utilities Commission, the Federal Communications Commission, the
50 Interstate Commerce Commission, the Federal Energy Regulatory
51 Commission, or the Federal Aviation Agency; and that owns or operates for

1 ~~public use any plant, equipment, property, franchise, or license for the~~
2 ~~transmission of communications, the transportation of goods or persons, or~~
3 ~~the production, storage, transmission, sale, delivery or furnishing of~~
4 ~~electricity, water, steam, oil, oil products, or gas. The term also includes a~~
5 ~~motor carrier of property whose principal business activity is transporting~~
6 ~~property by motor vehicle for hire over the public highways of this~~
7 ~~State.~~
8 ~~Commission.~~

8 ~~(7)~~(10) "Sales" means all Sales. – All gross receipts of the corporation except for the
9 following receipts:

- 10 a. Receipts from a casual sale of property.
11 b. Receipts allocated under subsections (c) through (h) of this section.
12 c. Receipts exempt from taxation.
13 d. The portion of receipts realized from the sale or maturity of securities
14 or other obligations that represents a return of principal.
15 e. The portion of receipts from financial swaps and other similar
16 financial derivatives that represents the notional principal amount
17 that generates the cash flow traded in the swap agreement.
18 f. Receipts in the nature of dividends received that are not taxed under
19 this Part.

20 (8) ~~"Casual sale of property" means the sale of any property which was not~~
21 ~~purchased, produced or acquired primarily for sale in the corporation's~~
22 ~~regular trade or business.~~

23 ~~(9)~~(11) "State" means any State. – A state of the United States, the District of
24 Columbia, the Commonwealth of Puerto Rico, any territory or possession of
25 the United States, and any foreign country or political subdivision thereof.

26 (b) Multistate Corporations. – A corporation having income from business activity
27 which is taxable both within and without this State shall allocate and apportion its net income
28 or net loss as provided in this section. For purposes of allocation and apportionment, a
29 corporation is taxable in another state if ~~(i) the one or more of the following applies:~~

- 30 (1) The corporation's business activity in that state subjects it to a net income tax
31 or a tax measured by net income, or (ii) that income.
32 (2) That state has jurisdiction based on the corporation's business activity in that
33 state to subject the corporation to a tax measured by net income regardless
34 whether that state exercises its jurisdiction. For purposes of this section,
35 "business activity" includes any activity by a corporation that would
36 establish a taxable nexus pursuant to 15 United States Code section 381.

37 (c) Nonapportionable Income. – Rents and royalties from real or tangible personal
38 property, gains and losses, interest, dividends, patent and copyright royalties and other kinds of
39 income, to the extent that they constitute nonapportionable income, less related expenses shall
40 be allocated as provided in subsections (d) through (h) of this section.

41 (d) Rents and Royalties. – Net rents and royalties are allocable to this State as follows:

- 42 (1) Net rents and royalties from real property located in this State are allocable
43 to this State.
44 (2) Net rents and royalties from tangible personal property are allocable to this
45 State:
46 a. If and to the extent that the property is utilized in this State, or
47 b. In their entirety if the corporation's commercial domicile is in this
48 State and the corporation is not organized under the laws of, or is not
49 taxable in, the state in which the property is utilized.
50 (3) The extent of utilization of tangible personal property in a state is
51 determined by multiplying the rents and royalties by a fraction, the

- 1 numerator of which is the number of days of physical location of the
2 property in the state during the rental or royalty period in the income year
3 and the denominator of which is the number of days of physical location of
4 the property everywhere during all rental or royalty periods in the income
5 year. If the physical location of the property during the rental or royalty
6 period is unknown or unascertainable by the corporation, tangible personal
7 property is utilized in the state in which the property was located at the time
8 the rental or royalty payer obtained possession.
- 9 (e) Gains and Losses. – Gains and losses are allocable to this State as follows:
- 10 (1) Gains and losses from sales or other disposition of real property located in
11 this State are allocable to this State.
- 12 (2) Gains and losses from sales or other disposition of tangible personal
13 property are allocable to this State if
- 14 a. The property had a situs in this State at the time of the sale, or
15 b. The corporation's commercial domicile is in this State and the
16 corporation is not taxable in the state in which the property has a
17 situs.
- 18 (3) Gains and losses from sales or other disposition of intangible personal
19 property are allocable to this State if the corporation's commercial domicile
20 is in this State.
- 21 (f) Interest and Net Dividends. – Interest and net dividends are allocable to this State if
22 the corporation's commercial domicile is in this State. ~~For purposes of this section, the term~~
23 ~~"net dividends" means gross dividend income received less related expenses.~~
- 24 (g) Intangible Property. – Intangible property is allocable to this State as follows:
- 25 (1) Royalties or similar income received from the use of patents, copyrights,
26 secret processes and other similar intangible property are allocable to this
27 State:
- 28 a. If and to the extent that the patent, copyright, secret process or other
29 similar intangible property is utilized in this State, or
30 b. If and to the extent that the patent, copyright, secret process or other
31 similar intangible property is utilized in a state in which the taxpayer
32 is not taxable and the taxpayer's commercial domicile is in this State.
- 33 (2) A patent, secret process or other similar intangible property is utilized in a
34 state to the extent that it is employed in production, fabrication,
35 manufacturing, processing, or other use in the state or to the extent that a
36 patented product is produced in the state. If the basis of receipts from such
37 intangible property does not permit allocation to states or if the accounting
38 procedures do not reflect states of utilization, the intangible property is
39 utilized in the state in which the taxpayer's commercial domicile is located.
- 40 (3) A copyright is utilized in a state to the extent that printing or other
41 publication originates in the state. If the basis of receipts from copyright
42 royalties does not permit allocation to states or if the accounting procedures
43 do not reflect states of utilization, the copyright is utilized in the state in
44 which the taxpayer's commercial domicile is located.
- 45 (h) Other Income. – The income less related expenses from any other activities
46 producing nonapportionable income or investments not otherwise specified in this section is
47 allocable to this State if the business situs of the activities or investments is located in this
48 State.
- 49 (i) Apportionable Income. – Except as otherwise provided in this section, all
50 apportionable income of corporations shall be apportioned to this State by multiplying the
51 income by a fraction, the numerator of which is the property factor plus the payroll factor plus

1 three times the sales factor, and the denominator of which is five. If the sales factor does not
2 exist, the denominator of the fraction is the number of existing factors and if the sales factor
3 exists but the payroll factor or the property factor does not exist, the denominator of the
4 fraction is the number of existing factors plus two.

5 ...

6 (1) ~~(4) Sales Factor.~~ – The sales factor is a fraction, the numerator of which is the total
7 sales of the corporation in this State during the income year, and the denominator of which is
8 the total sales of the corporation everywhere during the income year. ~~Notwithstanding any~~
9 ~~other provision under this Part, the receipts from any casual sale of property shall be excluded~~
10 ~~from both the numerator and the denominator of the sales factor. Where a corporation is not~~
11 ~~taxable in another state on its apportionable income but is taxable in another state only because~~
12 ~~of nonapportionable income, all sales shall be treated as having been made in this~~
13 ~~State. Receipts are in this State if the taxpayer's market for the sales is in this State. If the market~~
14 ~~for a sale cannot be determined, the state or states of assignment shall be reasonably~~
15 ~~approximated. If the taxpayer is not taxable in a state to which a receipt is assigned, or if the~~
16 ~~state of assignment cannot be determined or reasonably approximated, then the receipt shall be~~
17 ~~excluded from the denominator of the receipts factor.~~

18 The taxpayer's market for sales is in this State as provided below:

- 19 (1) In the case of sale, rental, lease, or license of real property, if and to the
20 extent the property is located in this State.
21 (2) In the case of rental, lease, or license of tangible personal property, if and to
22 the extent the property is located in this State.
23 (3) In the case of sale of a service, if and to the extent the service is delivered to
24 a location in this State.
25 (4) In the case of intangible property that is rented, leased, or licensed, if and to
26 the extent the property is used in this State. Intangible property utilized in
27 marketing a good or service to a consumer is "used in this State" if that good
28 or service is purchased by a consumer who is in this State.
29 (5) In the case of intangible property that is sold, if and to the extent the
30 property is used in this State. A contract right, government license, or similar
31 intangible property that authorizes the holder to conduct a business activity
32 in a specific geographic area is "used in this State" if the geographic area
33 includes all or part of this State.

34 Receipts from intangible property sales that are contingent on the
35 productivity, use, or disposition of the intangible property shall be treated as
36 receipts from the rental, lease, or licensing of the intangible property as
37 provided under subdivision (4) of this subsection. All other receipts from a
38 sale of intangible property shall be excluded from the numerator and
39 denominator of the sales factor.

- 40 ~~(2) Sales of tangible personal property are in this State if the property is~~
41 ~~received in this State by the purchaser. In the case of delivery of goods by~~
42 ~~common carrier or by other means of transportation, including transportation~~
43 ~~by the purchaser, the place at which the goods are ultimately received after~~
44 ~~all transportation has been completed shall be considered as the place at~~
45 ~~which the goods are received by the purchaser. Direct delivery into this State~~
46 ~~by the taxpayer to a person or firm designated by a purchaser from within or~~
47 ~~without the State shall constitute delivery to the purchaser in this State.~~

- 48 (3) Other sales are in this State if:

49 a. ~~The receipts are from real or tangible personal property located in~~
50 ~~this State; or~~

- 1 b. ~~The receipts are from intangible property and are received from~~
2 ~~sources within this State; or~~
3 e. ~~The receipts are from services and the income-producing activities~~
4 ~~are in this State.~~

5 (m) Railroad Company. – All apportionable income of a railroad company shall be
6 apportioned to this State by multiplying the income by a fraction, the numerator of which is the
7 "railway operating revenue" from business done within this State and the denominator of which
8 is the "total railway operating revenue" from all business done by the company as shown by its
9 records kept in accordance with the standard classification of accounts prescribed by the
10 Interstate Commerce Commission.

11 "Railway operating revenue" from business done within this State shall mean "railway
12 operating revenue" from business wholly within this State, plus the equal mileage proportion
13 within this State of each item of "railway operating revenue" received from the interstate
14 business of the company. "Equal mileage proportion" shall mean the proportion which the
15 distance of movement of property and passengers over lines in this State bears to the total
16 distance of movement of property and passengers over lines of the company receiving such
17 revenue. "Interstate business" shall mean "railway operating revenue" from the interstate
18 transportation of persons or property into, out of, or through this State. ~~¶~~

19 If the Secretary of Revenue finds, with respect to any particular company, that its
20 accounting records are not kept so as to reflect with exact accuracy such division of revenue by
21 State lines as to each transaction involving interstate revenue, the Secretary of Revenue may
22 adopt such regulations, based upon averages, as will approximate with reasonable accuracy the
23 proportion of interstate revenue actually earned upon lines in this State. Provided, that where a
24 railroad is being operated by a partnership which is treated as a corporation for income tax
25 purposes and pays a net income tax to this State, or if located in another state would be so
26 treated and so pay as if located in this State, each partner's share of the net profits shall be
27 considered as dividends paid by a corporation for purposes of this Part and shall be so treated
28 for inclusion in gross income, deductibility, and separate allocation of dividend income.

29 ~~(n) All apportionable income of a telephone company shall be apportioned to this State~~
30 ~~by multiplying the income by a fraction, the numerator of which is gross operating revenue~~
31 ~~from local service in this State plus gross operating revenue from toll services performed~~
32 ~~wholly within this State plus the proportion of revenue from interstate toll services attributable~~
33 ~~to this State as shown by the records of the company plus the gross operating revenue in North~~
34 ~~Carolina from other service less the uncollectible revenue in this State, and the denominator of~~
35 ~~which is the total gross operating revenue from all business done by the company everywhere~~
36 ~~less total uncollectible revenue. Provided, that where a telephone company is required to keep~~
37 ~~its records in accordance with the standard classification of accounts prescribed by the Federal~~
38 ~~Communications Commission the amounts in such accounts shall be used in computing the~~
39 ~~apportionment fraction as provided in this subsection.~~

40 (o) Motor Carrier. – All apportionable income of a motor carrier of property or a motor
41 carrier of people shall be apportioned by multiplying the income by a fraction, the numerator of
42 which is the number of vehicle miles in this State and the denominator of which is the total
43 number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean
44 miles traveled by vehicles owned or operated by the company ~~miles traveled by vehicles owned~~
45 ~~or operated by the company based upon one of the following:~~

- 46 (1) Miles on a scheduled route.
47 (2) Miles hauling property for a charge ~~charge.~~
48 (3) ~~or traveling on a scheduled route.~~ Miles carrying passengers for a fare.

49 ~~(p) All apportionable income of a motor carrier of passengers shall be apportioned by~~
50 ~~multiplying the income by a fraction, the numerator of which is the number of vehicle miles in~~
51 ~~this State and the denominator of which is the total number of vehicle miles of the company~~

1 everywhere. The words "vehiele miles" shall mean miles traveled by vehieles owned or
2 operated by the company carrying passengers for a fare or traveling on a scheduled route.

3 ~~(q) All apportionable income of a telegraph company shall be apportioned by~~
4 ~~multiplying the income by a fraction, the numerator of which is the property factor plus the~~
5 ~~payroll factor plus the sales factor and the denominator of which is three.~~

6 ~~The property factor shall be as defined in subsection (j) of this section, the payroll factor~~
7 ~~shall be as defined in subsection (k) of this section, and the sales factor shall be as defined in~~
8 ~~subsection (l) of this section.~~

9 (r) Single Sales Factor. – All apportionable income of an excluded corporation and of
10 ~~all other~~ public utilities shall be apportioned by multiplying the income by the sales factor as
11 determined under subsection (l) of this section.

12 (s) Transportation Corporation. – All apportionable income of an air transportation
13 corporation or a water transportation corporation shall be apportioned by a fraction, the
14 numerator of which is the corporation's revenue ton miles in this State and the denominator of
15 which is the corporation's revenue ton miles everywhere. The term "revenue ton mile" means
16 one ton of passengers, freight, mail, or other cargo carried one mile. In making this
17 computation, a passenger is considered to weigh two hundred pounds.

18 ...

19 (s2) Broadcaster. – All apportionable income of a broadcaster shall be apportioned as
20 provided in this subsection. The apportionment factor is a fraction, the numerator of which is
21 the sum of the broadcaster's gross receipts from sources within the State and the denominator of
22 which is the sum of the broadcaster's gross receipts from transactions and activity in the regular
23 course of its trade or business everywhere. Advertising gross receipts and license fees for audio
24 or video programming in release shall be attributable to this State in accordance with the
25 audience factor in this State. Gross receipts from subscriber fees, rents, sales ,or similar charges
26 from audio or video programming in release shall be attributable to this State based on the
27 amount of subscriber or other fees paid by customers in this State. A sale of audio or video
28 programming on tangible media is sourced to this State as sales of tangible personal property.

29 The following definitions apply in this subsection:

30 (1) Audience factor. – The factor determined by the ratio provided in this
31 subdivision. The factor shall be determined either by reference to the books
32 and records of the taxpayer or by reference to published rating statistics,
33 provided the method used by the taxpayer is consistently used from year to
34 year for this purpose and fairly represents the taxpayer's activity in this State.
35 The ratio is as follows:

36 a. Television station. – The ratio that the viewing audience located in
37 this State for a television station bears to the total viewing audience
38 for a television station.

39 b. Radio station. – The ratio that the listening audience in this State for
40 a radio station bears to the total listening audience for a radio station.

41 c. Cable or satellite program and channel broadcasts. – The ratio that
42 the subscribers for a cable or satellite system located in this State
43 bears to the total subscribers of a cable or satellite system. If the
44 number of subscribers cannot be accurately determined from the
45 books and records maintained by the taxpayer, the ratio shall be
46 determined on the basis of the applicable year's subscription statistics
47 located in published surveys, provided the source selected is
48 consistently used from year to year for this purpose.

49 (2) Broadcast. – The transmission of audio or video programming, directly or
50 indirectly, to viewers and listeners by any other method of communication or
51 combination of methods.

- (3) Broadcaster. – A person that provides audio or video programming to customers in this State by digital or analog means in exchange for one or more of the following: advertising receipts, subscriber fees, license, rent, or similar fees. The term includes a television or radio station licensed by the Federal Communications Commission, including network-owned or affiliated stations, a television or radio broadcast network, a cable program network, a distributor of audio or video programming, a cable system operator, and satellite system operator.
- (4) Release or in release. – The placing of film or radio programming into service. A film or radio program is placed into service when it is first broadcast to the primary audience for entertainment, educational, commercial, artistic, or other purpose. Each episode of a television or radio series is placed in service when it is first broadcast. A program is not placed in service merely because it is completed and therefore in a condition or state of readiness and availability for broadcast or merely because it is previewed to prospective sponsors or purchasers.
- (5) Rent. – License fees or other payments or consideration provided in exchange for the broadcast or other use of television or radio programming.
- (6) Subscriber. – The individual residence or other outlet that is the ultimate recipient of the transmission of the audio or video programming.

...."

SECTION 32.14.(f) Except as otherwise provided, this section is effective when it becomes law.

FRANCHISE TAX RATE REDUCTION AND TAX BASE SIMPLIFICATION

SECTION 32.15.(a) G.S. 105-114(b) reads as rewritten:

"(b) **Definitions.** – The following definitions apply in this Article:

...

- (5) Total assets. – The sum of all cash, investments, furniture, fixtures, equipment, receivables, intangibles, and any other items of value owned by a person or a business entity."

SECTION 32.15.(b) G.S. 105-120.2 reads as rewritten:

"§ 105-120.2. Franchise or privilege tax on holding companies.

(a) Every corporation, domestic and foreign, incorporated or, by an act, domesticated under the laws of this State or doing business in this State that, at the close of its taxable year, is a holding company as defined in subsection (c) of this section, shall, pursuant to the provisions of G.S. 105-122, do all of the following:

- (1) File a return.
- (2) Determine the total amount of its ~~issued and outstanding capital stock, surplus and undivided profits~~ net worth.
- (3) Apportion ~~such outstanding capital stock, surplus and undivided profits~~ its net worth to this State.

(b) ~~(4)~~ Tax Rate. – Every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the return is due, the greater of the following:

- (1) ~~a-A~~ franchise or privilege tax at the rate of ~~one dollar and fifty cents (\$1.50)~~ one dollar (\$1.00) per one thousand dollars (\$1,000) of the amount determined under subsection (a) of this section, but in no case shall the tax be more than ~~seventy five thousand dollars (\$75,000)~~ nor less than ~~thirty five dollars (\$35.00)~~ one hundred fifty thousand dollars (\$150,000) nor less than two hundred dollars (\$200.00).

(2) ~~Notwithstanding the provisions of subdivision (1) of this subsection, if~~ If the tax produced pursuant to application of ~~calculated under this paragraph (2) subdivision~~ exceeds the tax produced pursuant to application of ~~calculated under subdivision (1), (1) of this subsection,~~ then the tax is levied at the rate of ~~one dollar and fifty cents (\$1.50) one dollar (\$1.00) per one thousand dollars (\$1,000) on the greater of the following:~~

- a. ~~Fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as computed under G.S. 105-122(d).~~
- b. ~~The total actual investment in tangible property in this State of such corporation as computed under G.S. 105-122(d).~~

...."

SECTION 32.15.(c) G.S. 105-122 reads as rewritten:

"§ 105-122. Franchise or privilege tax on domestic and foreign corporations.

(a) Tax Imposed. — An annual franchise or privilege tax is imposed on a corporation doing business in this State. The tax is determined on the basis of the books and records of the corporation as of the close of its income year. A corporation subject to the tax must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice-president, treasurer, or chief financial officer of the corporation. The return is due on or before the fifteenth day of the fourth month following the end of the corporation's income year.

(b) ~~Determination of Capital Base.—~~ Net Worth. — A corporation taxed under this section shall determine the total amount of its ~~issued and outstanding capital stock, surplus, and undivided profits. No reservation or allocation from surplus or undivided profits is allowed except as provided below:~~ net worth. The net worth of a corporation is its total assets without regard to the deduction for accumulated depreciation, depletion, or amortization less its total liabilities, computed in accordance with generally accepted accounting principles as of the end of the corporation's taxable year. If the corporation does not maintain its books and records in accordance with generally accepted accounting principles, then its net worth is computed in accordance with the accounting method used by the entity for federal tax purposes so long as the method fairly reflects the corporation's net worth for purposes of the tax levied by this section. A corporation's net worth is subject to the following adjustments:

- (1) ~~Definite and accrued legal liabilities.~~ A deduction for accumulated depreciation, depletion, and amortization is determined in accordance with the method used for federal tax purposes.
- (1a) ~~Billings in excess of costs that are considered a deferred liability under the percentage of completion method of revenue recognition.~~
- (2) ~~Taxes accrued, dividends declared, and reserves for depreciation of tangible assets and for amortization of intangible assets as permitted for income tax purposes.~~ An addition for indebtedness the corporation owes to a parent, a subsidiary, an affiliate, or a noncorporate entity in which the corporation or an affiliated group of corporations owns directly or indirectly more than fifty percent (50%) of the capital interests of the noncorporate entity. The amount added back to the corporation's net worth may be further adjusted if part of the capital of the creditor is capital borrowed from a source other than a parent, a subsidiary, or an affiliate. The debtor corporation may deduct a proportionate part of the indebtedness based on the ratio of the borrowed capital of the creditor to the total assets of the creditor. For purposes of this subdivision, borrowed capital does not include indebtedness incurred by a

- 1 bank arising out of the receipt of a deposit and evidenced by a certificate of
2 deposit, a passbook, a cashier's check, a certified check, or other similar
3 document.
- 4 (2a) If the creditor corporation is taxable under this Article, the creditor
5 corporation may deduct the amount of indebtedness owed to it by a parent,
6 subsidiary, or affiliated corporation to the extent that such indebtedness has
7 been added by the debtor corporation.
- 8 (3) ~~When including deferred tax liabilities, a corporation may reduce the amount~~
9 ~~included in its base by netting against that amount deferred tax assets. The~~
10 ~~reduction may not decrease deferred tax liabilities below zero (0). A~~
11 ~~corporation may deduct the cost of treasury stock.~~
- 12 (4) ~~Reserves for the cost of any air cleaning device or sewage or waste~~
13 ~~treatment plant, including waste lagoons, and pollution abatement equipment~~
14 ~~purchased or constructed and installed which reduces the amount of air or~~
15 ~~water pollution resulting from the emission of air contaminants or the~~
16 ~~discharge of sewage and industrial wastes or other polluting materials or~~
17 ~~substances into the outdoor atmosphere or streams, lakes, or rivers, upon~~
18 ~~condition that the corporation claiming such deductible liability shall furnish~~
19 ~~to the Secretary a certificate from the Department of Environment and~~
20 ~~Natural Resources or from a local air pollution control program for~~
21 ~~air cleaning devices located in an area where the Environmental~~
22 ~~Management Commission has certified a local air pollution control program~~
23 ~~pursuant to G.S. 143-215.112 certifying that the Environmental Management~~
24 ~~Commission or local air pollution control program has found as a fact that~~
25 ~~the air cleaning device, waste treatment plant or pollution abatement~~
26 ~~equipment purchased or constructed and installed as above described has~~
27 ~~actually been constructed and installed and that such plant or equipment~~
28 ~~complies with the requirements of the Environmental Management~~
29 ~~Commission or local air pollution control program with respect to such~~
30 ~~devices, plants or equipment, that such device, plant or equipment is being~~
31 ~~effectively operated in accordance with the terms and conditions set forth in~~
32 ~~the permit, certificate of approval, or other document of approval issued by~~
33 ~~the Environmental Management Commission or local air pollution control~~
34 ~~program and that the primary purpose thereof is to reduce air or water~~
35 ~~pollution resulting from the emission of air contaminants or the discharge of~~
36 ~~sewage and waste and not merely incidental to other purposes and functions.~~
- 37 (5) ~~Reserves for the cost of purchasing and installing equipment or constructing~~
38 ~~facilities for the purpose of recycling or resource recovering of or from solid~~
39 ~~waste or for the purpose of reducing the volume of hazardous waste~~
40 ~~generated shall be treated as deductible for the purposes of this section upon~~
41 ~~condition that the corporation claiming such deductible liability shall furnish~~
42 ~~to the Secretary a certificate from the Department of Environment and~~
43 ~~Natural Resources certifying that the Department of Environment and~~
44 ~~Natural Resources has found as a fact that the equipment or facility has~~
45 ~~actually been purchased, installed or constructed, that it is in conformance~~
46 ~~with all rules and regulations of the Department of Environment and Natural~~
47 ~~Resources, and the recycling or resource recovering is the primary purpose~~
48 ~~of the facility or equipment.~~
- 49 (6) ~~Reserves for the cost of constructing facilities of any private or public utility~~
50 ~~built for the purpose of providing sewer service to residential and outlying~~
51 ~~areas shall be treated as deductible for the purposes of this section; the~~

1 deductible liability allowed by this section shall apply only with respect to
2 such pollution abatement plants or equipment constructed or installed on or
3 after January 1, 1955.

4 (7) The cost of treasury stock.

5 (8) In the case of an international banking facility, the capital base shall be
6 reduced by the excess of the amount as of the end of the taxable year of all
7 assets of an international banking facility which are employed outside the
8 United States over liabilities of the international banking facility owed to
9 foreign persons. For purposes of such reduction, foreign persons shall have
10 the same meaning as defined in G.S. 105-130.5(b)(13)d.

11 Every corporation doing business in this State which is a parent, subsidiary, or affiliate of
12 another corporation shall add to its capital stock, surplus, and undivided profits all indebtedness
13 owed to a parent, subsidiary, or affiliated corporation as a part of its capital used in its business
14 and as a part of the base for franchise tax under this section. If any part of the capital of the
15 creditor corporation is capital borrowed from a source other than a parent, subsidiary, or
16 affiliate, the debtor corporation, which is required under this subsection to include in its tax
17 base the amount of debt by reason of being a parent, subsidiary, or affiliate of the creditor
18 corporation, may deduct from the debt included a proportionate part determined on the basis of
19 the ratio of the borrowed capital of the creditor corporation to the total assets of the creditor
20 corporation. If the creditor corporation is also taxable under the provisions of this section, the
21 creditor corporation is allowed to deduct from the total of its capital, surplus, and undivided
22 profits the amount of any debt owed to it by a parent, subsidiary or affiliated corporation to the
23 extent that the debt has been included in the tax base of the parent, subsidiary, or affiliated
24 debtor corporation reporting for taxation under the provisions of this section.

25 (b1) Definitions. – The following definitions apply in subsection (b) of this section:

26 (1) Affiliate. – The same meaning as specified in G.S. 105-130.2. A corporation
27 is an affiliate of another corporation when both are directly or indirectly
28 controlled by the same parent corporation or by the same or associated
29 financial interests by stock ownership, interlocking directors, or by any other
30 means whatsoever, whether the control is direct or through one or more
31 subsidiary, affiliated, or controlled corporations.

32 (2) Affiliated group. – The same meaning as defined in G.S. 105-114.1.

33 (3) Capital interest. – The right under an entity's governing law to receive a
34 percentage of the entity's assets upon dissolution after payments to creditors.

35 (4) Governing law. – The law under which the noncorporate entity is organized.

36 (2)(5) Indebtedness. – All loans, credits, goods, supplies, or other capital of
37 whatsoever nature furnished by a parent, a subsidiary, or affiliated
38 corporation, an affiliate, or a noncorporate entity in which the corporation or
39 an affiliated group of corporations owns directly or indirectly more than fifty
40 percent (50%) of the capital interests of the noncorporate entity, other than
41 indebtedness endorsed, guaranteed, or otherwise supported by one of these
42 corporations.

43 (6) Noncorporate entity. – A person that is neither a human being nor a
44 corporation.

45 (3)(7) Parent. – The same meaning as specified in G.S. 105-130.2. A corporation is
46 a parent of another corporation when, directly or indirectly, it controls the
47 other corporation by stock ownership, interlocking directors, or by any other
48 means whatsoever exercised by the same or associated financial interests,
49 whether the control is direct or through one or more subsidiary, affiliated, or
50 controlled corporations.

1 (4)(8) ~~Subsidiary. – The same meaning as specified in G.S. 105-130.2.A~~
2 ~~corporation is a subsidiary of another corporation when, directly or~~
3 ~~indirectly, it is subject to control by the other corporation by stock~~
4 ~~ownership, interlocking directors, or by any other means whatsoever~~
5 ~~exercised by the same or associated financial interest, whether the control is~~
6 ~~direct or through one or more subsidiary, affiliated, or controlled~~
7 ~~corporations.~~

8 (c1) Apportionment. – A corporation that is doing business in this State and in one or
9 more other states must apportion its ~~capital stock, surplus, and undivided profits~~ net worth
10 to this State. A corporation must use the apportionment method set out in subdivision (1) of this
11 subsection unless the Department has authorized it to use a different method under subdivision
12 (2) of this subsection. The portion of a corporation's ~~capital stock, surplus, and undivided~~
13 ~~profits~~ net worth determined by applying the appropriate apportionment method is considered
14 the amount of ~~capital stock, surplus, and undivided profits~~ net worth the corporation uses in its
15 business in this State.

16 (1) Statutory. – A corporation that is subject to income tax under Article 4 of
17 this Chapter must apportion its ~~capital stock, surplus, and undivided profits~~
18 net worth by using the fraction it applies in apportioning its income under
19 that Article. A corporation that is not subject to income tax under Article 4
20 of this Chapter must apportion its ~~capital stock, surplus, and undivided~~
21 ~~profits~~ net worth by using the fraction it would be required to apply in
22 apportioning its income if it were subject to that Article. The apportionment
23 method set out in this subdivision is considered the statutory method of
24 apportionment and is presumed to be the best method of determining the
25 amount of a corporation's ~~capital stock, surplus, and undivided profits~~ net
26 worth attributable to the corporation's business in this State.

27 (2) Alternative. – A corporation that believes the statutory apportionment
28 method set out in subdivision (1) of this subsection subjects a greater portion
29 of its ~~capital stock, surplus, and undivided profits~~ net worth to tax under this
30 section than is attributable to its business in this State may make a written
31 request to the Secretary for permission to use an alternative method. The
32 request must set out the reasons for the corporation's belief and propose an
33 alternative method. The corporation has the burden of establishing by clear,
34 cogent, and convincing proof that the statutory apportionment method
35 subjects a greater portion of the corporation's ~~capital stock, surplus, and~~
36 ~~undivided profits~~ net worth to tax under this section than is attributable to its
37 business in this State and that the proposed alternative method is a better
38 method of determining the amount of the corporation's ~~capital stock, surplus,~~
39 ~~and undivided profits~~ net worth attributable to the corporation's business in
40 this State.

41 The Secretary must issue a written decision on a corporation's request for
42 an alternative apportionment method. If the decision grants the request, it
43 must describe the alternative method the corporation is authorized to use and
44 state the tax years to which the alternative method applies. A decision may
45 apply to no more than three tax years. A corporation may renew a request to
46 use an alternative apportionment method by following the procedure in this
47 subdivision. A decision of the Secretary on a request for an alternative
48 apportionment method is final and is not subject to administrative or judicial
49 review. A corporation authorized to use an alternative method may apportion
50 its ~~capital stock, surplus, and undivided profits~~ net worth in accordance with
51 the alternative method or the statutory method.

1 (3) Repealed by Session Laws 2011-330, s. 5, effective June 27, 2011.

2 (d) Tax Base and Tax Rate. — After determining the proportion of its ~~total capital stock,~~
3 ~~surplus and undivided profits net worth~~ as set out in subsection (c1) of this section, which
4 amount shall not be less than fifty-five percent (55%) of the appraised value as determined for
5 ad valorem taxation of all the real and tangible personal property in this State of each
6 corporation nor less than its total actual investment in tangible property in this State, every
7 corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time
8 the return is due, a franchise or privilege tax at the rate of one dollar ~~and fifty cents (\$1.50)~~
9 (\$1.00) per one thousand dollars (\$1,000) of the total amount of ~~capital stock, surplus and~~
10 ~~undivided profits net worth~~ as provided in this section. The tax imposed in this section shall not
11 be less than ~~thirty five dollars (\$35.00)~~ two hundred dollars (\$200.00) and is for the privilege
12 of carrying on, doing business, and/or the continuance of articles of incorporation or
13 domestication of each corporation in this State. Appraised value of tangible property including
14 real estate is the ad valorem valuation for the calendar year next preceding the due date of the
15 franchise tax return. The term "total actual investment in tangible property" as used in this
16 section means the total original purchase price or consideration to the reporting taxpayer of its
17 tangible properties, including real estate, in this State plus additions and improvements thereto
18 less reserve for depreciation as permitted for income tax purposes, ~~and also less any~~
19 ~~indebtedness incurred and existing by virtue of the purchase of any real estate and any~~
20 ~~permanent improvements made thereon. In computing "total actual investment in tangible~~
21 ~~personal property" a corporation may deduct reserves for the entire cost of any air cleaning~~
22 ~~device or sewage or waste treatment plant, including waste lagoons, and pollution abatement~~
23 ~~equipment purchased or constructed and installed which reduces the amount of air or water~~
24 ~~pollution resulting from the emission of air contaminants or the discharge of sewage and~~
25 ~~industrial wastes or other polluting materials or substances into the outdoor atmosphere or into~~
26 ~~streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall~~
27 ~~furnish to the Secretary a certificate from the Department of Environment and Natural~~
28 ~~Resources or from a local air pollution control program for air cleaning devices located in an~~
29 ~~area where the Environmental Management Commission has certified a local air pollution~~
30 ~~control program pursuant to G.S. 143-215.112 certifying that said Department or local air~~
31 ~~pollution control program has found as a fact that the air cleaning device, waste treatment plant~~
32 ~~or pollution abatement equipment purchased or constructed and installed as above described~~
33 ~~has actually been constructed and installed and that the device, plant or equipment complies~~
34 ~~with the requirements of the Environmental Management Commission or local air pollution~~
35 ~~control program with respect to the devices, plants or equipment, that the device, plant or~~
36 ~~equipment is being effectively operated in accordance with the terms and conditions set forth in~~
37 ~~the permit, certificate of approval, or other document of approval issued by the Environmental~~
38 ~~Management Commission or local air pollution control program and that the primary purpose is~~
39 ~~to reduce air or water pollution resulting from the emission of air contaminants or the discharge~~
40 ~~of sewage and waste and not merely incidental to other purposes and functions. The cost of~~
41 ~~constructing facilities of any private or public utility built for the purpose of providing sewer~~
42 ~~service to residential and outlying areas is treated as deductible for the purposes of this section;~~
43 ~~the deductible liability allowed by this section applies only with respect to pollution abatement~~
44 ~~plants or equipment constructed or installed on or after January 1, 1955.purposes.~~

45 (d1) Credits. — A corporation is allowed a credit against the tax imposed by this section
46 for a taxable year equal to one half of the amount of tax payable during the taxable year under
47 Article 5E of this Chapter. The credit allowed by this subsection may not exceed the amount of
48 tax imposed by this section for the taxable year, reduced by the sum of all other credits allowed
49 against that tax, except tax payments made by or on behalf of the taxpayer.

50 (e) Any corporation which changes its income year, and files a "short period" income
51 tax return pursuant to G.S. 105-130.15 shall file a franchise tax return in accordance with the

1 provisions of this section in the manner and as of the date specified in subsection (a) of this
2 section. Such corporation shall be entitled to deduct from the total franchise tax computed (on
3 an annual basis) on such return the amount of franchise tax previously paid which is applicable
4 to the period subsequent to the beginning of the new income year.

5 (f) The return and tax required by this section are in addition to all other reports
6 required or taxes levied and assessed in this State.

7 (g) Counties, cities and towns shall not levy a franchise tax on corporations taxed under
8 this section."

9 **SECTION 32.15.(d)** G.S. 105-114.1 reads as rewritten:

10 "**§ 105-114.1. Limited liability companies.**

11 ...

12 (b) **Controlled Companies.** – If a corporation or an affiliated group of corporations
13 owns more than fifty percent (50%) of the capital interests in a noncorporate limited liability
14 company, the corporation or group of corporations must include in its three tax bases pursuant
15 to G.S. 105-122 the same percentage of (i) the noncorporate limited liability company's ~~capital~~
16 ~~stock, surplus, and undivided profits; net worth;~~ (ii) fifty-five percent (55%) of the
17 noncorporate limited liability company's appraised ad valorem tax value of property; and (iii)
18 the noncorporate limited liability company's actual investment in tangible property in this State,
19 as appropriate.

20 ...

21 (d) **No Double Inclusion.** – If a corporation is required to include a percentage of a
22 noncorporate limited liability company's assets in its tax bases under this Article pursuant to
23 subsection (b) of this section, its investment in the noncorporate limited liability company is
24 not included in its computation of ~~capital stock~~ net worth base under G.S. 105-122(b).

25"

26 **SECTION 32.15.(e)** G.S. 105-125(b) reads as rewritten:

27 "(b) **Certain Investment Companies.** – A corporation doing business in North Carolina
28 that meets one or more of the following conditions may, in determining its ~~capital stock,~~
29 ~~surplus, and undivided profits base~~ net worth base for franchise tax, deduct the aggregate
30 market value of its investments in the stocks, bonds, debentures, or other securities or
31 evidences of debt of other corporations, partnerships, individuals, municipalities, governmental
32 agencies, or governments:

33 (1) **A regulated investment company.** – A regulated investment company is an
34 entity that qualifies as a regulated investment company under section 851 of
35 the Code.

36 (2) **A REIT, unless the REIT is a captive REIT.** – The terms "REIT" and
37 "captive REIT" have the same meanings as defined in G.S. 105-130.12."

38 **SECTION 32.15.(f)** This section is effective for taxable years beginning on or after
39 January 1, 2017.

41 **INDIVIDUAL INCOME TAX REDUCTIONS AND MODIFICATION OF THE** 42 **ITEMIZED DEDUCTION**

43 **SECTION 32.16.(a)** Effective for taxable years beginning on or after January 1,
44 2016, G.S. 105-153.5(a)(1) reads as rewritten:

45 "**§ 105-153.5. Modifications to adjusted gross income.**

46 (a) **Deduction Amount.** – In calculating North Carolina taxable income, a taxpayer may
47 deduct from adjusted gross income either the standard deduction amount provided in
48 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
49 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as
50 follows:

- (1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	\$15,000 <u>\$17,500</u>
Head of Household	12,000 <u>14,000</u>
Single	7,500 <u>8,750</u>
Married, filing separately	7,500 <u>8,750.</u> "

SECTION 32.16.(b) Effective for taxable years beginning on or after January 1, 2017, G.S. 105-153.5(a)(1), as amended by subsection (a) of this section, reads as rewritten:

"§ 105-153.5. Modifications to adjusted gross income.

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction amounts are as follows:

- (1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	\$17,500 <u>\$17,750</u>
Head of Household	14,000 <u>14,200</u>
Single	8,750 <u>8,875</u>
Married, filing separately	8,750 <u>8,875.</u> "

SECTION 32.16.(c) Effective for taxable years beginning on or after January 1, 2018, G.S. 105-153.5(a)(1), as amended by subsection (b) of this section, reads as rewritten:

"§ 105-153.5. Modifications to adjusted gross income.

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction amounts are as follows:

- (1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	\$17,750 <u>\$18,000</u>
Head of Household	14,200 <u>14,400</u>
Single	8,875 <u>9,000</u>
Married, filing separately	8,875 <u>9,000.</u> "

SECTION 32.16.(d) Effective for taxable years beginning on or after January 1, 2019, G.S. 105-153.5(a)(1), as amended by subsection (c) of this section, reads as rewritten:

"§ 105-153.5. Modifications to adjusted gross income.

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction amounts are as follows:

(1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	\$18,000 <u>\$18,250</u>
Head of Household	14,400 <u>14,600</u>
Single	9,000 <u>9,125</u>
Married, filing separately	9,000 <u>9,125.</u> "

SECTION 32.16.(e) Effective for taxable years beginning on or after January 1, 2020, G.S. 105-153.5(a)(1), as amended by subsection (d) of this section, reads as rewritten:

"§ 105-153.5. Modifications to adjusted gross income.

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction amounts are as follows:

(1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	\$18,250 <u>\$18,500</u>
Head of Household	14,600 <u>14,800</u>
Single	9,125 <u>9,250</u>
Married, filing separately	9,125 <u>9,250.</u> "

SECTION 32.16.(f) G.S. 105-153.7(a) reads as rewritten:

"§ 105-153.7. Individual income tax imposed.

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. The tax is ~~five and seventy five hundredths percent (5.75%)~~ five and five-tenths percent (5.5%) of the taxpayer's North Carolina taxable income."

SECTION 32.16.(g) G.S. 105-153.5(a)(2) reads as rewritten:

"§ 105-153.5. Modifications to adjusted gross income.

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction amounts are as follows:

- ...
- (2) Itemized deduction amount. – An amount equal to the ~~sum of the items listed in this subdivision. The amounts allowed under this subdivision are not subject to the overall limitation on itemized deductions under section 68 of the Code;~~ itemized deduction amount claimed under the Code other than any amount deducted under section 164 of the Code as State, local, or foreign income tax or as State or local general sales tax. The
- a. ~~The amount allowed as a deduction for charitable contributions under section 170 of the Code for that taxable year.~~
 - b. ~~The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount claimed by the taxpayer as~~

1 a deduction for property taxes paid or accrued on real estate under
 2 section 164 of the Code for that taxable year. The amount allowed
 3 under this ~~sub-subdivision~~ subdivision may not exceed twenty
 4 thousand dollars (\$20,000). For spouses filing as married filing
 5 separately or married filing jointly, the total ~~mortgage interest and~~
 6 ~~real estate taxes itemized deductions~~ claimed by both spouses
 7 combined may not exceed twenty thousand dollars (\$20,000). ~~For~~
 8 ~~spouses filing as married filing separately with a joint obligation for~~
 9 ~~mortgage interest and real estate taxes, the deduction for these items~~
 10 ~~is allowable to the spouse who actually paid them. If For spouses~~
 11 filing as married filing separately, if the amount of the mortgage
 12 interest and real estate taxes paid itemized deductions claimed by
 13 both spouses exceeds twenty thousand dollars (\$20,000), these
 14 deductions must be prorated based on the percentage paid claimed by
 15 each spouse. For joint obligations paid from joint accounts, the
 16 proration is based on the income reported by each spouse for that
 17 taxable year spouse under the Code."

18 **SECTION 32.16.(h)** G.S. 105-163.2 reads as rewritten:

19 **"§ 105-163.2. Employers must withhold taxes.**

20 ...

21 (b) Withholding Tables. – The manner of withholding and the amount to be withheld
 22 shall be determined in accordance with tables and rules adopted by the Secretary. The
 23 withholding of wages pursuant to and in accordance with these tables shall be deemed as a
 24 matter of law to constitute compliance with the provisions of subsection (a) of this section,
 25 notwithstanding any other provisions of this Article. The Secretary shall promulgate tables for
 26 computing amounts to be withheld with respect to different rates of wages for different payroll
 27 periods applicable to the various combinations of allowances to which an employee may be
 28 entitled and taking into account the appropriate standard deduction. The tables may provide for
 29 the same amount to be withheld within reasonable salary brackets or ranges so designed as to
 30 result in the withholding during a year of approximately the amount of an employee's indicated
 31 income tax liability for that year.

32 The withholding allowances provided by these tables and rules shall, as nearly as possible,
 33 approximate the amount of the employee's indicated income tax liability for that year based
 34 upon all of the following factors:

- 35 (1) An income tax rate equal to the rate set in G.S. 105-153.7 plus one-tenth of
 36 one percent (0.1%).
 37 (2) ~~the~~ The additions the employee is required to make under Article 4 of this
 38 Chapter and the deductions, Chapter.
 39 (3) The deductions and credits to which an employee is entitled under Article 4
 40 of this Chapter. ~~The Secretary shall promulgate tables for computing~~
 41 amounts to be withheld with respect to different rates of wages for different
 42 payroll periods applicable to the various combinations of allowances to
 43 which an employee may be entitled and taking into account the appropriate
 44 standard deduction. The tables may provide for the same amount to be
 45 withheld within reasonable salary brackets or ranges so designed as to result
 46 in the withholding during a year of approximately the amount of an
 47 employee's indicated income tax liability for that year. The withholding of
 48 wages pursuant to and in accordance with these tables shall be deemed as a
 49 matter of law to constitute compliance with the provisions of subsection (a)
 50 of this section, notwithstanding any other provisions of this Article.

51 ...

1 (e) Alternatives to Tables. – If the Secretary determines that use of the withholding
2 tables would be impractical, would impose an unreasonable burden on an employer, or would
3 produce substantially incorrect results, the Secretary may authorize or require an employer to
4 use some other method of determining the amounts to be withheld under this Article. The
5 alternative method authorized by the Secretary must reasonably approximate the predicted
6 income tax liability of the affected ~~employees~~employees based upon the factors provided in
7 subsection (b) of this section. In addition, with the agreement of the employer and employee,
8 the Secretary may authorize an employer to use an alternative method that results in
9 withholding of a greater amount than otherwise required under this section.

10 The Secretary's authorization of an alternative method is discretionary and may be
11 cancelled at any time without advance notice if the Secretary finds that the method is being
12 abused or is not resulting in the withholding of an amount reasonably approximating the
13 predicted income tax liability of the affected employees. The Secretary shall give an employer
14 written notice of any cancellation and the findings upon which the cancellation is based. The
15 cancellation becomes effective upon the employer's receipt of this notice or on the third day
16 after the notice was mailed to the employer, whichever occurs first. If the employer requests a
17 hearing on the cancellation within 30 days after the cancellation, the Secretary shall grant a
18 hearing. After a hearing, the Secretary's findings are conclusive."

19 **SECTION 32.16.(i)** Subsections (f) through (h) of this section are effective for
20 taxable years beginning on or after January 1, 2016. Except as otherwise provided, the
21 remainder of this section is effective when this act becomes law.

22 23 **ARTICLE 5F EXCISE TAX CHANGES**

24 **SECTION 32.17.(a)** G.S. 105-187.51(b) reads as rewritten:

25 **"§ 105-187.51. Tax imposed on mill machinery.**

26 ...
27 (b) Rate. – The tax is ~~one percent (1%) of~~ imposed on the sales-purchase price of the
28 machinery, part, or accessory ~~purchased~~accessory. The tax rate is equal to the general rate of
29 tax under G.S. 105-164.4. The maximum tax is ~~eighty dollars (\$80.00)~~ five hundred dollars
30 (\$500.00) per article. As used in this section, the term "accessories" does not include
31 electricity."

32 **SECTION 32.17.(b)** G.S. 105-187.51B(b) reads as rewritten:

33 **"§ 105-187.51B. Tax imposed on certain recyclers, research and development companies,**
34 **industrial machinery refurbishing companies, and companies located at ports**
35 **facilities.**

36 ...
37 (b) Rate. – The tax is ~~one percent (1%) of~~ imposed on the sales-purchase price of the
38 equipment or other tangible personal property. The tax rate is equal to the general rate of tax
39 under G.S. 105-164.4. The maximum tax is ~~eighty dollars (\$80.00)~~ five hundred dollars
40 (\$500.00) per article."

41 **SECTION 32.17.(c)** G.S. 105-187.51D(b) reads as rewritten:

42 **"§ 105-187.51D. Tax imposed on machinery at large manufacturing and distribution**
43 **facility.**

44 ...
45 (b) Tax. – A privilege tax is imposed on a large manufacturing and distribution facility
46 that purchases mill machinery, distribution machinery, or parts or accessories for mill
47 machinery or distribution machinery for storage, use, or consumption in this State. The tax is
48 ~~one percent (1%) of~~ imposed on the sales-purchase price of the machinery, part, or accessory
49 ~~purchased~~accessory. The rate of tax is equal to the general rate of tax under G.S. 105-164.4.
50 The maximum tax is ~~eighty dollars (\$80.00)~~ five hundred dollars (\$500.00) per article. As used
51 in this section, the term "accessories" does not include electricity."

1 **SECTION 32.17.(d)** This section becomes effective October 1, 2015, and applies
2 to purchases made on or after that date or contracts entered into on or after that date.

3
4 **SALES TAX CHANGES**

5 **SECTION 32.18.(a)** G.S. 105-164.3 reads as rewritten:

6 **"§ 105-164.3. Definitions.**

7 The following definitions apply in this Article:

8 ...

9 (18a) Maintenance service. – To keep tangible personal property in working order,
10 to avoid breakdown, and to prevent unnecessary repairs.

11 ...

12 (33d) Repair service. – To restore or attempt to restore tangible personal property
13 to proper working order or good condition. The term includes replacing or
14 putting together what is torn or broken.

15 "

16 **SECTION 32.18.(b)** G.S. 105-164.4(a) reads as rewritten:

17 **"§ 105-164.4. Tax imposed on retailers.**

18 (a) A privilege tax is imposed on a retailer engaged in business in the State at the
19 percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The
20 general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as
21 follows:

22 (1a) The general rate applies to the sales price of each ~~manufactured home of the~~
23 ~~following items sold~~ at retail, including all accessories attached to ~~the~~
24 ~~manufactured home the item~~ when it is delivered to the ~~purchaser-purchaser:~~

25 a. A manufactured home.

26 b. A modular home. The sale of a modular home to a modular
27 homebuilder is considered a retail sale. A person who sells a modular
28 home at retail is allowed a credit against the tax imposed by this
29 subdivision for sales or use tax paid to another state on tangible
30 personal property incorporated in the modular home. The retail sale
31 of a modular home occurs when a modular home manufacturer sells
32 a modular home to a modular homebuilder or directly to the end user
33 of the modular home.

34 c. An aircraft, except that the maximum tax on an aircraft is five
35 thousand dollars (\$5,000) per article.

36 d. A boat, except that the maximum tax on a boat is one thousand five
37 hundred dollars (\$1,500) per article.

38 (1b) ~~The rate of three percent (3%) applies to the sales price of each aircraft or~~
39 ~~boat sold at retail, including all accessories attached to the item when it is~~
40 ~~delivered to the purchaser. The maximum tax is one thousand five hundred~~
41 ~~dollars (\$1,500) per article.~~

42 ...

43 (8) ~~The general rate applies to the sales price of each modular home sold at~~
44 ~~retail, including all accessories attached to the modular home when it is~~
45 ~~delivered to the purchaser. The sale of a modular home to a modular~~
46 ~~homebuilder is considered a retail sale. A person who sells a modular home~~
47 ~~at retail is allowed a credit against the tax imposed by this subdivision for~~
48 ~~sales or use tax paid to another state on tangible personal property~~
49 ~~incorporated in the modular home. The retail sale of a modular home occurs~~
50 ~~when a modular home manufacturer sells a modular home to a modular~~
51 ~~homebuilder or directly to the end user of the modular home.~~

- 1 ...
- 2 (15) The general rate applies to the sales price of or the gross receipts derived
- 3 from repair service and maintenance service.
- 4 (16) The general rate applies to the sales price of or the gross receipts derived
- 5 from grooming, training, boarding, or providing other care for an animal.
- 6 (17) The general rate applies to the sales price of or the gross receipts derived
- 7 from veterinary services.
- 8 (18) The general rate applies to the sales price of or the gross receipts derived
- 9 from advertising services."

10 **SECTION 32.18.(c)** G.S. 105-164.13(49) is repealed.

11 **SECTION 32.18.(d)** G.S. 105-467(a) reads as rewritten:

12 **"§ 105-467. Scope of sales tax.**

13 (a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax

14 at the rate of one percent (1%) of the following:

- 15 (1) A retailer's net taxable sales and gross receipts that are subject to the general
- 16 rate of sales tax imposed by the State under G.S. 105-164.4 except the tax
- 17 does not apply to the sales price of ~~a manufactured home or a modular~~
- 18 ~~home~~ an item taxed under G.S. 105-164.4(a)(1a).

19"

20 **SECTION 32.18.(e)** G.S. 105-237.1(a)(6) reads as rewritten:

21 **"§ 105-237.1. Compromise of liability.**

22 (a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is

23 collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the

24 best interest of the State and makes one or more of the following findings:

25 ...

- 26 (6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the
- 27 assessment is for sales or use tax the retailer failed to collect or the person
- 28 failed to pay on an item taxable under G.S. 105-164.4(a)(10) ~~and (a)(11),~~
- 29 through (a)(18), and the retailer or person made a good-faith effort to
- 30 comply with the sales and use tax laws. This subdivision expires for
- 31 assessments issued after July 1, 2020."

32 **SECTION 32.18.(f)** The Secretary of Revenue is directed to repeal the following

33 administrative rules: 17 NCAC 07B .1002, 17 NCAC 07B .1003, and 17 NCAC 07B .1901. A

34 repair part historically purchased and taxed in accordance with these administrative rules

35 should be purchased for the purpose of resale.

36 **SECTION 32.18.(g)** G.S. 105-164.4I(b) is amended by adding a new subdivision

37 to read:

38 "(b) Exemptions. – The tax imposed by this section does not apply to the sales price of

39 or the gross receipts derived from a service contract applicable to any of the following items:

- 40 (1) An item exempt from tax under this Article, other than a motor vehicle
- 41 exempt from tax under G.S. 105-164.13(32).
- 42 (2) A transmission, distribution, or other network asset contained on
- 43 utility-owned land, right-of-way, or easement.
- 44 (3) An item purchased by a professional motorsports racing team for which the
- 45 team may receive a sales tax refund under G.S. 105-164.14A(5).
- 46 (4) An item subject to tax under Article 5F of Chapter 105 of the General
- 47 Statutes.
- 48 (5) A qualifying aircraft or qualifying jet engine if the service contract is sold by
- 49 the manufacturer of the aircraft or jet engine or a related member of the
- 50 manufacturer within 90 days of the date the aircraft or engine is purchased.
- 51 A qualifying aircraft is an aircraft with a maximum take-off weight of more

1 than 9,000 pounds but not in excess of 15,000 pounds. A qualifying jet
2 engine is an engine certified pursuant to Part 33 of Title 14 of the Code of
3 Federal Regulations."

4 **SECTION 32.18.(h)** Effective July 1, 2015, and applicable to refund applications
5 submitted for purchases made on or after that date, G.S. 105-164.14(b) reads as rewritten:

6 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed ~~a semiannual~~
7 an annual refund of sales and use taxes paid by it under this Article on direct purchases of
8 tangible personal property and services for use in carrying on the work of the nonprofit entity.
9 The aggregate amount of purchases for which an entity may receive a refund under this
10 subsection for a 12-month period beginning July 1 and ending June 30 may not exceed six
11 hundred sixty-six million six hundred sixty-six thousand six hundred sixty-seven dollars
12 (\$666,666,667). Sales and use tax liability indirectly incurred by a nonprofit entity through
13 reimbursement to an authorized person of the entity for the purchase of tangible personal
14 property and services for use in carrying on the work of the nonprofit entity is considered a
15 direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity
16 on building materials, supplies, fixtures, and equipment that become a part of or annexed to any
17 building or structure that is owned or leased by the nonprofit entity and is being erected,
18 altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is
19 considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. The
20 refund allowed under this subsection does not apply to purchases of electricity,
21 telecommunications service, ancillary service, piped natural gas, video programming, or a
22 prepaid meal plan. A request for a refund must be in writing and must include any information
23 and documentation required by the Secretary. A request for a refund ~~for the first six months of~~
24 a calendar year is due the following October 15; a request for a refund for the second six
25 months of a calendar year is due the following April 15. The aggregate annual refund amount
26 allowed an entity under this subsection for a fiscal year may not exceed thirty one million
27 seven hundred thousand dollars (\$31,700,000); for a 12-month period ending June 30 is due the
28 following October 15.

29 The refunds allowed under this subsection do not apply to an entity that is owned and
30 controlled by the United States or to an entity that is owned or controlled by the State and is not
31 listed in this subsection. A hospital that is not listed in this subsection is allowed ~~a semiannual~~
32 an annual refund of sales and use taxes paid by it on over-the-counter drugs purchased for use
33 in carrying out its work. The following nonprofit entities are allowed a refund under this
34 subsection:

35 "...."

36 **SECTION 32.18.(i)** Effective July 1, 2015, and applicable to refund applications
37 submitted for purchases made on or after that date, G.S. 105-467(b) reads as rewritten:

38 "(b) Exemptions and Refunds. – The State exemptions and exclusions contained in
39 G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under
40 this Article. The State refund provisions contained in G.S. 105-164.14 through
41 G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed
42 under this Article. A refund of an excessive or erroneous State sales tax collection allowed
43 under G.S. 105-164.11 and a refund of State sales tax paid on a rescinded sale or cancelled
44 service contract under G.S. 105-164.11A apply to the local sales and use tax authorized to be
45 levied and imposed under this Article. The aggregate annual local amount of purchases for
46 which an entity may receive a refund amount of local sales and use tax may not exceed the
47 amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen
48 million three hundred thousand dollars (\$13,300,000).G.S. 105-164.14(b). If the purchases for
49 which a refund application is made exceed the amount of purchases for which an entity may
50 receive a refund, and those purchases are made in more than one county, the purchases eligible

1 for the refund in each county is proportionate to the amount of purchases sourced to that county
2 relative to the total purchases made in all counties.

3 Except as provided in this subsection, a taxing county may not allow an exemption,
4 exclusion, or refund that is not allowed under the State sales and use tax. A local school
5 administrative unit and a joint agency created by interlocal agreement among local school
6 administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related
7 materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use
8 taxes paid by it under this Article on direct purchases of tangible personal property and
9 services. Sales and use tax liability indirectly incurred by the entity on building materials,
10 supplies, fixtures, and equipment that become a part of or annexed to any building or structure
11 that is owned or leased by the entity and is being erected, altered, or repaired for use by the
12 entity is considered a sales or use tax liability incurred on direct purchases by the entity for the
13 purpose of this subsection. The refund allowed under this subsection does not apply to
14 purchases of electricity, telecommunications service, ancillary service, piped natural gas, video
15 programming, or a prepaid meal plan. A request for a refund is due in the same time and
16 manner as provided in G.S. 105-164.14(c). Refunds applied for more than three years after the
17 due date are barred."

18 **SECTION 32.18.(j)** Effective July 1, 2016, and applicable to refund applications
19 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
20 subsection (h) of this section, reads as rewritten:

21 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
22 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
23 personal property and services for use in carrying on the work of the nonprofit entity. The
24 aggregate amount of purchases for which an entity may receive a refund under this subsection
25 for a fiscal year may not exceed ~~six hundred sixty six million six hundred sixty six thousand~~
26 ~~six hundred sixty seven dollars (\$666,666,667)~~ one hundred fifty million dollars
27 (\$150,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a nonprofit
28 entity through reimbursement to an authorized person of the entity for the purchase of tangible
29 personal property and services for use in carrying on the work of the nonprofit entity is
30 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
31 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
32 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
33 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
34 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
35 entity. The refund allowed under this subsection does not apply to purchases of electricity,
36 telecommunications service, ancillary service, piped natural gas, video programming, or a
37 prepaid meal plan. A request for a refund must be in writing and must include any information
38 and documentation required by the Secretary. A request for a refund for the preceding fiscal
39 year is due the following October 15.

40 The refunds allowed under this subsection do not apply to an entity that is owned and
41 controlled by the United States or to an entity that is owned or controlled by the State and is not
42 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
43 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
44 out its work. The following nonprofit entities are allowed a refund under this subsection:

45 "...."

46 **SECTION 32.18.(k)** Effective July 1, 2017, and applicable to refund applications
47 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
48 subsection (j) of this section, reads as rewritten:

49 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
50 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
51 personal property and services for use in carrying on the work of the nonprofit entity. The

1 aggregate amount of purchases for which an entity may receive a refund under this subsection
2 for a fiscal year may not exceed ~~one hundred fifty million dollars (\$150,000,000)~~ one hundred
3 twenty million dollars (\$120,000,000) in a fiscal year. Sales and use tax liability indirectly
4 incurred by a nonprofit entity through reimbursement to an authorized person of the entity for
5 the purchase of tangible personal property and services for use in carrying on the work of the
6 nonprofit entity is considered a direct purchase by the entity. Sales and use tax liability
7 indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment
8 that become a part of or annexed to any building or structure that is owned or leased by the
9 nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for
10 carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct
11 purchases by the nonprofit entity. The refund allowed under this subsection does not apply to
12 purchases of electricity, telecommunications service, ancillary service, piped natural gas, video
13 programming, or a prepaid meal plan. A request for a refund must be in writing and must
14 include any information and documentation required by the Secretary. A request for a refund
15 for the preceding fiscal year is due the following October 15.

16 The refunds allowed under this subsection do not apply to an entity that is owned and
17 controlled by the United States or to an entity that is owned or controlled by the State and is not
18 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
19 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
20 out its work. The following nonprofit entities are allowed a refund under this subsection:

21"

22 **SECTION 32.18.(l)** Effective July 1, 2018, and applicable to refund applications
23 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
24 subsection (k) of this section, reads as rewritten:

25 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
26 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
27 personal property and services for use in carrying on the work of the nonprofit entity. The
28 aggregate amount of purchases for which an entity may receive a refund under this subsection
29 for a fiscal year may not exceed ~~one hundred twenty million dollars (\$120,000,000)~~ ninety
30 million dollars (\$90,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a
31 nonprofit entity through reimbursement to an authorized person of the entity for the purchase of
32 tangible personal property and services for use in carrying on the work of the nonprofit entity is
33 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
34 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
35 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
36 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
37 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
38 entity. The refund allowed under this subsection does not apply to purchases of electricity,
39 telecommunications service, ancillary service, piped natural gas, video programming, or a
40 prepaid meal plan. A request for a refund must be in writing and must include any information
41 and documentation required by the Secretary. A request for a refund for the preceding fiscal
42 year is due the following October 15.

43 The refunds allowed under this subsection do not apply to an entity that is owned and
44 controlled by the United States or to an entity that is owned or controlled by the State and is not
45 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
46 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
47 out its work. The following nonprofit entities are allowed a refund under this subsection:

48"

49 **SECTION 32.18.(m)** Effective July 1, 2019, and applicable to refund applications
50 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
51 subsection (l) of this section, reads as rewritten:

1 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
2 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
3 personal property and services for use in carrying on the work of the nonprofit entity. The
4 aggregate amount of purchases for which an entity may receive a refund under this subsection
5 for a fiscal year may not exceed ~~ninety million dollars (\$90,000,000)~~ sixty million dollars
6 (\$60,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a nonprofit
7 entity through reimbursement to an authorized person of the entity for the purchase of tangible
8 personal property and services for use in carrying on the work of the nonprofit entity is
9 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
10 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
11 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
12 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
13 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
14 entity. The refund allowed under this subsection does not apply to purchases of electricity,
15 telecommunications service, ancillary service, piped natural gas, video programming, or a
16 prepaid meal plan. A request for a refund must be in writing and must include any information
17 and documentation required by the Secretary. A request for a refund for the preceding fiscal
18 year is due the following October 15.

19 The refunds allowed under this subsection do not apply to an entity that is owned and
20 controlled by the United States or to an entity that is owned or controlled by the State and is not
21 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
22 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
23 out its work. The following nonprofit entities are allowed a refund under this subsection:

24 "

25 **SECTION 32.18.(n)** Effective July 1, 2020, and applicable to refund applications
26 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
27 subsection (m) of this section, reads as rewritten:

28 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
29 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
30 personal property and services for use in carrying on the work of the nonprofit entity. The
31 aggregate amount of purchases for which an entity may receive a refund under this subsection
32 for a fiscal year may not exceed ~~sixty million dollars (\$60,000,000)~~ fifteen million dollars
33 (\$15,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a nonprofit
34 entity through reimbursement to an authorized person of the entity for the purchase of tangible
35 personal property and services for use in carrying on the work of the nonprofit entity is
36 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
37 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
38 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
39 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
40 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
41 entity. The refund allowed under this subsection does not apply to purchases of electricity,
42 telecommunications service, ancillary service, piped natural gas, video programming, or a
43 prepaid meal plan. A request for a refund must be in writing and must include any information
44 and documentation required by the Secretary. A request for a refund for the preceding fiscal
45 year is due the following October 15.

46 The refunds allowed under this subsection do not apply to an entity that is owned and
47 controlled by the United States or to an entity that is owned or controlled by the State and is not
48 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
49 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
50 out its work. The following nonprofit entities are allowed a refund under this subsection:

51 "

1 **SECTION 32.18.(o)** Subsections (a) through (d) and subsections (e) and (f) of this
2 section become effective October 1, 2015, and apply to sales made on or after that date,
3 services provided on or after that date, or contracts entered into on or after that date. Except as
4 otherwise provided, this section is effective when it becomes law.

5
6 **FAIR DISTRIBUTION OF SALES TAX REVENUE TO LOCAL GOVERNMENTS**

7 **SECTION 32.19.(a)** Sec. 9 of Chapter 1096 of the 1967 Session Laws, as
8 amended, reads as rewritten:

9 "Sec. 9. Distribution. The Secretary of Revenue must ~~divide~~allocate the net proceeds of the
10 tax collected under this division on items other than food in accordance with G.S. 105-472(a) in
11 the First One Cent (1¢) Local Government Sales and Use Tax Act, Article 39 of Chapter 105 of
12 the General Statutes. The Secretary must divide the amount allocated to Mecklenburg County
13 and its municipalities in accordance with the ad valorem distribution method described in
14 G.S. 105-472(b)(2). The Secretary of Revenue must distribute the taxes levied by Mecklenburg
15 County on food to Mecklenburg County and the municipalities within Mecklenburg County in
16 accordance with G.S. 105-469(a). This amount shall be divided between the county and its
17 municipalities in accordance with the ad valorem distribution method described in
18 G.S. 105-472(b)(2). The net proceeds from the tax levied under this division and distributed to
19 Mecklenburg County must be used as provided in G.S. 105-472(a1).

20 The Secretary of Revenue must reduce the amount distributable to Mecklenburg County
21 under this section by the amount set in G.S. 105-522. This reduction does not affect the amount
22 allocated to municipalities under this section."

23 **SECTION 32.19.(b)** G.S. 105-469(a) reads as rewritten:

24 "(a) The Secretary shall collect and administer a tax levied by a county pursuant to this
25 Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as
26 if they were levied by the State under Article 5 of this Chapter. The Secretary must, on a
27 monthly basis, distribute local taxes levied on food to the taxing counties as follows: in
28 accordance with G.S. 105-472(a). The net proceeds of the local taxes on food distributed to
29 counties must be used by the taxing counties as provided in G.S. 105-472(a1).

30 (1) ~~The Secretary must allocate one half of the net proceeds on a per capita~~
31 ~~basis according to the most recent annual population estimates certified to~~
32 ~~the Secretary by the State Budget Officer. The Secretary must then adjust the~~
33 ~~amount allocated to each county as provided in G.S. 105-486(b). The~~
34 ~~Secretary must include one half of the amount allocated under this~~
35 ~~subdivision in the distribution made under Article 40 of this Chapter and~~
36 ~~must include the remaining one half in the distribution made under Article~~
37 ~~42 of this Chapter.~~

38 (2) ~~The Secretary must allocate the remaining net proceeds proportionately to~~
39 ~~each taxing county based upon the amount of sales tax on food collected in~~
40 ~~the taxing county in the 1997-1998 fiscal year under Article 39 of this~~
41 ~~Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total~~
42 ~~amount of sales tax on food collected in all taxing counties in the 1997-1998~~
43 ~~fiscal year under Article 39 of this Chapter and under Chapter 1096 of the~~
44 ~~1967 Session Laws. The Secretary must include the amount allocated under~~
45 ~~this subdivision in the distribution made under Article 39 of this Chapter."~~

46 **SECTION 32.19.(c)** G.S. 105-472 reads as rewritten:

47 **"§ 105-472. Disposition and distribution—Allocation, distribution, and use of taxes**
48 **collected.**

49 "(a) County Allocation. – The Secretary shall, on a monthly basis, allocate the net
50 proceeds of the tax collected under this Article to each taxing county ~~for which the Secretary~~
51 ~~collects the tax the net proceeds of the tax collected in that county under this Article.~~ as

provided in this subsection. For the purpose of this section, "net proceeds" means the gross proceeds of the tax collected in each county under this Article less taxes refunded, the cost to the State of collecting and administering the tax in the county as determined by the Secretary, and other deductions that may be charged to the county. For the percentage allocation made on a point of collection basis, the Secretary must allocate the net proceeds of the tax collected under this Article in that county. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article during that month and shall include them in the monthly distribution. Amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is received. For the percentage allocation made on a per capita basis, the Secretary must allocate the net proceeds of the tax collected under this Article to the taxing counties according to the most recent annual population estimates certified to the Secretary by the State Budget Office.

The net proceeds are allocated as follows:

<u>Distribution for Net Proceeds Collected in Fiscal Year</u>	<u>Per Capita</u>	<u>Point of Collection</u>
<u>2016-2017</u>	<u>40%</u>	<u>60%</u>
<u>2017-2018</u>	<u>55%</u>	<u>45%</u>
<u>2018-2019</u>	<u>70%</u>	<u>30%</u>
<u>2019-2020 and thereafter</u>	<u>80%</u>	<u>20%</u>

(a) Use. – The net proceeds of the revenue received by a county from the per capita allocation must be used by the county for public education and community college purposes. The remaining net proceeds received by a county may be used for any public purpose.

...."

SECTION 32.19.(d) G.S. 105-486 reads as rewritten:

"§ 105-486. Distribution and use of additional taxes.

(a) ~~County Allocation.~~ Allocation and Use. – The Secretary shall, on a monthly basis, allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties ~~on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer.~~ in accordance with G.S. 105-472(a). The net proceeds of the tax revenue received by a county under this Article must be used as provided in G.S. 105-472(a1).

(b) ~~Adjustment.~~ Adjustment. — ~~The Secretary shall then adjust the amount allocated to each county under subsection (a) by multiplying the amount by the appropriate adjustment factor set out in the table below. If, after applying the adjustment factors, the resulting total of the amounts allocated is greater or lesser than the net proceeds to be distributed, the amount allocated to each county shall be proportionally adjusted to eliminate the excess or shortage.~~

County	Adjustment Factor
Dare	1.49
Brunswick	1.17
Orange	1.15
Carteret and Durham	1.14
Avery	1.12
Moore	1.11
Transylvania	1.10
Chowan, McDowell, and Richmond	1.09
Pitt and New Hanover	1.07
Beaufort, Perquimans, Buncombe, and Watauga	1.06
Cabarrus, Jackson, and Surry	1.05
Alleghany, Bladen, Robeson, Washington, Craven, Henderson,	1.04

1	Onslow, and Vance	
2	Gaston, Granville, and Martin	1.03
3	Alamance, Burke, Caldwell, Chatham, Duplin, Edgecombe,	1.02
4	Haywood, Swain, and Wilkes	
5	Hertford, Union, Stokes, Yancey, Halifax, Rockingham, and	1.01
6	Cleveland	
7	Alexander, Anson, Johnston, Northampton, Pasquotank, Person,	1.00
8	Polk, and Yadkin	
9	Catawba, Harnett, Iredell, Pamlico, Pender, Randolph, Stanly, and	0.99
10	Tyrrell	
11	Cherokee, Cumberland, Davidson, Graham, Hyde, Macon,	0.98
12	Rutherford, Scotland, and Wilson	
13	Ashe, Bertie, Franklin, Hoke, Lincoln, Montgomery, and Warren	0.97
14	Wayne, Clay, Madison, Sampson, Wake, Lee, and Forsyth	0.96
15	Caswell, Gates, Mitchell, and Greene	0.95
16	Currituck and Guilford	0.94
17	Davie and Nash	0.93
18	Rowan and Camden	0.92
19	Jones	0.90
20	Mecklenburg	0.89
21	Lenoir	0.88
22	Columbus	0.81

23 (c) Distribution Between Counties and Cities. – The amount allocated to each taxing
 24 county shall then be divided among the county and its municipalities in accordance with the
 25 method by which the one percent (1%) sales and use taxes levied in that county pursuant to
 26 Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

27 (d) Limitation. – No municipality may receive any funds under this section if it was
 28 incorporated with an effective date of on or after January 1, 2000, and is disqualified from
 29 receiving funds under G.S. 136-41.2. No municipality may receive any funds under this
 30 section, incorporated with an effective date on or after January 1, 2000, unless a majority of the
 31 mileage of its streets are open to the public. The previous sentence becomes effective with
 32 respect to distribution of funds on or after July 1, 1999."

33 **SECTION 32.19.(e)** G.S. 105-501(a) reads as rewritten:

34 "(a) Method, Distribution and Use. – The Secretary must, on a monthly basis, allocate to
 35 ~~each taxing county~~ the net proceeds of the additional one-half percent (1/2%) sales and use
 36 ~~taxes collected in that county levied under this Article. If the Secretary collects taxes under this~~
 37 ~~Article in a month and the taxes cannot be identified as being attributable to a particular taxing~~
 38 ~~county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in~~
 39 ~~proportion to the amount of taxes collected in each county under this Article in that~~
 40 ~~month.~~ Article in accordance with G.S. 105-472(a). The net proceeds of the tax revenue
 41 received by a county under this Article must be used as provided in G.S. 105-472(a1).

42 The Secretary must divide and distribute the funds allocated to a taxing county each month
 43 under this section between the county and the municipalities located in the county in
 44 accordance with the method by which the one percent (1%) sales and use taxes levied in that
 45 county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are
 46 distributed. No municipality may receive any funds under this section if it was incorporated
 47 with an effective date of on or after January 1, 2000, and is disqualified from receiving funds
 48 under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated
 49 with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets
 50 are open to the public."

51 **SECTION 32.19.(f)** G.S. 105-522 reads as rewritten:

"§ 105-522. City hold harmless for repealed local taxes.

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

(1) Amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws. – An allocation to each taxing county of the net proceeds of the tax collected in that county under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws. This definition represents an allocation based on one hundred percent (100%) point of collection.

(2) Amount of sales and use tax revenue allocated under G.S. 105-486. – An allocation of the net proceeds of the tax collected under Article 40 of this Chapter to the taxing counties on a per capita basis. This definition represents an allocation based on one hundred percent (100%) per capita.

~~(3)~~(3) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.

~~(2)~~(4) Hold harmless amount. – The sum of the following amounts allocated for distribution to a municipality for a month:

a. The amount of sales and use tax revenue allocated under G.S. 105-486. This calculation determines the effect of repealing a one-half percent (1/2%) sales and use tax distributed on a per capita basis.

b. An amount determined by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount of sales and use tax revenue allocated under G.S. 105-486. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis.

(5) Net proceeds. – Same meaning as defined in G.S. 105-472.

(b) Requirement. – A county is required to hold the eligible municipalities in the county harmless from the repeal of the local sales and use taxes formerly imposed under this Article. The Secretary must add an eligible municipality's hold harmless amount to the amount distributed to the municipality under this Subchapter. To obtain the revenue for the hold harmless distribution, the Secretary must reduce each county's monthly allocation under G.S. 105-472(b) or under Chapter 1096 of the 1967 Session Laws by the hold harmless amounts for the municipalities in that county."

SECTION 32.19.(g) G.S. 105-523(b) reads as rewritten:

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

(1) Amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws. – An allocation to each taxing county of the net proceeds of the tax collected in that county under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws. This definition represents an allocation based on one hundred percent (100%) point of collection.

(2) Amount of sales and use tax revenue allocated under G.S. 105-486. – An allocation of the net proceeds of the tax collected under Article 40 of this Chapter to the taxing counties on a per capita basis. This definition represents an allocation based on one hundred percent (100%) per capita.

~~(3)~~(3) City hold harmless amount. – The hold harmless amount determined under G.S. 105-522 for the eligible municipalities in a county.

1 commissioners shall determine the amount of county revenues to be appropriated in the county
2 budget ordinance to the local school administrative unit for the budget year. The board of
3 county commissioners may, in its discretion, allocate part or all of its appropriation by purpose,
4 function, or project as defined in the uniform budget format. For allocations made by the board
5 of county commissioners for the purpose of or for a function related to instructional services,
6 the board of county commissioners may direct the amount of funds to be used for salaries of
7 classroom teachers, salaries of classroom teacher assistants, and supplements of classroom
8 teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local
9 board of education employed as a teacher who spends at least seventy percent (70%) of his or
10 her work time in classroom instruction, and a classroom teacher assistant is an employee of a
11 local board of education employed as a teacher assistant who spends at least seventy percent
12 (70%) of his or her work time assisting in a classroom."

13 **SECTION 32.20.(c)** G.S. 115C-433(b) reads as rewritten:

14 "(b) If the board of county commissioners allocates part or all of its appropriations
15 pursuant to G.S. 115C-429(b), the board of education must obtain the approval of the board of
16 county commissioners for an amendment to the budget that ~~(i) increases~~ does any of the
17 following:

- 18 (1) Increases or decreases expenditures from the capital outlay fund for projects
19 listed in G.S. 115C-426(f)(1) or ~~(2), or (ii) increases~~ (2).
- 20 (2) Increases or decreases the amount of county appropriation allocated to a
21 purpose or function by twenty-five percent (25%) or more from the amount
22 contained in the budget ordinance adopted by the board of county
23 commissioners: ~~Provided, provided,~~ that at its discretion, the board may in
24 its budget ordinance specify a lesser percentage, so long as such percentage
25 is not less than ten percent-percent (10%).
- 26 (3) Decreases the amount of funds allocated for salaries of classroom teachers,
27 salaries of classroom teacher assistants, and supplements of classroom
28 teacher salaries. For the purposes of this section, a classroom teacher is an
29 employee of a local board of education employed as a teacher who spends at
30 least seventy percent (70%) of his or her work time in classroom instruction,
31 and a classroom teacher assistant is an employee of a local board of
32 education employed as a teacher assistant who spends at least seventy
33 percent (70%) of his or her work time assisting in a classroom."

34 **SECTION 32.20.(d)** G.S. 115D-55(a) reads as rewritten:

35 "(a) Approval of Budget by Local Tax-Levying Authority. – By a date fixed by the local
36 tax-levying authority, the budget shall be submitted to the local tax-levying authority for
37 approval of that portion within its authority as stated in G.S. 115D-54(b). On or before July 1,
38 or such later date as may be agreeable to the board of trustees, but in no instance later than
39 September 1, the local tax-levying authority shall determine the amount of county revenue to
40 be appropriated to an institution for the budget year. The local tax-levying authority may
41 allocate part or all of an appropriation by purpose, function, or project as defined in the budget
42 manual as adopted by the State Board of Community Colleges. The local tax-levying authority
43 may direct the use of funds appropriated to the institution derived from a tax levied under
44 Article 43A of Chapter 105 of the General Statutes.

45 The local tax-levying authority shall have full authority to call for all books, records, audit
46 reports, and other information bearing on the financial operation of the institution except
47 records dealing with specific persons for which the persons' rights of privacy are protected by
48 either federal or State law.

49 Nothing in this Article shall be construed to place a duty on the local tax-levying authority
50 to fund a deficit incurred by an institution through failure of the institution to comply with the
51 provisions of this Article or rules and regulations issued pursuant hereto."

1 **SECTION 32.20.(e)** G.S. 115D-58(b) reads as rewritten:

2 "(b) If the local tax-levying authority allocates part or all of an appropriation pursuant to
3 G.S. 115D-55, the board of trustees must obtain approval of the local tax-levying authority for
4 an amendment to the budget which ~~increases~~ does any of the following:

5 (1) Increases or decreases the amount of that appropriation allocated to a
6 purpose, function, or project by twenty-five percent (25%) or more from the
7 amount contained in the budget ordinance adopted by the local tax-levying
8 authority or such lesser percentage as specified by the local tax-levying
9 authority in the original budget ordinance, so long as such percentage is not
10 less than ten percent (10%).

11 (2) Decreases the amount of the appropriation directed by the tax-levying
12 authority for a specific use from funds appropriated to the institution derived
13 from a tax levied under Article 43A of Chapter 105 of the General Statutes."

14 **SECTION 32.20.(f)** Part 1 of Article 43 of Chapter 105 of the General Statutes is
15 amended by adding a new section to read:

16 **"§ 105-506.4. Tax rate.**

17 (a) Rate. – The rate of local sales and use tax in a county levying a tax under this
18 Article must meet all of the following conditions:

19 (1) The maximum rate of tax that may be levied under this Article is one-half
20 percent (1/2%).

21 (2) The total local sales and use tax rate in the county may not exceed two and
22 one-half percent (2 1/2%).

23 (b) One-Half Cent (1/2%) Transit-Authorized Counties. – Notwithstanding subsection
24 (a) of this section, the local sales and use tax rate of a county may exceed two and one-half
25 percent (2 1/2%) if all of the conditions listed in this subsection are met. In no event may a
26 county's local sales and use tax rate exceed two and three-quarters percent (2 3/4%). The
27 conditions are:

28 (1) The county is Durham or Orange County.

29 (2) The county levies a tax authorized under Part 4 of this Article.

30 (3) The county conducted one or more advisory referendums on or before
31 January 1, 2014, in which a majority of the voters approved the levy of a
32 local sales and use tax at the rate of one-quarter percent (1/4%) under Article
33 46 of this Chapter.

34 (c) Reinstatement of Cap. – If the levy of a tax under this Article or Article 46 of this
35 Chapter is repealed and the repeal results in the local sales and use tax rate falling below two
36 and three-quarters percent (2 3/4%) in a county listed in subdivision (1) of subsection (b) of this
37 section, the county may not enact a local sales and use tax under this Subchapter that results in
38 a county local sales and use tax rate that exceeds two and one-half percent (2 1/2%)."

39 **SECTION 32.20.(g)** G.S. 105-509 reads as rewritten:

40 **"§ 105-509. Local election on adoption of sales and use tax – regional public**
41 **transportation authority.**

42 (a) Special District. – A regional public transportation authority may create a special
43 district that consists of the entire area of one or more counties within its territorial jurisdiction
44 and jurisdiction. The transportation authority may levy on behalf of the special district the tax
45 authorized in this section. section in a county that held a successful referendum under
46 subsection (b) of this section. The proceeds of a tax levied under this section may be used only
47 for the benefit of the special district and only for the purposes provided in this Article. If a
48 referendum in a district fails in all the counties in the district, the transportation authority may
49 abolish the special district.

50 (b) Resolution. – The board of trustees of the regional public transportation authority
51 may, if all of the conditions listed in this subsection have been met, direct the respective county

1 board or boards of elections to conduct an advisory referendum within the special district on
 2 the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be
 3 levied within the district in accordance with this Part. The tax may not be levied without voter
 4 approval. The election shall be held on a date jointly agreed upon by the authority, the county
 5 board or boards of commissioners, and the county board or boards of elections and shall be
 6 held on a date permitted by and in accordance with the procedures of G.S. 163-287. The
 7 conditions are as follows:

- 8 (1) The board of trustees has obtained approval to conduct a referendum on or
 9 before January 1, 2014, by a vote of the following:
 10 a. A majority vote of each of the county boards of commissioners
 11 within the special district, if it is a multicounty special district.
 12 b. A majority of the county board of commissioners within the special
 13 district, if it is a single-county special district.
 14 (2) A public hearing is held on the question by the board or boards of
 15 commissioners at least 30 days before the date the election is to be held.
 16 (c) Ballot Question. – The form of the question to be presented on a ballot for a special
 17 election concerning the levy of a tax authorized by this Article shall be:

18 "[] FOR [] AGAINST

19 One-half percent (1/2%) local sales and use taxes, in addition to the current local sales and
 20 use taxes, to be used only for public transportation systems."

21 (d) Expansion. – If a special district created under this Part does not include all the
 22 counties in the territorial jurisdiction of a transportation authority, it may be expanded to
 23 include an additional whole county or counties by joint action of the board of trustees of the
 24 transportation authority and the board of commissioners of the county or boards of
 25 commissioners of the counties to be added, ~~with the approval of the voters in the county or~~
 26 ~~counties to be added. The added if all of the conditions listed in this subsection are met. Except~~
 27 ~~as otherwise provided, the procedure for expansion of a district is the same as for the initial~~
 28 ~~creation of the district, but the referendum shall be held separately within each of the counties~~
 29 ~~to be added. The conditions are:~~

- 30 (1) The county to be included in the special district levies a local sales and use
 31 tax authorized under Part 6 of this Article at the maximum rate of one-half
 32 percent (1/2%).
 33 (2) The county remits, on a monthly basis, the proceeds of the tax levied under
 34 Part 6 of this Article to the regional public transportation authority."

35 **SECTION 32.20.(h)** Part 5 of Article 43 of Chapter 105 of the General Statutes is
 36 repealed.

37 **SECTION 32.20.(i)** Part 6 of Article 43 of Chapter 105 of the General Statutes
 38 reads as rewritten:

39 "Part 6. Other Counties.

40 "**§ 105-511. Applicability.**

41 This Part applies only in counties other than Durham, ~~Forsyth, Guilford, Mecklenburg,~~
 42 ~~Orange, or Wake or Orange.~~

43 "**§ 105-511.1. Limitations Authority.**

44 A board of county commissioners may, by resolution and after 10 days' public notice, levy
 45 a local sales and use tax under this Article if all of the conditions listed in this subsection are
 46 met. The tax rate is the rate specified in the ballot plus any other State and local sales and use
 47 taxes levied pursuant to law. The conditions are:

- 48 (1) The tax is approved by the majority of those voting in a referendum held
 49 pursuant to this Article.

(2) No other ballot question concerning the levy of a local sales and use tax authorized under Article 43A or Article 46 of this Chapter may be presented in the same referendum.

(3) If levied, the tax would not result in a total local sales and use tax rate in the county in excess of two and one-half percent (2 1/2%).

(4) ~~A county may not levy a tax under this Part unless the~~ The county or at least one unit of local government in the county operates a public transportation system. As used in this Part, operation of a public transportation system includes a contract or interlocal agreement for operation of the public transportation system by another county or municipality, or by a transportation authority created under (i) a municipal charter; or (ii) Article 25, 26, or 27 of Chapter 160A of the General Statutes. As used in this Part, operation of a public transportation system also includes a contract with a private entity for operation of the public transportation system.

"§ 105-511.2. Local election on adoption of sales and use tax.

(a) ~~Resolution.~~ Referendum. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of one-quarter percent (1/4%) may be levied in accordance with this ~~Part.~~ Part subject to the conditions in G.S. 105-511.1. The election shall be held on a date jointly agreed upon by the boards and shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

"[] FOR [] AGAINST

One-quarter percent (1/4%) local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems."

"§ 105-511.3. Levy and collection of sales and use tax.

~~If the majority of those voting in a referendum held pursuant to this Part vote for the levy of the tax,~~ all of the conditions in G.S. 105-511.1 have been met, the board of commissioners of the county may, by resolution, levy one-quarter percent (1/4%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 6 of Article 43 of Chapter 105 of the General Statutes.

"§ 105-511.4. Distribution and use of taxes.

(a) Distribution. – The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of the tax levied under this Part by that county. If the Secretary collects taxes under this Part in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate these taxes among the taxing counties, in proportion to the amount of taxes collected in each county under this Part in that month and shall include them in the monthly distribution.

The Secretary shall distribute the net proceeds of the tax levied by a county on a per capita basis among the county and the units of local government in the county that operate a public transportation system as follows:

(1) To the county based on the population of the county that is not in an incorporated area, and to the municipalities within the county based on the population of that municipality that is located within that county. To determine the population of each county and each municipality, the

1 Secretary shall use the most recent annual estimate of population certified by
2 the State Budget Officer.

3 (2) Notwithstanding subdivision (1) of this subsection, if a municipality to
4 which funds are to be allocated neither operates nor contracts for the
5 operation of a public transportation system, the population of that
6 municipality shall be excluded from the calculations of subdivision (1) of
7 this subsection.

8 (3) Notwithstanding subdivision (1) of this subsection, if a county to which
9 funds are to be allocated neither operates nor contracts for the operation of a
10 public transportation system, the population of that county not in an
11 incorporated area shall be excluded from the calculations of subdivision (1)
12 of this subsection.

13 If a county or a municipality that does not receive an allocation of funds on account of
14 subdivision (2) or (3) of this subsection begins to operate or contract for the operation of a
15 public transportation system, that county or municipality shall begin receiving funds beginning
16 the first day of July that is more than 30 days thereafter.

17 (b) Use. – A county or municipality may use funds received under this Part only for
18 financing, constructing, operating, and maintaining public transportation systems. Every unit of
19 government shall use funds to supplement and not to supplant or replace existing funds or other
20 resources for public transportation systems.

21 (c) Applicability. – This section does not apply to a county that is remitting the
22 proceeds of a tax levied under this Part to a regional public transportation authority under Part 4
23 of this Article."

24 **SECTION 32.20.(j)** Article 46 of Chapter 105 of the General Statutes reads as
25 rewritten:

26 "Article 46.

27 "One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use Tax.

28 "**§ 105-535. Short title.**

29 This Article is the One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use
30 Tax Act.

31 "**§ 105-536. Limitations.**

32 This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under
33 Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half
34 cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half
35 cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

36 "**§ 105-537. Levy.**

37 (a) ~~Authority. — If the majority of those voting in a referendum held pursuant to this~~
38 ~~Article vote for the levy of the tax, the board of county commissioners may, by resolution and~~
39 ~~after 10 days' public notice, levy a local sales and use tax at a rate of one-quarter percent~~
40 ~~(0.25%).~~ Rate. — The maximum rate of local sales and use tax that may be levied under this
41 Article is one-half percent (1/2%).

42 (a1) Authority. — A board of county commissioners may, by resolution and after 10 days'
43 public notice, levy a local sales and use tax under this Article if all of the conditions listed in
44 this subsection are met. The tax rate is the rate specified in the ballot plus any other State and
45 local sales and use taxes levied pursuant to law. The conditions are:

46 (1) The tax is approved by the majority of those voting in a referendum held
47 pursuant to this Article.

48 (2) No other ballot question concerning the levy of a local sales and use tax
49 authorized under Article 43 or Article 43A of this Chapter may be presented
50 in the same referendum.

1 (3) If levied, the tax would not result in a total local sales and use tax rate in the
2 county in excess of two and one-half percent (2 1/2%).

3 (b) ~~Vote.—~~Referendum. – The board of county commissioners may direct the county
4 board of elections to conduct an advisory referendum on the question of whether to levy a local
5 sales and use tax in the county as provided in this Article. at a rate of one-quarter percent
6 (1/4%). The election shall be held in accordance with the procedures of G.S. 163-287.

7 (c) Ballot Question. – The form of the question to be presented on a ballot for a special
8 election concerning the levy of the tax authorized by this Article shall be:

9 " FOR AGAINST

10 Local sales and use tax at the rate of one-quarter percent (0.25%) in addition to all other
11 State and local sales and use taxes."

12 ...
13 (e) One-Half Percent (1/2%) Transit-Authorized Counties. – As of April 1, 2013,
14 Durham County and Orange County have levied a local sales and use tax at the rate of two and
15 three-quarters percent (2 3/4%). Notwithstanding subsection (a) of this section, the local sales
16 and use tax rate in these counties may exceed two and one-half percent (2 1/2%) if all of the
17 conditions listed in this subsection are met. In no event may the local sales and use tax rate in
18 these counties exceed two and three-quarters percent (2 3/4%). The conditions are:

19 (1) The county levies a tax authorized under Part 4 of Article 43 of this Chapter.

20 (2) The county conducted one or more advisory referendums on or before
21 January 1, 2014, in which a majority of the voters approved the levy of a
22 local sales and use tax at the rate of one-quarter percent (1/4%) under this
23 Article.

24 (f) Reinstatement of Cap. – If the levy of a tax under this Article or Article 43 of this
25 Chapter is repealed and the repeal results in the local sales and use tax rate falling below two
26 and three-quarters percent (2 3/4%) in a county named in subsection (e) of this section, the
27 county may not enact a local sales and use tax under this Subchapter that results in a county
28 local sales and use tax rate that exceeds two and one-half percent (2 1/2%).

29 "**§ 105-538. Administration of taxes.**

30 Except as provided in this Article, the adoption, levy, collection, administration, and repeal
31 of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1
32 is an administrative provision that applies to this Article. A tax levied under this Article does
33 not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to
34 the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary
35 shall not divide the amount allocated to a county between the county and the municipalities
36 within the county."

37 **SECTION 32.20.(k)** G.S. 105-164.3(4a) reads as rewritten:

38 "(4a) Combined general rate. – The sum of all of the following:

39 a. The State's general rate of tax set in ~~G.S. 105-164.4(a)~~ plus the
40 G.S. 105-164.4(a).

41 b. The sum of the rates of the local sales and use taxes authorized for
42 every county in this State by ~~Subchapter VIII~~ Article 39 of this
43 Chapter or Chapter 1096 of the 1967 Session Laws, Article 40 of this
44 Chapter, and Article 42 of this Chapter for every county in this
45 State.Chapter.

46 c. One-half of the maximum rate of tax authorized by Article 46 of this
47 Chapter."

48 **SECTION 32.20.(l)** Subsection (g) of this section is effective when it becomes law
49 and applies to the expansion of a special district created under Part 4 of Article 43 of Chapter
50 105 of the General Statutes on or after that date. Except as otherwise provided, this section is
51 effective when this act becomes law.

MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE

SECTION 32.21.(a) This Part does not affect the rights or liabilities of a taxing county, a taxpayer, or another person arising under a statute repealed by this Part before the effective date of its repeal, nor does it affect the right to any refund or credit of a tax that accrued under the repealed statute before the effective date of its repeal.

SECTION 32.21.(b) The Secretary of Revenue may adopt rules needed to administer G.S. 105-130.4, as amended by this act, in accordance with the expedited procedure for the adoption of rules in G.S. 105-262.1.

SECTION 32.21.(c) The Utilities Commission shall adjust the rates for public utilities, excluding water public utilities with less than two hundred thousand dollars (\$200,000) in annual operating revenues, for the tax changes listed in this section. Each utility shall calculate the cumulative net effect of the tax changes and file the calculations with proposed rate changes to reflect the net prospective tax changes in utility customer rates within 60 days of the enactment of this act. Any adjustments required to existing tax assets or liabilities reflected in the utility's books and records required by the tax changes listed in this section shall be deferred and reflected in customer rates in either the utility's next rate case or earlier if deemed appropriate by the Commission. The Commission shall adjust rates for the following changes:

- (1) The corporate income tax rate reduction and tax base expansion in Section 32.13 of this act.
- (2) The phase-in of single sales factor and the adoption of market-base sourcing in Section 32.14 of this act.
- (3) The franchise tax rate reduction and tax base simplification in Section 32.15 of this act.

SECTION 32.21.(d) Except as otherwise provided, this Part is effective when it becomes law.

PART XXXIII. MISCELLANEOUS PROVISIONS**STATE BUDGET ACT APPLIES**

SECTION 33.1. 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.

COMMITTEE REPORT

SECTION 33.2.(a) The Senate Committee on Appropriations/Base Budget Report on the Base, Expansion and Capital Budgets for House Bill 97, dated June 16, 2015, which was distributed in the Senate 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, as appropriate, 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 33.2.(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 2015-2017 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 base budget to the General Assembly on March 5, 2015, in the document "The Governor's Recommended Budget, the State of North Carolina 2015-2017" 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.

1 **SECTION 33.2.(c)** The budget enacted by the General Assembly shall also be
2 interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other
3 appropriate legislation. In the event that there is a conflict between the line-item budget
4 certified by the Director of the Budget and the budget enacted by the General Assembly, the
5 budget enacted by the General Assembly shall prevail.

6
7 **REPORT BY FISCAL RESEARCH DIVISION**

8 **SECTION 33.3.** The Fiscal Research Division shall issue a report on budget
9 actions taken by the 2015 Regular Session of the General Assembly. The report shall be in the
10 form of a revision of the Committee Report adopted for House Bill 97 pursuant to
11 G.S. 143C-5-5. The Director of the Fiscal Research Division shall send a copy of the report
12 issued pursuant to this section to the Director of the Budget. The report shall be published on
13 the General Assembly's Internet Web site for public access.

14
15 **MOST TEXT APPLIES TO THE 2015-2017 FISCAL BIENNIUM**

16 **SECTION 33.4.** Except for statutory changes or other provisions that clearly
17 indicate an intention to have effects beyond the 2015-2017 fiscal biennium, the textual
18 provisions of this act apply only to funds appropriated for, and activities occurring during, the
19 2015-2017 fiscal biennium.

20
21 **EFFECT OF HEADINGS**

22 **SECTION 33.5.** The headings to the Parts, subparts, and sections of this act are a
23 convenience to the reader and are for reference only. The headings do not expand, limit, or
24 define the text of this act, except for effective dates referring to a Part or subpart.

25
26 **SEVERABILITY**

27 **SECTION 33.6.** If any section or provision of this act is declared unconstitutional
28 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
29 than the part so declared to be unconstitutional or invalid.

30
31 **EFFECTIVE DATE**

32 **SECTION 33.7.** Except as otherwise provided, this act becomes effective July 1,
33 2015.