

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

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**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**

**Seventh Edition Engrossed 6/18/15**

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**

**General Assembly Of North Carolina****Session 2015**

1	Community Colleges System Office	1,051,528,672	1,050,528,672
2			
3	Department of Public Instruction	8,282,418,560	8,382,532,357
4			
5	University of North Carolina – Board of Governors		
6	Appalachian State University	127,701,024	127,694,714
7	East Carolina University		
8	Academic Affairs	210,407,112	210,739,558
9	Health Affairs	73,527,686	73,527,686
10	Elizabeth City State University	33,759,228	30,759,228
11	Fayetteville State University	48,741,530	48,741,530
12	North Carolina A&T State University	90,898,021	90,898,021
13	North Carolina Central University	82,132,848	82,132,848
14	North Carolina State University		
15	Academic Affairs	392,256,502	392,249,291
16	Agricultural Extension	38,595,927	38,595,927
17	Agricultural Research	53,099,332	53,099,332
18	University of North Carolina at Asheville	37,592,283	37,592,283
19	University of North Carolina at Chapel Hill		
20	Academic Affairs	248,265,861	248,265,861
21	Health Affairs	186,779,905	186,779,905
22	AHEC	50,182,678	50,182,678
23	University of North Carolina at Charlotte	198,971,605	198,971,605
24	University of North Carolina at Greensboro	143,459,427	143,459,427
25	University of North Carolina at Pembroke	53,184,870	53,192,105
26	University of North Carolina at School of the Arts	28,669,298	28,669,298
27	University of North Carolina at Wilmington	101,627,684	101,473,413
28	Western Carolina University	85,805,817	85,805,817
29	Winston-Salem State University	64,619,124	64,619,124
30	General Administration	37,256,706	37,256,706
31	University Institutional Programs	82,284,833	111,221,371
32	Related Educational Programs	108,168,501	108,168,501
33	North Carolina School of Science & Math	19,833,370	19,834,570
34	Aid to Private Institutions	117,219,754	115,219,754
35			
36	<b>Total University of North Carolina –</b>		
37	<b>    Board of Governors</b>	<b>2,715,040,926</b>	<b>2,739,150,553</b>
38			
39	<b>HEALTH AND HUMAN SERVICES</b>		
40			
41	Department of Health and Human Services		
42	Central Management and Support	116,500,781	130,139,186
43	Division of Aging and Adult Services	42,845,788	42,845,788
44	Division of Services for the Blind, Deaf,		
45	and Hard of Hearing	8,098,207	8,098,207
46	Division of Child Development and Early Education	233,900,693	237,476,515
47	Health Service Regulation	15,462,135	14,902,628
48	Division of Medical Assistance	3,761,598,331	3,910,621,818
49	Division of Mental Health, Developmental Disabilities,		
50	and Substance Abuse Services	519,096,709	502,439,890
51	NC Health Choice	13,373,219	1,590,592

1	Division of Public Health	137,337,977	139,261,609
2	Division of Social Services	181,783,263	184,883,263
3	Division of Vocational Rehabilitation	37,752,132	37,752,132
4	<b>Total Health and Human Services</b>	<b>5,067,749,235</b>	<b>5,210,011,628</b>
5			
6	<b>NATURAL AND ECONOMIC RESOURCES</b>		
7			
8	Department of Agriculture and Consumer Services	112,339,862	114,625,261
9			
10	Department of Commerce		
11	Commerce	58,030,891	57,512,842
12	Commerce State-Aid	3,405,472	1,155,472
13			
14	Department of Cultural Resources		
15	Cultural Resources	134,129,484	140,169,029
16	Roanoke Island Commission	517,384	517,384
17			
18	Wildlife Resources Commission	10,501,493	10,426,493
19			
20	Department of Environment and Natural Resources	111,377,775	100,246,626
21			
22	Department of Labor	15,472,917	15,472,917
23			
24	<b>JUSTICE AND PUBLIC SAFETY</b>		
25			
26	Department of Public Safety	1,828,196,520	1,840,640,544
27			
28	Judicial Department	480,029,282	479,474,050
29			
30	Judicial Department – Indigent Defense	115,738,069	115,748,013
31			
32	Department of Justice	52,295,684	51,405,759
33			
34			
35	<b>GENERAL GOVERNMENT</b>		
36			
37	Department of Administration	60,353,742	58,381,592
38			
39	Office of Administrative Hearings	5,117,214	5,117,214
40			
41	Department of State Auditor	11,739,374	11,891,894
42			
43	Office of State Controller	22,700,620	22,700,620
44			
45	State Board of Elections	6,603,243	6,503,243
46			
47	General Assembly	53,019,670	53,019,670
48			
49	Office of the Governor	5,580,229	5,580,229
50			
51	Office of the Governor – Special Projects	2,000,000	2,000,000

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

	FY 2015-2016	FY 2016-2017
<b>GENERAL FUND</b>	<b>21,295,169,593</b>	<b>21,515,082,580</b>
<b>GENERAL FUND AVAILABILITY STATEMENT</b>		
SECTION 2.2.(a) The General Fund availability used in developing the 2015-2017 fiscal biennial budget is shown below.		
	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
Unappropriated Balance Remaining from Previous Year	2,033,330	43,297,632
Anticipated Over Collections FY 2014-15	400,000,000	0
Anticipated Reversions from FY 2014-15 (OSBM Estimate, May 12, 2015)	226,734,550	0
Other Reversions	27,343,020	0
Revenue Adjustment as per S.L. 2015-2	(1,000,000)	0
<b>Less Earmarkings of Year End Fund Balance</b>		
Savings Reserve	(500,000,000)	0
Repairs and Renovations	(155,110,900)	0
<b>Beginning Unreserved Fund Balance</b>	<b>0</b>	<b>43,297,632</b>
<b>Revenues Based on Existing Tax Structure</b>	<b>20,981,400,000</b>	<b>21,592,400,000</b>
<b>Non-tax Revenues</b>		
Investment Income	17,100,000	17,400,000
Judicial Fees	227,800,000	225,500,000
Disproportionate Share	139,000,000	139,000,000
Insurance	78,400,000	79,600,000
Master Settlement Agreement (MSA)	137,500,000	137,500,000
Other Non-Tax Revenues	168,000,000	168,800,000
Highway Fund Transfer	215,900,000	215,900,000
<b>Subtotal Non-tax Revenues</b>	<b>983,700,000</b>	<b>983,700,000</b>
<b>Total General Fund Availability</b>	<b>21,965,100,000</b>	<b>22,619,397,632</b>
<b>Adjustments to Availability: 2015 Session</b>		
Tax Reductions	(72,700,000)	(421,100,000)
Renewable Energy Safe Harbor (S.L. 2015-11)	0	(36,700,000)
Realign Judicial Fees	25,000,000	25,000,000
MSA Funds to Golden L.E.A.F.	(20,075,000)	(20,075,000)
End Highway Fund Transfer to General Fund	(215,900,000)	(215,900,000)
Department of Justice Tobacco Settlement	2,194,000	0
Transfer to Medicaid Transformation Reserve	(185,604,653)	(185,604,653)
Transfer from DPS Enterprise Resource Planning System IT Fund	9,000,000	0
Transfer from Federal Insurance Contributions Act (FICA) Fund	4,296,802	641,628
Transfer from Statewide Automated Fingerprint Identification System Fund	333,557	0
Transfer from E-Commerce Fund	1,257,140	0
Adjustment of Transfer from Department of State Treasurer	375,262	369,262
Adjustment of Transfer from Insurance Regulatory Fund	85,217	85,217

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

8  
9 **SECTION 2.2.(b)** G.S. 105-164.44D is repealed.

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

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

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

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

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

<b>Budget Code</b>	<b>Fund Code</b>	<b>Description</b>	<b>FY 2015-2016 Amount</b>
24100	2514	E-Commerce Fund	\$ 1,257,140
24160	2000	NC FICA Account	4,296,802
23002	2910	Statewide Automated Fingerprint Identification System Fund	333,557
24554	2004	DPS – Enterprise Resource Planning System IT Fund	9,000,000

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

<b>Budget Code</b>	<b>Fund Code</b>	<b>Description</b>	<b>FY 2016-2017 Amount</b>
24160	2000	NC FICA Account	641,628

1  
2           **SECTION 2.2.(h)** Notwithstanding any other provision of law to the contrary,  
3 effective June 30, 2015, the following amounts shall revert to the General Fund. These funds  
4 shall be used to support the General Fund appropriations as specified in this act for the  
5 2015-2016 fiscal year:

Description	Amount
Department of Commerce – Job Catalyst Fund	20,000,000
Community Colleges – Yellow Ribbon	1,000,000
UNC System – Yellow Ribbon	4,863,276
Department of Public Safety – Broaden Access to Community Treatment	1,479,744

12  
13           **SECTION 2.2.(i)** Subsections (c), (d), (f), (h), and (i) of this section become  
14 effective June 30, 2015.

### 16 **PART III. CURRENT OPERATIONS/HIGHWAY FUND**

#### 18 **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

19           **SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance  
20 and operation of the Department of Transportation and for other purposes as enumerated are  
21 made for the fiscal biennium ending June 30, 2017, according to the following schedule:

Current Operations – Highway Fund	FY 2015-2016	FY 2016-2017
Department of Transportation		
Administration	\$ 112,492,808	\$ 90,112,808
Division of Highways		
Administration	33,467,959	33,467,959
Construction	45,054,878	45,054,878
Maintenance	1,207,773,807	1,237,538,168
Planning and Research	0	0
OSHA Program	358,030	358,030
State Aid to Municipalities	147,500,000	150,000,000
Intermodal Divisions		
Ferry	39,750,395	39,750,395
Public Transportation	88,173,419	88,173,419
Aviation	25,760,952	25,760,952
Rail	23,651,674	23,651,674
Bicycle and Pedestrian	726,895	726,895
Governor's Highway Safety	251,241	251,241
Division of Motor Vehicles	120,334,217	120,334,217
Other State Agencies, Reserves, Transfers	54,283,569	54,134,470
Capital Improvements	7,817,900	15,444,300
<b>Total Highway Fund Appropriations</b>	<b>\$ 1,907,397,744</b>	<b>\$ 1,924,759,406</b>

**HIGHWAY FUND/AVAILABILITY STATEMENT**

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

<b>Highway Fund Availability Statement</b>	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
Unreserved Fund Balance	\$ 0	\$ 0
Estimated Revenue	1,969,300,000	1,934,200,000
Adjustment to Revenue Availability:		
Motor Fuel Tax (Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund)	157,517	152,333
Motor Fuel Tax (Wildlife Resources Fund)	157,517	152,333
Motor Fuel Tax (Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund)	0	1,540,000
Motor Fuel Tax Distribution	(94,510,000)	(91,400,000)
Division of Motor Vehicles Fee Adjustments	30,822,710	78,644,740
Special Registration Plate Account	1,470,000	1,470,000
<b>Revised Total Highway Fund Availability</b>	<b>\$ 1,907,397,744</b>	<b>\$ 1,924,759,406</b>
Unappropriated Balance	\$ 0	\$ 0

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

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

<b>Current Operations – Highway Trust Fund</b>	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
Program Administration	\$ 35,064,813	\$ 35,064,813
Turnpike Authority	49,000,000	49,000,000
Transfer to Highway Fund	400,000	400,000
Debt Service	48,619,701	61,012,229
Strategic Prioritization Funding Plan for Transportation Investments	1,185,145,486	1,189,802,958
<b>Total Highway Trust Fund Appropriations</b>	<b>\$ 1,318,230,000</b>	<b>\$ 1,335,280,000</b>

**HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

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

<b>Highway Trust Fund Availability</b>	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
Unreserved Fund Balance	\$ 0	\$ 0
Estimated Revenue	1,215,900,000	1,221,200,000
Adjustment to Revenue Availability:		
Motor Fuel Tax Distribution	94,510,000	91,400,000



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

## 10 PART V. OTHER APPROPRIATIONS

### 12 CASH BALANCES AND OTHER APPROPRIATIONS

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

- 16 (1) For all budget codes listed in "The Governor's Recommended Budget, the  
 17 State of North Carolina 2015-2017" and in the Budget Support Document,  
 18 fund balances and receipts are appropriated up to the amounts specified, as  
 19 adjusted by the General Assembly, for the 2015-2016 fiscal year and the  
 20 2016-2017 fiscal year. Funds may be expended only for the programs,  
 21 purposes, objects, and line items or as otherwise authorized by the General  
 22 Assembly. Expansion budget funds listed in those documents are  
 23 appropriated only as otherwise provided in this act.
- 24 (2) Notwithstanding the provisions of subdivision (1) of this subsection:
- 25 a. Any receipts that are required to be used to pay debt service  
 26 requirements for various outstanding bond issues and certificates of  
 27 participation are appropriated up to the actual amounts received for  
 28 the 2015-2016 fiscal year and the 2016-2017 fiscal year and shall be  
 29 used only to pay debt service requirements.
- 30 b. Other funds, cash balances, and receipts of funds that meet the  
 31 definition issued by the Governmental Accounting Standards Board  
 32 of a trust or agency fund are appropriated for and in the amounts  
 33 required to meet the legal requirements of the trust agreement for the  
 34 2015-2016 fiscal year and the 2016-2017 fiscal year.

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

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

### 45 OTHER RECEIPTS FROM PENDING GRANT AWARDS

46 **SECTION 5.1A.(a)** Notwithstanding G.S. 143C-6-4, State agencies may, with  
 47 approval of the Director of the Budget, spend funds received from grants awarded subsequent  
 48 to the enactment of this act for grant awards that are for less than two million five hundred  
 49 thousand dollars (\$2,500,000), do not require State matching funds, and will not be used for a  
 50 capital project. State agencies shall report to the Joint Legislative Commission on  
 51 Governmental Operations within 30 days of receipt of such funds.

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

4 **SECTION 5.1A.(b)** The Office of State Budget and Management shall work with  
 5 the recipient State agencies to budget grant awards according to the annual program needs and  
 6 within the parameters of the respective granting entities. Depending on the nature of the award,  
 7 additional State personnel may be employed on a time-limited basis. Funds received from such  
 8 grants are hereby appropriated and shall be incorporated into the authorized budget of the  
 9 recipient State agency.

10  
 11 **EDUCATION LOTTERY FUNDS/EXPENSES OF THE LOTTERY/LIMIT ON**  
 12 **REGIONAL OFFICES**

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

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

21  
 22  
 23 **SECTION 5.2.(b)** The Education Lottery Fund availability used in developing the  
 24 2015-2017 biennial budget is shown below:

	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
25 <b>AVAILABILITY</b>		
26 Revenue Based on Existing Policies	\$ 528,902,000	\$ 533,397,325
27 Revenue from E-Instant Games	2,000,000	13,500,000
28 Revenue from Additional Advertising	31,500,000	31,500,000
29 <b>TOTAL</b>	<b>\$ 562,402,000</b>	<b>\$ 578,397,325</b>

30  
 31  
 32 **SECTION 5.2.(c)** Notwithstanding G.S. 18C-164, the Office of State Budget and  
 33 Management shall not transfer funds to the Education Lottery Reserve Fund for either year of  
 34 the 2015-2017 fiscal biennium.

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

36 **"§ 18C-162. Allocation of revenues.**

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

- 40 (1) At least fifty percent (50%) of the total annual revenues, as described in this  
 41 Chapter, shall be returned to the public in the form of prizes.
- 42 (2) At least thirty-five percent (35%) of the total annual revenues, as described  
 43 in this Chapter, shall be transferred as provided in G.S. 18C-164.
- 44 (3) No more than eight percent (8%) of the total annual revenues, as described  
 45 in this Chapter, shall be allocated for payment of expenses of the Lottery.  
 46 Advertising expenses shall not exceed ~~one percent (1%)~~ one and one-half  
 47 percent (1.5%) of the total annual revenues.
- 48 (4) No more than seven percent (7%) of the face value of tickets or shares, as  
 49 described in this Chapter, shall be allocated for compensation paid to lottery  
 50 game retailers."

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

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

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

16           **SECTION 5.2.(g)** Article 8 of Chapter 18C of the General Statutes is amended by  
 17 adding a new section to read:

18 **"§ 18C-174. Use of public assistance funds.**

19           The Commission and all lottery game retailers are prohibited from accepting any form of  
 20 public assistance funds for the purchase of any lottery ticket or participation in any lottery  
 21 game."

22           **SECTION 5.2.(h)** The Lottery Commission shall adopt any rules necessary to  
 23 implement the provisions of this section.

24  
 25 **CIVIL PENALTY AND FORFEITURE FUND**

26           **SECTION 5.3.(a)** Appropriations are made from the Civil Penalty and Forfeiture  
 27 Fund for the fiscal biennium ending June 30, 2017, as follows:

	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
29 School Technology Fund	\$18,000,000	\$18,000,000
30 State Public School Fund	124,362,790	124,362,790
31		
32		
33 <b>Total Appropriation</b>	<b>\$142,362,790</b>	<b>\$142,362,790</b>

34  
 35           **SECTION 5.3.(b)** Excess receipts realized in the Civil Penalty and Forfeiture Fund  
 36 in each year of the 2015-2017 fiscal biennium are appropriated to the School Technology Fund.

37  
 38 **INDIAN GAMING EDUCATION REVENUE FUND**

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

43  
 44 **MODIFY ELEMENTS OF CASH MANAGEMENT PLAN**

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

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

- 48           ...
- 49           (4) Unpaid billings due to a State agency other than amounts owed by patients  
 50 to the University of North Carolina Health Care System, East Carolina  
 51 University's Division of Health Sciences, ~~or by~~ customers of the North

1 Carolina Turnpike ~~Authority~~ Authority, or the North Carolina Department of  
2 Transportation shall be turned over to the Attorney General for collection no  
3 more than 90 days after the due date of the billing, except that a State agency  
4 need not turn over to the Attorney General unpaid billings of less than five  
5 hundred dollars (\$500.00), or (for institutions where applicable) amounts  
6 owed by all patients which are less than the federally established deductible  
7 applicable to Part A of the Medicare program, and instead may handle these  
8 unpaid bills pursuant to agency debt collection procedures.

9 ...

10 (4b) The North Carolina Turnpike Authority and the North Carolina Department  
11 of Transportation may turn over to the Attorney General for collection  
12 amounts owed to the North Carolina Turnpike ~~Authority~~ Authority or the  
13 North Carolina Department of Transportation.

14 ...."

## 16 PART VI. GENERAL PROVISIONS

### 18 CONTINGENCY AND EMERGENCY FUND LIMITATION

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

### 26 ESTABLISHING OR INCREASING FEES

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

30 **SECTION 6.2.(b)** Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an  
31 emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized  
32 by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter  
33 150B of the General Statutes.

### 35 STATE AGENCIES/REPORTS ON LEGISLATIVE LIAISONS AND SALARY 36 INFORMATION

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

41 (1) Legislative liaisons. -

- 42 a. The number of legislative liaisons designated by each Department or  
43 Commission.
- 44 b. For each individual, the position name, position number, salary, the  
45 amount of time spent lobbying legislators or legislative employees  
46 for legislative action, and whether lobbying is the individual's  
47 principal duty such that the individual is required to file a registration  
48 statement with the Secretary of State.
- 49 c. An explanation of why each legislative liaison is needed.
- 50 d. A description of any other responsibilities or duties performed by  
51 each legislative liaison.

- 1 (2) Public Information Officer (PIO) and staff reporting to PIO. -  
2 a. The number of individuals designated by the Department or  
3 Commission to serve as a Public Information Officer, and the  
4 number of staff reporting to each PIO.  
5 b. For each individual, the position name, position number, and salary.  
6 c. The duties and responsibilities of each individual in his or her role as  
7 a Public Information Officer or staff to a PIO.  
8 d. An explanation of why each Public Information Officer and staff to  
9 each PIO is needed.
- 10 (3) Salary reserve and lapsed salaries. -  
11 a. The amount of salary reserve, by source, remaining in each fund  
12 code on June 30 of fiscal year 2013-2014 and fiscal year 2014-2015.  
13 b. The amount of lapsed salaries generated in fiscal year 2013-2014 and  
14 fiscal year 2014-2015.  
15 c. The Department's or Commission's policy on the use of salary  
16 reserve and lapsed salaries.  
17

## 18 **COMPENSATION FOR RESEARCH AND DEVELOPMENT**

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

25 **SECTION 6.11.(b)** The Office of the Attorney General shall develop the necessary  
26 contract language to effectuate the requirement in subsection (a) of this section and shall ensure  
27 that the language is incorporated into the State's template for contracts, as appropriate.  
28

## 29 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

30 **SECTION 6.17.** All funds appropriated by this act into reserves may be expended  
31 only for the purposes for which the reserves were established.  
32

## 33 **CLARIFY THE CONSULTATION REQUIREMENT BEFORE THE JOINT** 34 **LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS WHEN A** 35 **STATE AGENCY ESTABLISHES OR INCREASES A FEE OR CHARGE**

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

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

1 notice of text of the rule is published. The request for consultation shall consist of a written  
2 report stating (i) the amount of the current fee or charge, if applicable, (ii) the amount of the  
3 proposed new or increased fee or charge, (iii) the statutory authority for the fee or charge, and  
4 (iv) a detailed explanation of the need for the establishment or increase of the fee or charge."  
5

## 6 EMERGENCY AND DISASTER RESPONSE FUNDING CHANGES

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

8 "**§ 166A-19.40. Use of contingency and emergency funds.**

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

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

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

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

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

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

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

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

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

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

32 "**§ 166A-19.42. State Emergency Response and Disaster Relief Account.**

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

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

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

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

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

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

49 "...."

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

51 "**§ 166A-19.3. Definitions.**

1 The following definitions apply in this Article:

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

4 ...."

## 6 CONTINUATION REVIEW OF CERTAIN FUNDS/PROGRAMS/DIVISIONS

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

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

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

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

- 45 (1) A description of the fund, agency, division, or program mission, goals, and  
46 objectives, including statutorily required functions and functions performed  
47 without specific statutory authority.
- 48 (2) The performance measures for the fund, agency, division, or program and  
49 the problem or need addressed.
- 50 (3) The extent to which the fund, agency, division, or program objectives and  
51 performance measures have been achieved.

- 1 (4) A detailed accounting of all sources of funds for the fund, agency, division,  
2 or program.
- 3 (5) Recommendations for statutory, budgetary, or administrative changes  
4 needed to improve efficiency and effectiveness of services delivered to the  
5 public, including recommendations regarding whether to transfer the  
6 program to the Division of Motor Vehicles or to elsewhere in the  
7 Department of Transportation.
- 8 (6) The consequences of discontinuing funding or of continuing funding with a  
9 source other than a transfer from the Highway Fund.
- 10 (7) Recommendations for improving services or reducing costs or duplication.
- 11 (8) The identification of policy issues that should be brought to the attention of  
12 the General Assembly.
- 13 (9) Other information necessary to fully support the General Assembly's  
14 Continuation Review Program along with any information included in  
15 instructions from the Fiscal Research Division.

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

20  
21 **LRC STUDY ON METHODS FOR INCREASING TRANSFERS TO THE SAVINGS  
22 RESERVE ACCOUNT**

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

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

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

44  
45 **REQUIRE SETTLEMENT FUNDS IN EXCESS OF TEN MILLION DOLLARS TO BE  
46 DEPOSITED IN THE SAVINGS RESERVE ACCOUNT**

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

48 "**§ 114-2.4A. Disposition of funds received by the State or a State agency from a  
49 settlement or other final order or judgment of the court.**

50 ...



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

4 ...

5 (h) Recoveries in Excess of Ten Million Dollars. – Whenever the State or a State  
6 agency receives funds from a particular settlement or other final order or judgment of the court  
7 in excess of ten million dollars (\$10,000,000) in any fiscal year, the State Controller shall  
8 transfer the excess to the Savings Reserve Account. For purposes of determining whether funds  
9 received from a settlement or other final order or judgment of the court are subject to this  
10 section:

11 (1) The amount of funds to be considered shall be net of any funds distributed to  
12 the parties set forth in sub-subdivisions (b)(1)a. through c. of this section.

13 (2) Payments to more than one State agency shall be aggregated for purposes of  
14 determining the amount of the funds.

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

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

20 (1) Settlement funds received by the State pursuant to the Consent Judgment in  
21 *U.S. v. Bank of America*, Civil Action No. 12-CV-0361, dated April 4, 2012.

22 (2) Settlement funds received by the State pursuant to the settlement agreement  
23 in *North Carolina ex rel. Cooper v. The McGraw-Hill Companies, Inc., and*  
24 *Standard & Poor's Financial Services LLC*, No. 13CVS 001703.

## 25 26 **REQUIRE TRANSFER OF SAVINGS FROM THE REFINANCING OF CERTAIN** 27 **STATE DEBT TO BE TRANSFERRED TO THE SAVINGS RESERVE**

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

30 **"§ 142-15.4. Savings from refinancing of general obligation bonds to be placed in the**  
31 **Savings Reserve Account.**

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

33 (1) The General Assembly shall not reduce the funds appropriated for servicing  
34 the refinanced debt during the fiscal biennium in which the refinancing  
35 occurs.

36 (2) The State Controller shall, in conjunction with the State Treasurer,  
37 periodically transfer the savings resulting from the refinancing of the debt to  
38 the Savings Reserve Account established pursuant to G.S. 143C-4-2 during  
39 the fiscal biennium in which the refinancing occurs.

40 (3) The Director of the Budget shall, in the fiscal biennium immediately  
41 following the refinancing, adjust the amount of debt service funded in the  
42 base budget so that it aligns with actual debt service needs."

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

45 **"§ 142-96. Savings from refinancing of special indebtedness to be placed in the Savings**  
46 **Reserve Account.**

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

48 (1) The General Assembly shall not reduce the funds appropriated for servicing  
49 the refinanced debt during the fiscal biennium in which the refinancing  
50 occurs.

1           (2) The State Controller shall, in conjunction with the State Treasurer,  
2           periodically transfer the savings resulting from the refinancing of the debt to  
3           the Savings Reserve Account established pursuant to G.S. 143C-4-2 during  
4           the fiscal biennium in which the refinancing occurs.

5           (3) The Director of the Budget shall, in the fiscal biennium immediately  
6           following the refinancing, adjust the amount of debt service funded in the  
7           base budget so that it aligns with actual debt service needs."

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

## 10 11 MSA CHANGES

12           **SECTION 6.24.(a)** Section 6 of S.L. 1999-2, as amended by Section 6.11(d) of  
13           Session Law 2011-145, Section 7(b) of Session Law 2011-391, and Section 6.4(b) of S.L.  
14           2013-360, reads as rewritten:

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

18           (1a) Fourteen and six-tenths percent (14.6%) to The Golden L.E.A.F.  
19           (Long-Term Economic Advancement Foundation), Inc., a nonprofit  
20           corporation.

21           (1b) Eighty-five and four-tenths percent (85.4%) shall be credited to the  
22           Settlement Reserve Fund.

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

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

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

## 34 "§ 66-290. Definitions.

35           As used in this Article:

36           ...

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

1 taxpayers to submit to the Department of Revenue the information necessary  
2 to make the required determination under this subdivision."

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

4 **"§ 66-291. Requirements.**

5 ...

6 (c) Each tobacco product manufacturer that elects to place funds into escrow pursuant  
7 to this section shall annually certify to the Attorney General that it is in compliance with this  
8 section. The Attorney General may bring a civil action on behalf of the State against any  
9 tobacco product manufacturer or joint and severally liable importer that fails to place into  
10 escrow the funds required under this section. Any tobacco product manufacturer that fails in  
11 any year to place into escrow the funds required under this section shall:

12 ...."

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

14 **"§ 66-293. Sale of certain cigarettes prohibited.**

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

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

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

32 **"§ 66-294. Duties of manufacturers.**

33 ...

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

35 ...

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

46 The bond shall be posted by a corporate surety located within the United  
47 States in a form and manner acceptable to the Attorney General, or a cash  
48 equivalent posted by the nonparticipating manufacturer, in an amount equal  
49 to the greater of fifty thousand dollars (\$50,000) or the greatest amount of  
50 escrow the manufacturer in either its current or predecessor form was  
51 required to deposit as a result of its highest calendar year's sales in North

1 Carolina or greatest quarterly escrow deposit depending on the  
 2 manufacturer's required escrow deposit frequency. The bond or its cash  
 3 equivalent shall be posted at least 10 days in advance of each calendar year  
 4 or quarter depending on the manufacturer's required escrow deposit  
 5 frequency. The bond shall be written in favor of North Carolina and such  
 6 bond or cash equivalent shall be conditioned on the performance by the  
 7 nonparticipating manufacturer or its United States importer that undertakes  
 8 joint and several liability for the manufacturer's performance in accordance  
 9 with G.S. 66-294.2, of all of its duties and obligations under this Article  
 10 during the year in which the certification is filed and the next succeeding  
 11 calendar year. The bond may be drawn upon by the Attorney General to  
 12 cover unsatisfied escrow obligations, penalties, and any other liability under  
 13 the tobacco laws of the State.

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

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

33 **"§ 66-294.1. Duties of Attorney General.**

34 ...

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

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

50 ...."

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

3           "**§ 66-294.2 Joint and several liability of importers of cigarettes manufactured by**  
4           **nonparticipating manufacturers located outside the United States.**

5           For each nonparticipating manufacturer located outside the United States, each importer  
6 into the United States of any such nonparticipating manufacturer's brand families that are or are  
7 intended to be sold in North Carolina shall bear joint and several liability with such  
8 nonparticipating manufacturer for deposit of all escrow due under this Article and payment of  
9 all penalties imposed and shall so designate in a form prepared and provided by the Attorney  
10 General and shall appoint and continually maintain a process service agent with the Secretary  
11 of State and the Office of the Attorney General."

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

13           "**§ 105-259. Secrecy required of officials; penalty for violation.**

14           ...

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

21           ...

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

- 34           a. Data clearinghouse. – Defined in the Term Sheet Settlement and in  
35 the NPM Adjustment Settlement Agreement.  
36           b. Master Settlement Agreement. – Defined in G.S. 66-290.  
37           c. Nonparticipating manufacturer. – Defined in G.S. 66-292.  
38           d. NPM Adjustment Settlement Agreement. – The final executed  
39 settlement document resulting from the 2012 Term Sheet Settlement.  
40           e. Participating manufacturer. – Defined in G.S. 66-292.  
41           f. Term Sheet Settlement. – The settlement agreement entered into in  
42 December 2012 by the State and certain participating manufacturers  
43 under the Master Settlement Agreement.

44           ...."

45  
46           **ALIGN AGENCY BUDGETS TO ACTUAL EXPENDITURES**

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

- 1 (1) Abolish all positions that have been vacant for more than 12 months as of  
2 April 17, 2015, other than those positions required to exist as part of the  
3 State's maintenance of effort requirements related to a federal grant that  
4 cannot be addressed with other State funds, or for which the Director of the  
5 Budget provides an exception, in the Director's sole discretion. This  
6 requirement shall apply regardless of the source of funding for affected  
7 positions.
- 8 (2) Fund objects or line items in the certified budget for recurring obligations  
9 that have been funded from nonrecurring sources in two or more of the  
10 previous three fiscal years. The amount funded shall not exceed the average  
11 amount expended for each object or line item during the previous three fiscal  
12 years.
- 13 (3) Fund objects or line items in the following priority order if funds generated  
14 pursuant to subdivision (1) of this subsection are insufficient to adequately  
15 fund all of the objects and line items described in subdivision (2) of this  
16 subsection:
  - 17 a. Fund legal obligations of the agency that have been funded with  
18 lapsed salaries in prior years.
  - 19 b. Fund operational requirements directly related to the health, safety,  
20 or well-being of individuals in the care or custody of the State that  
21 have been funded with lapsed salaries in prior years.
  - 22 c. Fund legal obligations of the agency or operational requirements  
23 directly related to the health, safety, or well-being of individuals in  
24 the care or custody of the State that have been funded with other  
25 nonrecurring sources in prior years.
  - 26 d. Fund operational deficiencies where the obligation cannot be reduced  
27 and where no other source of funding exists and failure to fund will  
28 result in operational disruptions or unfunded liabilities at fiscal  
29 year-end.
- 30 (4) Adjust the appropriate objects or line items in the next recommended base  
31 budget submitted pursuant to G.S. 143C-3-5 to reflect the actions taken  
32 pursuant to this subsection.

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

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

- 45 (1) A list of positions abolished pursuant to subdivision (1) of subsection (a) of  
46 this section.
- 47 (2) A list of positions that were exempted from being abolished pursuant to  
48 subdivision (1) of subsection (a) of this section.
- 49 (3) A list of objects or line items funded pursuant to subdivision (2) of  
50 subsection (a) of this section and the associated amount for each object or  
51 line item.

- 1 (4) The amount of lapsed salaries transferred to the Savings Reserve Account
- 2 and used for other purposes pursuant to subsection (b) of this section.
- 3 (5) The amount and disposition of savings from the Highway Fund, federal
- 4 funds, and other non-State agency dedicated receipt sources.
- 5 (6) A list of objects or line items that were not funded because the funds
- 6 generated pursuant to subdivision (1) of this subsection were insufficient.

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

10  
 11 **CAP STATE FUNDED PORTION OF NONPROFIT SALARIES**

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

17  
 18 **PART VII. INFORMATION TECHNOLOGY**

19  
 20 **INFORMATION TECHNOLOGY FUND**

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

	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
26 General Fund Appropriation for IT Fund	\$22,381,854	\$22,381,854
27		
28 Appropriations are made from the Information Technology Fund for the 2015-2017		
29 fiscal biennium as follows:		
30		
31 Criminal Justice Information Network	\$193,085	\$193,085
32 Center for Geographic Information and Analysis	\$503,810	\$503,810
33 Enterprise Security Risk Management	\$871,497	\$871,497
34 Staffing and Strategic Projects	\$7,573,903	\$7,573,903
35 First Net (State Match)	\$140,000	\$140,000
36 Enterprise Project Management Office	\$1,501,234	\$1,501,234
37 IT Strategy and Standards	\$865,326	\$865,326
38 State Portal	\$233,510	\$233,510
39 Process Management	\$398,234	\$398,234
40 IT Consolidation	\$1,000,000	\$1,000,000
41 Government Data Analytics Center	\$9,101,255	\$9,101,255

42  
 43 Unless a change is approved by the State Chief Information Officer after  
 44 consultation with the Office of State Budget and Management, funds appropriated to the  
 45 Information Technology Fund shall be spent only as specified in this section. Changes shall not  
 46 result in any degradation to the information technology operations or projects listed in this  
 47 section for which the funds were originally appropriated.

48 Any changes to the specified uses shall be reported in writing to the chairs of the  
 49 Joint Legislative Oversight Committee on Information Technology, the chair and cochair of the  
 50 House Appropriations Committee on Information Technology, and the Fiscal Research  
 51 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 for an increase is identified. Rates approved by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund shall be based on this fund limit. In the event the Fund exceeds the required limit, rates shall be adjusted within 30 days. The Internal Service Fund may also collect in each year of the 2015-2017 fiscal biennium two hundred nineteen thousand seven hundred ninety-one dollars (\$219,791) to fund Workers' Compensation and up to one million five hundred forty-nine thousand seven hundred twenty-nine dollars (\$1,549,729) over the biennium to fund FirstNet.

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

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

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

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

**SECTION 7.2.(f)** The State Chief Information Officer shall identify IT Restructuring savings of at least nine million one hundred four thousand ten dollars (\$9,104,010) in fiscal year 2015-2016 and savings of at least twenty million one hundred four thousand ten dollars (\$20,104,010) in fiscal year 2016-2017. As savings are accrued, the OSBM shall reduce the IT Internal Service Fund and agency budgets to reflect the savings, adjusting for actual indirect costs and overhead related to the savings. These accrued savings shall be used for the development of an Enterprise Resource Planning (ERP) system for the



1 State. In order to ensure an effective implementation of the ERP system, all State agencies shall  
 2 fully cooperate and coordinate with the ERP Provisional Oversight Committee, which is  
 3 comprised of the Secretary of Information Technology (Chair), State Controller, and State  
 4 Budget Director. All State agencies shall also fully cooperate and coordinate with any future  
 5 ERP governance bodies, the Department, and the OSBM and provide data for all statewide  
 6 ERP-related activities.

7 **SECTION 7.2.(g)** Statewide information technology procurement shall be funded  
 8 through a combination of administrative fees as part of the IT Supplemental Staffing contract,  
 9 as well as fees charged to agencies using the services of the Statewide Information Technology  
 10 Procurement Office. The Department shall provide to the OSBM a fee schedule to allow cost  
 11 recovery. If an agency fails to pay for services within 30 days of billing, OSBM shall transfer  
 12 the unpaid amount to the State Information Technology Procurement Office, following  
 13 notification of the affected agency.

14  
 15 **INFORMATION TECHNOLOGY RESERVE**

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

	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
18 Government Data Analytics Center	\$8,200,000	\$8,200,000
19 Improve Efficiency and Customer		
20 Service through IT Modernization	\$8,255,891	\$8,183,212
21 NC Connect/Digital Infrastructure	\$429,438	\$688,061
22 IT Restructuring	\$3,238,804	\$2,029,509
23 Maintenance Management System Replacement	\$173,180	\$129,901
24 Law Enforcement Information Exchange	\$288,474	-

25  
 26  
 27 **SECTION 7.3.(b)** Of the funds appropriated for Information Technology  
 28 Modernization, the sum of five hundred fifty-two thousand eight hundred seventy-four dollars  
 29 (\$552,874) for fiscal year 2015-2016 and five hundred twenty-eight thousand seventy-four  
 30 dollars (\$528,074) for fiscal year 2016-2017 shall be transferred to the Department of Revenue  
 31 to fund four security positions. The security positions shall include a Security Design Engineer,  
 32 a Security Impact Analyst, and two Security Specialists.

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

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

48 **SECTION 7.3.(e)** The Office of State Budget and Management shall establish a  
 49 fund code for the Information Technology Reserve Fund and shall create budget codes within  
 50 the fund code for each specific appropriation to the Fund. The Office of State Budget and

1 Management shall manage the fund code separately from other funding for the Department of  
2 Information Technology as created by this act.

### 4 **INFORMATION TECHNOLOGY ENTERPRISE ARCHITECTURE**

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

8 **SECTION 7.4.(b)** The completed State information technology enterprise  
9 architecture developed pursuant to this section shall be provided to the Joint Legislative  
10 Oversight Committee on Information Technology and the Fiscal Research Division. This  
11 architecture, along with State and agency business plans, shall be incorporated into a biennial  
12 State Information Technology Plan (State IT Plan).

### 14 **DEPARTMENT OF INFORMATION TECHNOLOGY PERFORMANCE MEASURES**

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

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

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

### 41 **ELECTRONIC FORMS AND DIGITAL SIGNATURES**

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

- 48 (1) Allows form data to be saved locally and submitted electronically.
- 49 (2) Supports interactive forms on desktop and mobile devices.
- 50 (3) Enables forms to be electronically routed through a workflow.
- 51 (4) Provides for the encryption of confidential and sensitive documents.

- 1 (5) Provides for digital signatures through the use of x.509 digital certificates,  
2 where applicable, to enable and ensure submitter identity, submitted form  
3 information, and acceptance of forms terms and requirements.

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

7 **SECTION 7.13.(b)** By October 1, 2015, the State CIO shall provide a completed  
8 plan for the program to the Joint Legislative Oversight Committee on Information Technology  
9 and the Fiscal Research Division. This plan shall include a priority list for implementing digital  
10 identities and associated certificates, specific electronic forms, a time line for each  
11 implementation, and costs associated with the program.

## 12 **STATE INFORMATION TECHNOLOGY BUDGETING**

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

- 18 (1) Developing State agency information technology budgets.  
19 (2) Determining what participating and separate agency information technology  
20 funding will transition to DIT and what will remain with the agencies.  
21 (3) Developing a plan to transfer appropriate funding to DIT in coordination  
22 with other State budget requirements.  
23 (4) Developing rates and chargebacks for support provided to agencies.  
24 (5) Identifying anticipated information technology cost savings.  
25 (6) Identifying any rule or statutory changes required to facilitate information  
26 technology budgeting oversight and management.

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

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

## 35 **GOVERNMENTAL BUDGETARY TRANSPARENCY/EXPENDITURES ONLINE**

36 **SECTION 7.17.(a)** In coordination with the State Controller and the Office of  
37 State Budget and Management (OSBM), the State Chief Information Officer (State CIO) shall  
38 prioritize Information Technology Modernization funding and other available funds, as  
39 follows:

- 40 (1) To establish a State budget transparency Internet Web site to provide  
41 information on budget expenditures for each State agency for each fiscal  
42 year beginning 2015-2016.  
43 (2) To coordinate with counties, cities, and local education agencies to facilitate  
44 the posting of their respective local entity budgetary and spending data on  
45 their respective Internet Web sites and to provide the data to the Local  
46 Government Commission (LGC).

47 **SECTION 7.17.(b)** The Internet Web sites mandated by this section shall be fully  
48 functional by April 1, 2016. Each Internet Web site shall:  
49  
50

- 1 (1) Be user-friendly with easy-to-use search features and data provided in
- 2 formats that can be readily downloaded and analyzed by the public.
- 3 (2) Include budgeted amounts and actual expenditures for each State agency or
- 4 local entity budget code.
- 5 (3) Include information on receipts and expenditures from and to all sources,
- 6 including vendor payments, updated on a monthly basis.

7 **SECTION 7.17.(c)** Each State agency, county, city, and local education agency  
8 shall work with the State CIO, the State Controller, and the OSBM to ensure that complete and  
9 accurate budget and spending information is provided in a timely manner as directed by the  
10 State CIO. Each State agency Internet Web site shall include a hyperlink to the State's budget  
11 transparency Internet Web site. The LGC shall work with the State CIO to post data on the  
12 LGC's Internet Web site in a consistent manner that allows comparisons between the local  
13 entities providing data under subdivision (2) of subsection (a) of this section.  
14

## 15 **MULTIYEAR IT CONTRACTS**

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

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

33 The Office of State Budget and Management shall ensure the savings from any authorized  
34 agreement shall be included in the IT Internal Service Fund rate calculations before approving  
35 annual proposed rates. Any savings resulting from the agreements shall be returned to agencies  
36 included in the contract in the form of reduced rates.  
37

## 38 **INFORMATION TECHNOLOGY SECURITY/TWO-FACTOR AUTHENTICATION**

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

45 **SECTION 7.19.(b)** Funding appropriated to the Information Technology Reserve  
46 for two-factor authentication, along with any remaining funding from prior appropriations for  
47 authentication, shall be used to support implementation of the plan.  
48

## 49 **DATA SECURITY STUDY**

50 **SECTION 7.20.** The Joint Legislative Oversight Committee on Information  
51 Technology shall study liability issues associated with data security in both the public and

1 private sectors. The Committee shall report its findings and any legislative proposals pertaining  
2 to liability issues associated with data security to the General Assembly on or before April 1,  
3 2016.

#### 5 **LAW ENFORCEMENT INFORMATION EXCHANGE**

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

#### 11 **ENTERPRISE RESOURCE PLANNING**

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

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

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

#### 30 **STATE BROADBAND PLAN**

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

- 33 (1) Information regarding the availability and functionality of broadband  
34 throughout the State and an evaluation of the current deployment of  
35 broadband service.
- 36 (2) A strategy to support the affordability of broadband service as well as  
37 maximum utilization of broadband infrastructure, including potential  
38 partnerships and sources of funding to support the effort.
- 39 (3) Analysis of means, methods, and best practices to establish universal  
40 broadband access across the State.

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

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

#### 48 **STATE PORTAL/ECONOMIC DEVELOPMENT/BUSINESS WEB SITE PLAN**

49 **SECTION 7.24.(a)** In coordination with appropriate State agencies, departments,  
50 and institutions as part of the State portal planning and development, the State Chief  
51 Information Officer (State CIO) shall develop and implement a plan to establish an Internet

1 Web site for businesses operating, or considering operating, within North Carolina, which shall  
2 include all of the following:

- 3 (1) The capabilities necessary to complete required business transactions  
4 electronically, to include the availability of electronic forms and digital  
5 signatures.
- 6 (2) How the State CIO will ensure secure access to any and all information and  
7 services required to facilitate the operation of businesses within the State.
- 8 (3) Potential sources of funding to support the development and implementation  
9 of the Web site.

10 **SECTION 7.24.(b)** On or before December 1, 2015, the State CIO shall provide  
11 the completed plan to the Joint Legislative Oversight Committee on Information Technology  
12 and the Fiscal Research Division. On or before December 1, 2015, and then at least  
13 semiannually for the duration of the 2015-2017 fiscal biennium, the State CIO shall provide  
14 progress reports regarding the establishment and use of the business Internet Web site to the  
15 Joint Legislative Oversight Committee on Information Technology and the Fiscal Research  
16 Division.

## 17 **AGENCY USE OF ENTERPRISE ACTIVE DIRECTORY**

18 **SECTION 7.25.** On or before July 1, 2016, all State agencies identified as  
19 principal departments under G.S. 143B-6 shall become direct members of and shall use the  
20 Enterprise Active Directory. A principal department may submit to the State Chief Information  
21 Officer a written request to deviate from certain requirements of the Enterprise Active  
22 Directory, provided that any deviation shall be consistent with available funding and shall be  
23 subject to any terms and conditions specified by the State Chief Information Officer.  
24

## 25 **STUDY STATE AGENCY USE OF UTILITY-BASED COMPUTING**

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

- 31 (1) Evaluate the actual and potential usefulness of commercial cloud computing  
32 services by State agencies and whether expedited transition to cloud  
33 computing would offer significant savings to State agencies.
- 34 (2) Evaluate how giving State agencies the ability to purchase information  
35 technology (IT) services in a utility-based model would result in savings  
36 from paying for only the IT services consumed.
- 37 (3) Identify the capabilities required to implement utility-based computing,  
38 storage, and applications, including a rate structure.

39 **SECTION 7.26.(b)** By October 1, 2015, the State Chief Information Officer shall  
40 make a written report to the Joint Legislative Oversight Committee on Information Technology  
41 on the results of the DIT review of utility-based computing.  
42

## 43 **STATE FUNDED IT CONTRACTS**

44 **SECTION 7.27.** For all information technology contracts that receive any State  
45 funds, State agencies and vendors shall immediately provide copies of contract documents and  
46 any subsequent amendments, modifications, or other changes upon request of the Joint  
47 Legislative Oversight Committee on Information Technology or the Fiscal Research Division.  
48

## 49 **PART VII-A. ESTABLISH DEPARTMENT OF INFORMATION TECHNOLOGY**

**ESTABLISH DEPARTMENT OF INFORMATION TECHNOLOGY**

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

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

- (1) A Type I transfer, as defined in G.S. 143A-6, of the:
  - a. Office of the State Chief Information Officer.
  - b. Office of Information Technology Services.
- (2) A Type II transfer, as defined in G.S. 143A-6, of the:
  - 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.**

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

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

3           (2)   CJIN. – Criminal Justice Information Network.

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

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

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

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

15          (7)   GDAC. – Government Data Analytics Center.

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

17          (9)   Information technology or IT. – Set of tools, processes, and methodologies,  
18          including, but not limited to, coding and programming, data  
19          communications, data conversion, data analysis, architecture, planning,  
20          storage and retrieval, systems analysis and design, systems control, mobile  
21          applications, and associated equipment employed to collect, process, and  
22          present information to support the operation of an organization. The term  
23          also includes office automation, multimedia, telecommunications, and any  
24          personnel and support personnel required for planning and operations.

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

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

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

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

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

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

47       (b)   Exemptions. – Except as otherwise specifically provided by law, the provisions of  
48       this Chapter do not apply to the General Assembly, the Judicial Department, or The University  
49       of North Carolina and its constituent institutions. The General Assembly, the Judicial  
50       Department, or The University of North Carolina and its constituent institutions may elect to  
51       participate in the information technology programs, services, or contracts offered by the



1 Department, including information technology procurement, in accordance with the statutes,  
2 policies, and rules of the Department. Such an election must be made in writing, as follows:

- 3 (1) For the General Assembly, by the Legislative Services Commission.
- 4 (2) For the Judicial Department, by the Chief Justice.
- 5 (3) For The University of North Carolina, by the Board of Governors.
- 6 (4) For the constituent institutions of The University of North Carolina, by the  
7 respective boards of trustees.

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

12 (d) Review. – Notwithstanding subsection (b) of this section, any State agency shall  
13 review and evaluate any deviation authorized and shall, in consultation with the Department of  
14 Information Technology, adopt a plan to phase out any deviations that the State CIO  
15 determines to be unnecessary in carrying out functions and responsibilities unique to the  
16 agency having a deviation. The plan adopted by the agency shall include a strategy to  
17 coordinate its general information processing functions with the Department of Information  
18 Technology in the manner prescribed by this act, and provide for its compliance with policies,  
19 procedures, and guidelines adopted by the Department of Information Technology. Any agency  
20 receiving a deviation shall submit its plan to the Office of State Budget and Management as  
21 directed by the State Chief Information Officer.

22 **"§ 143B-1301. Powers and duties of the Department; cost-sharing with exempt entities.**

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

- 24 (1) Provide information technology support to executive branch agencies.
- 25 (2) Provide such information technology support to local government entities  
26 and others, as may be required.
- 27 (3) Plan and coordinate information technology efforts with State agencies,  
28 nonprofits, and private organizations, as required.
- 29 (4) Establish a consistent process for planning, maintaining, and acquiring the  
30 State's information technology resources. This includes responsibility for  
31 developing and administering a comprehensive long-range plan to ensure the  
32 proper management of the State's information technology resources.
- 33 (5) Develop standards and accountability measures for information technology  
34 projects, including criteria for effective project management.
- 35 (6) Set technical standards for information technology, review and approve  
36 information technology projects and budgets, establish information  
37 technology security standards, provide for the procurement of information  
38 technology resources, and develop a schedule for the replacement or  
39 modification of information technology systems.
- 40 (7) Implement enterprise procurement processes and develop metrics to support  
41 this process.
- 42 (8) Manage the information technology funding for State agencies, to include  
43 the Information Technology Fund for statewide information technology  
44 efforts and the Information Technology Internal Service Fund for agency  
45 support functions.
- 46 (9) Support, maintain, and develop metrics for the State's technology  
47 infrastructure and facilitate State agencies' delivery of services to citizens.
- 48 (10) Operate as the State enterprise organization for information technology  
49 governance.
- 50 (11) Advance the State's technology and data management capabilities.

- 1           (12) Prepare and present the Department's budget in accordance with Chapter  
2           143C of the General Statutes, the State Budget Act.
- 3           (13) Obtain, review, and maintain, on an ongoing basis, records of the  
4           appropriations, allotments, expenditures, revenues, grants, and federal funds  
5           for each State agency for information technology.
- 6           (14) Adopt rules for the administration of the Department and implementing this  
7           Article, pursuant to the Administrative Procedures Act, Chapter 150B of the  
8           General Statutes.
- 9           (15) Require reports by State agencies, departments, and institutions about  
10          information technology assets, systems, personnel, and projects and  
11          prescribing the form of such reports.
- 12          (16) Prescribe the manner in which information technology assets, systems, and  
13          personnel shall be provided and distributed among agencies, to include  
14          changing the distribution when the State CIO determines that is necessary.
- 15          (17) Prescribe the manner of inspecting or testing information technology assets,  
16          systems, or personnel to determine compliance with information technology  
17          plans, specifications, and requirements.
- 18          (18) Submit all rates and fees for common, shared, and State government-wide  
19          technology services provided by the Department to the Office of State  
20          Budget and Management for approval.
- 21          (19) Establish and operate centers of expertise for specific information  
22          technologies and services to serve two or more agencies on a cost-sharing  
23          basis, if the State CIO, after consultation with the Office of State Budget and  
24          Management, decides it is advisable from the standpoint of efficiency and  
25          economy to establish these centers and services.
- 26          (20) Charge each State agency for which services are performed its proportionate  
27          part of the cost of maintaining and operating the shared centers and services,  
28          subject to approval by the Office of State Budget and Management.
- 29          (21) Require any State agency served to transfer to the Department ownership,  
30          custody, or control of information-processing equipment, supplies, and  
31          positions required by the shared centers and services.
- 32          (22) Identify and develop projects to facilitate the consolidation of information  
33          technology equipment, support, and projects.
- 34          (23) Identify agency to serve as the lead for an enterprise effort, when  
35          appropriate.
- 36          (24) Develop performance standards for shared services in coordination with  
37          supported State agencies, and publish performance reports on the  
38          Department Web site.
- 39          (25) Adopt plans, policies, and procedures for the acquisition, management, and  
40          use of information technology resources in State agencies to facilitate more  
41          efficient and economic use of information technology in the agencies.
- 42          (26) Develop and manage career progressions and training programs to  
43          efficiently implement, use, and manage information technology resources  
44          throughout State government.
- 45          (27) Provide local government entities with access to the Department's services as  
46          authorized in this section for State agencies. Access shall be provided on the  
47          same cost basis that applies to State agencies.
- 48          (28) Support the operation of the CGIA, GICC, GDAC, CJIN, and 911 Board.
- 49          (29) Provide geographic information systems services through the Center for  
50          Geographic Information and Analysis on a cost recovery basis. The  
51          Department and the Center for Geographic Information and Analysis may

1 contract for funding from federal or other sources to conduct or provide  
2 geographic information systems services for public purposes.

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

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

8 **"§ 143B-1302. State CIO duties and Departmental administration.**

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

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

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

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

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

23 (4) Ensure the security of State information technology systems and networks,  
24 as well as associated data, developing standardized systems and processes.

25 (5) Prepare and present the Department's budget in accordance with Chapter  
26 143C of the General Statutes, the State Budget Act.

27 (6) Establish rates for all goods and services provided by the Department within  
28 required schedules.

29 (7) Identify and work to consolidate duplicate information technology  
30 capabilities.

31 (8) Identify and develop plans to increase State data center efficiencies,  
32 consolidating assets in State-managed data centers.

33 (9) Plan for and manage State network development and operations.

34 (10) Centrally classify, categorize, manage, and protect the State's data.

35 (11) Obtain, review, and maintain, on an ongoing basis, records of the  
36 appropriations, allotments, expenditures, and revenues of each State agency  
37 for information technology.

38 (12) Be responsible for developing and administering a comprehensive  
39 long-range plan to ensure the proper management of the State's information  
40 technology resources.

41 (13) Set technical standards for information technology, review and approve  
42 information technology projects and budgets, establish information  
43 technology security standards, provide for the procurement of information  
44 technology resources, and develop a schedule for the replacement or  
45 modification of information technology systems.

46 (14) Require reports by State departments, institutions, or agencies of information  
47 technology assets, systems, personnel, and projects; prescribe the form of  
48 such reports; and verify the information when the State CIO determines  
49 verification is necessary.

50 (15) Prescribe the manner in which information technology assets, systems, and  
51 personnel shall be provided and distributed among agencies.

1           (16) Establish and maintain a program to provide career management for  
2 information technology professionals.

3           (17) Prescribe the manner of inspecting or testing information technology assets,  
4 systems, or personnel to determine compliance with information technology  
5 plans, specifications, and requirements.

6           (18) Supervise and support the operations of the CGIA, GICC, GDAC, CJIN, and  
7 911 Board.

8           (19) Oversee and coordinate an Education Community of Practice.

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

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

17 **"§ 143B-1303. Divisions and units of the Department.**

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

19               (1) Statewide Information Technology Division.

20               (2) Shared Services Division.

21               (3) Administrative and Finance Division.

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

25               (1) Statewide strategic planning.

26               (2) Statewide information technology procurement.

27               (3) Information technology project management.

28               (4) Statewide information technology strategies and standards (enterprise  
29 architecture).

30               (5) Data analytics.

31               (6) Digital support to include Web support, mobile support, and social media  
32 support (State portal).

33               (7) Solution architecture.

34               (8) Requirements analysis.

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

39               (1) Network Infrastructure.

40               (2) Hosting Infrastructure.

41               (3) Telephony and call center services.

42               (4) Client computing.

43               (5) Electronic mail.

44               (6) Identity Management.

45               (7) Quality assurance testing.

46               (8) Document management.

47               (9) Project management staffing.

48               (10) Primary and secondary data centers operation.

49           (d) Administration and Finance Division. – There is hereby created within the  
50 Department the Administration and Finance Division. The Administration and Finance  
51 Division shall provide:

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

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

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

- 15           (1) Center for Geographic Information and Analysis.
- 16           (2) Criminal Justice Information Network.
- 17           (3) Government Data Analytics Center.
- 18           (4) North Carolina 911 Board.
- 19           (5) North Carolina Geographic Information Coordinating Council.

20 **"§ 143B-1304. State agency information technology management; deviations for State**  
21 **agencies.**

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

- 25           (1) Administrative support.
- 26           (2) Facilities management.
- 27           (3) Internal auditing.
- 28           (4) Boards administration.
- 29           (5) Departmental policies and procedures.

30 **"§ 143B-1305. Transition to Department of Information Technology.**

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

- 35           (1) Information technology architecture.
- 36           (2) Updated State information technology strategic plan that reflects State and
- 37           agency business plans and the State information technology architecture.
- 38           (3) Information technology funding process to include standardized, transparent
- 39           rates that reflect market costs for information technology requirements.
- 40           (4) Information technology personnel management.
- 41           (5) Information technology project management.
- 42           (6) Information technology procurement.
- 43           (7) Hardware configuration and management.
- 44           (8) Software acquisition and management.
- 45           (9) Data center operations.
- 46           (10) Network operations.
- 47           (11) System and data security, including disaster recovery.
- 48           (12) Establishment, implementation, and monitoring of verifiable, industry
- 49           standard Department performance measures for support to both participating
- 50           agencies and nonparticipating agencies available on the agency Web site.

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

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

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

15 (1) Department of Public Safety.

16 (2) Governor's Office.

17 (3) Department of Environment and Natural Resources.

18 (4) Office of State Budget and Management.

19 (5) Office of State Human Resources.

20 (6) Department of Cultural Resources.

21 (7) Department of Commerce.

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

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

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

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

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

39 **"§ 143B-1306. Planning and financing State information technology resources.**

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

42 (1) The Department shall analyze the State's legacy information technology  
43 systems and develop a plan to document the needs and costs for replacement  
44 systems, as well as determining and documenting the time frame during  
45 which State agencies can continue to efficiently use legacy information  
46 technology systems, resources, security, and data management to support  
47 their operations. The plan shall include an inventory of legacy applications  
48 and infrastructure, required capabilities not available with the legacy system,  
49 the process, time line, and cost to migrate from legacy environments, and  
50 any other information necessary for fiscal or technology planning. The State  
51 CIO shall have the authority to prioritize the upgrade and replacement of

1 legacy systems. Agencies shall provide all requested documentation to  
2 validate reporting on legacy systems and shall make the systems available  
3 for inspection by the Department.

4 (2) The State CIO shall develop a biennial State Information Technology Plan  
5 (Plan).

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

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

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

16 (1) Anticipated requirements for information technology support over the next  
17 five years.

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

21 (3) Significant unmet needs for information technology resources over a  
22 five-year time period. The Plan shall rank the unmet needs in priority order  
23 according to their urgency.

24 (4) A statement of the financial requirements, together with a recommended  
25 funding schedule for major projects in progress or anticipated for approval  
26 during the upcoming fiscal biennium.

27 (5) An analysis of opportunities for statewide initiatives that would yield  
28 significant efficiencies or improve effectiveness in State programs.

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

41 **"§ 143B-1307. Business continuity planning.**

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

48 (1) Consider the organizational, managerial, and technical environments in  
49 which the disaster recovery plan must be implemented.

50 (2) Assess the types and likely parameters of disasters most likely to occur and  
51 the resultant impacts on the agency's ability to perform its mission.

- 1           (3)    List protective measures to be implemented in anticipation of a natural or  
2                man-made disaster.
- 3           (4)    Determine whether the plan is adequate to address information technology  
4                security incidents.

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

7 **"§ 143B-1308. Information Technology Fund.**

8           There is established a special revenue fund to be known as the Information Technology  
9 Fund, which may receive transfers or other credits as authorized by the General Assembly.  
10 Money may be appropriated from the Information Technology Fund to support the operation  
11 and administration that meet statewide requirements, including planning, project management,  
12 security, electronic mail, State portal operations, early adoption of enterprise efforts, and the  
13 administration of systemwide procurement procedures. Funding for principal agency  
14 information technology projects shall be appropriated to the Information Technology Fund and  
15 may be reallocated by the State CIO, if appropriate, following coordination with the impacted  
16 agencies and written approval by the Office of State Budget and Management. Any redirection  
17 of agency funds shall immediately be reported to the Joint Legislative Oversight Committee on  
18 Information Technology and the Fiscal Research Division with a detailed explanation of the  
19 reasons for the redirection. Expenditures involving funds appropriated to the Department from  
20 the Information Technology Fund shall be made by the State CIO. Interest earnings on the  
21 Information Technology Fund balance shall be credited to the Information Technology Fund.

22 **"§ 143B-1309. Internal Service Fund.**

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

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

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

44 **"§ 143B-1310. Information technology reporting.**

45           The State CIO shall report to the Joint Legislative Oversight Committee on Information  
46 Technology and to the Fiscal Research Division regarding the Information Technology Fund,  
47 the Internal Service Fund, and any Information Technology Reserve Fund on a quarterly basis,  
48 no later than the first day of the second month following the end of the quarter. The report shall  
49 include current cash balances, line-item detail on expenditures from the previous quarter, and  
50 anticipated expenditures and revenues over the next year, by quarter. The State CIO shall report  
51 to the Joint Legislative Oversight Committee on Information Technology and the Fiscal



1 Research Division on expenditures for the upcoming quarter, projected year-end balance, and  
2 the status report on personnel position changes, including new positions created and existing  
3 positions eliminated. Spending reports shall comply with the State Accounting System object  
4 codes.

5 **"§ 143B-1311. Financial reporting and accountability for information technology**  
6 **investments and expenditures.**

7 The Department, along with the Office of State Budget and Management and the Office of  
8 the State Controller, shall develop processes for budgeting and accounting of expenditures for  
9 information technology operations, services, projects, infrastructure, and assets for State  
10 agencies, notwithstanding any deviations permitted pursuant to G.S. 143B-1303(b) or  
11 G.S. 143B-1303(c). The budgeting and accounting processes may include hardware, software,  
12 personnel, training, contractual services, and other items relevant to information technology,  
13 and the sources of funding for each. Annual reports regarding information technology shall be  
14 coordinated by the Department with the Office of State Budget and Management and the Office  
15 of the State Controller and submitted to the Governor and the General Assembly on or before  
16 October 1 of each year.

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

20 The State CIO shall review the information technology budgets for principal departments  
21 and shall recommend appropriate adjustments to support requirements identified by the State  
22 CIO.

23 **"§ 143B-1312. Information technology human resources.**

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

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

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

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

- 39 (1) Documentation of current information technology personnel requirements.
- 40 (2) An inventory of current agency information technology personnel and their  
41 skills.
- 42 (3) Analysis and documentation of the gaps between current personnel and  
43 identified requirements.
- 44 (4) An explanation of how the Department plans to fill identified gaps.
- 45 (5) The Department's plan to eliminate positions no longer required.
- 46 (6) The Department's plan for employees whose skills are no longer required.

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

50 (e) Participating agency information technology personnel performing information  
51 technology functions shall be moved to the Department. The State CIO shall consolidate

1 participating agency information technology personnel following the time line established in  
2 this Article once a detailed plan has been developed for transitioning the personnel to the new  
3 agency.

4 (f) The State CIO shall establish standard information technology career paths for both  
5 management and technical tracks, including defined qualifications, career progression, training  
6 requirements, and appropriate compensation. For information technology procurement  
7 professionals, the State CIO shall establish a career path that includes defined qualifications,  
8 career progression, training requirements, and appropriate compensation. These career paths  
9 shall be documented by December 1, 2015, and shall be provided to the Joint Legislative  
10 Oversight Committee on Information Technology and the Fiscal Research Division by  
11 December 1, 2015. The career paths shall be updated on an annual basis.

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

18 (h) Criminal Records Checks. – The State CIO shall require background investigations  
19 of any employee or prospective employee, including a criminal history record check, which  
20 may include a search of the State and National Repositories of Criminal Histories based on the  
21 person's fingerprints. A criminal history record check shall be conducted by the State Bureau of  
22 Investigation upon receiving fingerprints and other information provided by the employee or  
23 prospective employee. If the employee or prospective employee has been a resident of the State  
24 for less than five years, the background report shall include a review of criminal information  
25 from both the State and National Repositories of Criminal Histories. The criminal background  
26 report shall be provided to the State CIO and is not a public record under Chapter 132 of the  
27 General Statutes.

28 "Part 3. Information Technology Projects and Management.

29 "**§ 143B-1318. Project Management.**

30 (a) Overall Management. – All information technology projects shall be managed  
31 through a standardized, fully documented process established and overseen by the State CIO.  
32 The State CIO shall be responsible for ensuring that participating agency information  
33 technology projects are completed on time, within budget, and meet all defined business  
34 requirements upon completion. For separate agency projects, the State CIO shall ensure that  
35 projects follow the Department's established process and shall monitor schedule, budget, and  
36 adherence to business requirements. For all projects, the State CIO shall establish procedures to  
37 limit the need for change requests and shall report on this process to the Joint Legislative  
38 Oversight Committee on Information Technology and the Fiscal Research Division by October  
39 1, 2015. The State CIO shall also ensure that agency information technology project  
40 requirements are documented in biennial information technology plans. If an agency updates a  
41 biennial information technology plan to add a new project, the State CIO shall immediately  
42 report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal  
43 Research Division on the reasons for the new requirement, the costs, and the sources of  
44 funding.

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

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

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

17       The Department shall report any suspension or cancellation immediately to the Office of  
18 the State Controller, the Office of State Budget and Management, the Joint Legislative  
19 Oversight Committee on Information Technology, and the Fiscal Research Division. The  
20 Office of State Budget and Management shall not allow any additional expenditure of funds for  
21 a project that is no longer approved by the State CIO of Information Technology.

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

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

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

43 **"§ 143B-1319. Project management standards.**

44       (a) The State CIO shall establish standardized documentation requirements for agency  
45 projects to include requests for proposal and contracts. The State CIO shall establish standards  
46 for project managers and project management assistants. The State CIO shall develop  
47 performance measures for project reporting and shall make this reporting available through a  
48 publicly accessible Web site.

49       (b) Participating Agency Responsibilities. – The State CIO shall designate a Project  
50 Manager who shall select qualified personnel from the Department staff to participate in IT  
51 project management, implementation, testing, and other activities for any information

1 technology project. The Project Manager shall provide periodic reports to the project  
2 management assistant assigned to the project by the State CIO under subsection (b) of this  
3 section. The reports shall include information regarding the agency's business requirements,  
4 applicable laws and regulations, project costs, issues related to hardware, software, or training,  
5 projected and actual completion dates, and any other information related to the implementation  
6 of the information technology project.

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

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

20 The project management assistant shall advise the agency with the initial planning of a  
21 project, the content and design of any request for proposals, contract development,  
22 procurement, and architectural and other technical reviews. The project management assistant  
23 shall also monitor progress in the development and implementation of the project and shall  
24 provide status reports to the agency and the State CIO of Information Technology, including  
25 recommendations regarding continued approval of the project.

26 The State CIO shall establish a clearly defined, standardized process for project  
27 management that includes timelines for completion of process requirements for both the  
28 Department and agencies. The State CIO shall also establish reporting requirements for  
29 information technology projects, both during the planning, development, and implementation  
30 process, and following completion of the project. The State CIO shall continue to monitor  
31 system performance and financial aspects of each project after implementation and shall report  
32 to the Joint Legislative Oversight Committee on Information Technology and the Fiscal  
33 Research Division when there is more than a five percent (5%) variance in a completed  
34 project's operations and maintenance costs or if a project does not provide the forecasted return  
35 on investment. The State CIO shall also monitor any certification process required for State  
36 information technology projects and shall immediately report any issues associated with  
37 certification processes to the Joint Legislative Oversight Committee on Information  
38 Technology and the Fiscal Research Division.

39 **"§ 143B-1320. Dispute resolution.**

40 (a) Agency Request for Review. – In any instance where the State CIO has denied or  
41 suspended the approval of an information technology project, has cancelled the project, or has  
42 denied an agency's request for deviation, the affected State agency may request that the  
43 Governor review the State CIO's decision. The agency shall submit a written request for review  
44 to the Governor within 15 working days following the agency's receipt of the State CIO's  
45 written grounds for denial, suspension, or cancellation. The agency's request for review shall  
46 specify the grounds for its disagreement with the State CIO's determination. The agency shall  
47 include with its request for review a copy of the State CIO's written grounds for denial or  
48 suspension.

49 (b) Review Process. – The Governor shall review the information provided and may  
50 request additional information from either the agency or the State CIO. The Governor may  
51 affirm, reverse, or modify the decision of the State CIO, or may remand the matter back to the

1 State CIO for additional findings. Within 30 days after initial receipt of the agency's request for  
2 review, the Governor shall notify the agency and the State CIO of the decision in the matter.  
3 The notification shall be in writing and shall specify the grounds for the Governor's decision.

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

8 **"§ 143B-1321. Standardization.**

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

11 **"§ 143B-1322. Legacy applications.**

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

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

27 "Part 4. Information Technology Procurement.

28 **"§ 143B-1323. Procurement of information technology.**

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

31 Notwithstanding any other provision of law, the Department shall procure all information  
32 technology goods and services for participating agencies and shall approve information  
33 technology procurements for separate agencies. The State CIO may cancel or suspend any  
34 agency information technology procurement that occurs without State CIO approval. If an  
35 agency procures information technology goods or services without State CIO approval, the  
36 agency shall be responsible for identifying a funding source that is not associated with  
37 information technology fund codes.

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

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

45 (1) Purchase or contract for all information technology for participating State  
46 agencies.

47 (2) Approve all technology purchases for separate agencies.

48 (3) Establish standardized, consistent processes, specifications, and standards  
49 that shall apply to all information technology to be purchased, licensed, or  
50 leased by State agencies and relating to information technology personal  
51 services contract requirements for State agencies, including, but not limited

1 to, requiring convenience contracts to be rebid prior to termination without  
2 extensions.

3 (4) Establish procedures to permit State agencies and local government entities  
4 to use the General Services Administration (GSA) Cooperative Purchasing  
5 Program to purchase information technology (i) awarded under General  
6 Services Administration Supply Schedule 70 Information Technology and  
7 (ii) from contracts under the GSA's Consolidated Schedule containing  
8 information technology special item numbers.

9 (5) Establish procedures to permit State agencies and local government entities  
10 to use other cooperative purchasing agreements.

11 (6) Comply with the State government-wide technical architecture, as required  
12 by the State CIO.

13 (7) Utilize the purchasing benchmarks established by the State CIO of  
14 Administration pursuant to G.S. 143-53.1.

15 (8) Provide strategic sourcing resources and detailed, documented planning to  
16 compile and consolidate all estimates of information technology goods and  
17 services needed and required by State agencies.

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

20 (d) Each State agency, separate agency, and participating agency shall furnish to the  
21 State CIO when requested, and on forms as prescribed, estimates of all information technology  
22 goods and services needed and required by such department, institution, or agency for such  
23 periods in advance as may be designated by the State CIO. In addition to the report required, all  
24 departments, institutions, or agencies of the State government shall furnish to the State CIO  
25 when requested, and on forms as prescribed, actual expenditures for all goods and services  
26 needed and required by the department, institution, or agency for such periods after the  
27 expenditures have been made as may be designated by the State CIO.

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

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

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

49 (h) All offers to contract, whether through competitive bidding or other procurement  
50 method, shall be subject to evaluation and selection by acceptance of the most advantageous  
51 offer to the State. Evaluation shall include best value, as the term is defined in

1 G.S. 143-135.9(a)(1); compliance with information technology project management policies,  
2 compliance with information technology security standards and policies, substantial conformity  
3 with the specifications and other conditions set forth in the solicitation.

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

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

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

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

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

16 Vendor participation in the iCenter shall not be construed to (i) create any type of preferred  
17 status for vendors or (ii) abrogate the requirement that agency and statewide requirements for  
18 information technology support, including those of the Department, are awarded based on a  
19 competitive process that follows information technology procurement guidelines.

20 **§ 143B-1324. Restriction on State agency contractual authority with regard to**  
21 **information technology.**

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

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

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

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

38 **§ 143B-1325. Unauthorized use of public purchase or contract procedures for private**  
39 **benefit prohibited.**

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

43 (b) This prohibition shall not apply if:

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

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

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

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

4 **"§ 143B-1326. Financial interest of officers in sources of supply; acceptance of bribes.**

5       Neither the State CIO, any deputy State CIO, or any other policy-making or managerially  
6 exempt personnel shall be financially interested, or have any personal beneficial interest, either  
7 directly or indirectly, in the purchase of, or contract for, any information technology, nor in any  
8 firm, corporation, partnership, or association furnishing any information technology to the State  
9 government, or any of its departments, institutions, or agencies, nor shall any of these persons  
10 or any other Department employee accept or receive, directly or indirectly, from any person,  
11 firm, or corporation to whom any contract may be awarded, by rebate, gifts, or otherwise, any  
12 money or anything of value whatsoever, or any promise, obligation, or contract for future  
13 reward or compensation. Violation of this section is a Class F felony, and any person found  
14 guilty of a violation of this section shall, upon conviction, be removed from State office or  
15 employment.

16 **"§ 143B-1327. Certification that information technology bid submitted without collusion.**

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

20 **"§ 143B-1328. Award review.**

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

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

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

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

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

43 **"§ 143B-1329. Attorney General contract assistance.**

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

46 **"§ 143B-1330. Purchase of certain computer equipment and televisions by State agencies**  
47 **and governmental entities prohibited.**

48       (a)     No State agency, local political subdivision of the State, or other public body shall  
49 purchase computer equipment or televisions, as defined in G.S. 130A-309.131, or enter into a  
50 contract with any manufacturer that the State CIO determines is not in compliance with the  
51 requirements of G.S. 130A-309.134 or G.S. 130A-309.135 as determined from the list provided



1 by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.138. The  
2 State CIO shall issue written findings upon a determination of noncompliance. A determination  
3 of noncompliance by the State CIO is reviewable under Article 3 of Chapter 150B of the  
4 General Statutes.

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

9 **"§ 143B-1331. Refurbished computer equipment purchasing program.**

10 (a) The Department of Information Technology and the Department of Administration,  
11 with the administrative support of the Information Technology Strategic Sourcing Office, shall  
12 offer State and local governmental entities the option of purchasing refurbished computer  
13 equipment from registered computer equipment refurbishers whenever most appropriate to  
14 meet the needs of State and local governmental entities.

15 (b) State and local governmental entities shall document savings resulting from the  
16 purchase of the refurbished computer equipment, including, but not limited to, the initial  
17 acquisition cost as well as operations and maintenance costs. These savings shall be reported  
18 quarterly to the Department of Information Technology.

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

23 (d) Participating computer equipment refurbishers must meet all procurement  
24 requirements established by the Department of Information Technology and the Department of  
25 Administration.

26 **"§ 143B-1332. Configuration and specification requirements same as for new computers.**

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

30 **"§ 143B-1333. Data on reliability and other issues; report.**

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

36 **"§ 143B-1334. Information technology procurement policy; reporting requirements.**

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

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

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

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

8 "Part 5. Data Centers.

9 "**§ 143B-1335. Data centers.**

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

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

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

23 "Part 6. Communications and Portal Services.

24 "**§ 143B-1336. Communications services.**

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

- 29 (1) Develop standards for a State network.  
 30 (2) Develop a detailed plan for the standardization and operation of State  
 31 communications networks and services.  
 32 (3) Establish an inventory of communications systems in use within the State  
 33 and ensure that the State is using the most efficient and cost-effective means  
 34 possible.  
 35 (4) Identify shortfalls in current network operations and develop a strategy to  
 36 mitigate the identified shortfalls.  
 37 (5) Provide for the establishment, management, and operation, through either  
 38 State ownership, by contract, or through commercial leasing, of the  
 39 following systems and services as they affect the internal management and  
 40 operation of State agencies:  
 41 a. Central telephone systems and telephone networks, including Voice  
 42 over Internet Protocol and Commercial Mobile Radio Systems.  
 43 b. Satellite services.  
 44 c. Closed-circuit TV systems.  
 45 d. Two-way radio systems.  
 46 e. Microwave systems.  
 47 f. Related systems based on telecommunication technologies.  
 48 g. The "State Network," managed by the Department, which means any  
 49 connectivity designed for the purpose of providing Internet Protocol  
 50 transport of information to any building.  
 51 h. Broadband.

- 1           (6)    Coordinate the development of cost-sharing systems for respective user  
2           agencies for their proportionate parts of the cost of maintenance and  
3           operation of the systems and services listed in subdivision (1) of this  
4           subsection.
- 5           (7)    Assist in the development of coordinated telecommunications services or  
6           systems within and among all State agencies and recommend, where  
7           appropriate, cooperative utilization of telecommunication facilities by  
8           aggregating users.
- 9           (8)    Perform traffic analysis and engineering for all telecommunications services  
10          and systems listed in subdivision (1) of this subsection.
- 11          (9)    Establish telecommunications specifications and designs so as to promote  
12          and support compatibility of the systems within State agencies.
- 13          (10)   Provide a periodic inventory of telecommunications costs, facilities,  
14          systems, and personnel within State agencies.
- 15          (11)   Promote, coordinate, and assist in the design and engineering of emergency  
16          telecommunications systems, including, but not limited to, the 911  
17          emergency telephone number program, Emergency Medical Services, and  
18          other emergency telecommunications services.
- 19          (12)   Perform frequency coordination and management for State agencies and  
20          local governments, including all public safety radio service frequencies, in  
21          accordance with the rules and regulations of the Federal Communications  
22          Commission or any successor federal agency.
- 23          (13)   Advise all State agencies on telecommunications management planning and  
24          related matters and provide through the State Personnel Training Center or  
25          the Department training to users within State agencies in  
26          telecommunications technology and systems.
- 27          (14)   Assist and coordinate the development of policies and long-range plans,  
28          consistent with the protection of citizens' rights to privacy and access to  
29          information, for the acquisition and use of telecommunications systems, and  
30          base such policies and plans on current information about State  
31          telecommunications activities in relation to the full range of emerging  
32          technologies.

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

35          "§ 143B-1337. Communications services for local governmental entities and other  
36          entities.

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

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

- 44               (1)    Nonprofit educational institutions as defined in G.S. 116-280.
- 45               (2)    MCNC and research affiliates of MCNC for use only in connection with  
46               research activities sponsored or funded, in whole or in part, by MCNC, if  
47               such research activities relate to health care or education in North Carolina.
- 48               (3)    Agencies of the United States government operating in North Carolina for  
49               use only in connection with activities that relate to health care, education, or  
50               FirstNet in North Carolina.

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

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

13 **"§ 143B-1338. Statewide electronic portal; annual report.**

14           (a) The Department shall plan, develop, implement, and operate a statewide electronic  
15 portal (i) to increase the convenience of members of the public in conducting online  
16 transactions with, and obtaining information from, State government and (ii) to facilitate their  
17 interactions and communications with government agencies. The State CIO shall have approval  
18 authority over all agency Web site funding and content, to include any agency contract  
19 decisions. Participating agency Web site and content development staff shall be transferred to  
20 the Department in accordance with the schedule for their agency.

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

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

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

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

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

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

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

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

32           (8) Customer satisfaction with each service.

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

34                                   "Part 7. Security of Information Technology.

35 **"§ 143B-1339. Security.**

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

41 **"§ 143B-1340. Statewide security standards.**

42           The State CIO shall be responsible for the security of all State information technology  
43 systems and associated data. The State CIO shall manage all executive branch information  
44 technology security and shall establish a statewide standard for information technology security  
45 to maximize the functionality, security, and interoperability of the State's distributed  
46 information technology assets, including, but not limited to, data classification and  
47 management, communications, and encryption technologies. The State CIO shall review and  
48 revise the security standards annually. As part of this function, the State CIO shall review  
49 periodically existing security standards and practices in place among the various State agencies  
50 to determine whether those standards and practices meet statewide security and encryption  
51 requirements. The State CIO may assume the direct responsibility of providing for the

1 information technology security of any State agency that fails to adhere to security standards  
2 adopted under this Article.

3 The State CIO shall establish standards for the management and safeguarding of all State  
4 data held by State agencies and private entities and shall develop and implement a process to  
5 monitor and ensure adherence to the established standards. The State CIO shall establish and  
6 enforce standards for the protection of State data. The State CIO shall develop and maintain an  
7 inventory of where State data is stored. For data maintained by non-State entities, the State CIO  
8 shall document the reasons for the use of the non-State entity and certify, in writing, that the  
9 use of the non-State entity is the best course of action. The State CIO shall ensure that State  
10 data held by non-State entities is properly protected and is held in facilities that meet State  
11 security standards. By October 1 each year, the State CIO shall certify in writing that data held  
12 in non-State facilities is being maintained in accordance with State information technology  
13 security standards and shall provide a copy of this certification to the Joint Legislative  
14 Oversight Committee on Information Technology and the Fiscal Research Division.

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

17 **"§ 143B-1341. State CIO approval of security standards and risk assessments.**

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

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

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

35 (d) Before a State agency may enter into any contract with another party for an  
36 assessment of network vulnerability, the State agency shall notify the State CIO and obtain  
37 approval of the request. If the State agency enters into a contract with another party for  
38 assessment and testing, after approval of the State CIO, the State agency shall issue public  
39 reports on the general results of the reviews. The contractor shall provide the State agency with  
40 detailed reports of the security issues identified that shall not be disclosed as provided in  
41 G.S. 132-6.1(c). The State agency shall provide the State CIO with copies of the detailed  
42 reports that shall not be disclosed as provided in G.S. 132-6.1(c).

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

46 **"§ 143B-1342. Assessment of agency compliance with security standards.**

47 At a minimum, the State CIO shall annually assess the ability of each State agency, and  
48 each agency's contracted vendors, to comply with the current security enterprise-wide set of  
49 standards established pursuant to this section. The assessment shall include, at a minimum, the  
50 rate of compliance with the enterprise-wide security standards and an assessment of security  
51 organization, security practices, security information standards, network security architecture,

1 and current expenditures of State funds for information technology security. The assessment of  
2 a State agency shall also estimate the cost to implement the security measures needed for  
3 agencies to fully comply with the standards. Each State agency shall submit information  
4 required by the State CIO for purposes of this assessment. The State CIO shall include the  
5 information obtained from the assessment in the State Information Technology Plan.

6 **"§ 143B-1343. State agency cooperation; liaisons.**

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

10 (1) The full details of the State agency's information technology and operational  
11 requirements and of all the agency's information technology security  
12 incidents within 24 hours of confirmation.

13 (2) Comprehensive information concerning the information technology security  
14 employed to protect the agency's information technology.

15 (3) A forecast of the parameters of the agency's projected future information  
16 technology security needs and capabilities.

17 (4) Designating an agency liaison in the information technology area to  
18 coordinate with the State Chief Information Officer. The liaison shall be  
19 subject to a criminal background report from the State Repository of  
20 Criminal Histories, which shall be provided by the State Bureau of  
21 Investigation upon its receiving fingerprints from the liaison. If the liaison  
22 has been a resident of this State for less than five years, the background  
23 report shall include a review of criminal information from both the State and  
24 National Repositories of Criminal Histories. The criminal background report  
25 shall be provided to the State Chief Information Officer and the head of the  
26 agency. In addition, all personnel in the Office of the State Auditor who are  
27 responsible for information technology security reviews pursuant to  
28 G.S. 147-64.6(c)(18) shall be subject to a criminal background report from  
29 the State Repository of Criminal Histories, which shall be provided by the  
30 State Bureau of Investigation upon receiving fingerprints from the personnel  
31 designated by the State Auditor. For designated personnel who have been  
32 residents of this State for less than five years, the background report shall  
33 include a review of criminal information from both the State and National  
34 Repositories of Criminal Histories. The criminal background reports shall be  
35 provided to the State Auditor. Criminal histories provided pursuant to this  
36 subdivision are not public records under Chapter 132 of the General Statutes.

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

39 "Part 8. Government Data Analytics Center.

40 **"§ 143B-1344. Definitions.**

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

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

47 a. Broad master data management capabilities such as data integration,  
48 data quality and enrichment, data governance, and master data  
49 management to collect, reference, and categorize information from  
50 multiple sources.

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

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

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

9            **"§ 143B-1345. Government Data Analytics Center.**

10          (a) Purpose. – The purpose of the Department's GDAC is to utilize public-private  
11          partnerships as part of a statewide data integration and data-sharing initiative and to identify  
12          data integration and business intelligence opportunities that will generate greater efficiencies in,  
13          and improved service delivery by, State agencies, departments, and institutions. The intent is  
14          not to replace transactional systems but to leverage the data from those systems for enterprise  
15          level State business intelligence. The GDAC shall continue the work, purpose, and resources of  
16          previous data integration efforts and shall otherwise advise and assist the State CIO in the  
17          management of the initiative. The State CIO shall make any organizational changes necessary  
18          to maximize the effectiveness and efficiency of the GDAC.

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

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

28            (1) Continue and coordinate ongoing enterprise data integration efforts,  
29            including:

30            a. The deployment, support, technology improvements, and expansion  
31            of the Criminal Justice Law Enforcement Automated Data System  
32            (CJLEADS) and related case management systems.

33            b. The pilot and subsequent phase initiative for the North Carolina  
34            Financial Accountability and Compliance Technology System  
35            (NCFACTS).

36            c. Individual-level student data and workforce data from all levels of  
37            education and the State workforce.

38            d. Other capabilities as developed by the GDAC.

39            (2) Identify technologies currently used in North Carolina that have the  
40            capability to support the initiative.

41            (3) Identify other technologies, especially those with unique capabilities that are  
42            complementary to existing technology standards, and that could support the  
43            State's business intelligence effort.

44            (4) Compare capabilities and costs across State agencies.

45            (5) Ensure implementation is properly supported across State agencies.

46            (6) Ensure that data integration and sharing is performed in a manner that  
47            preserves data privacy and security in transferring, storing, and accessing  
48            data, as appropriate.

49            (7) Immediately seek any waivers and enter into any written agreements that  
50            may be required by State or federal law to effectuate data sharing and to  
51            carry out the purposes of this section.

- 1           (8)    Coordinate data requirements and usage for State business intelligence  
2           applications in a manner that (i) limits impacts on participating State  
3           agencies as those agencies provide data and business knowledge expertise  
4           and (ii) assists in defining business rules so the data can be properly used.  
5           (9)    Recommend the most cost-effective and reliable long-term hosting solution  
6           for enterprise-level State business intelligence as well as data integration,  
7           notwithstanding any other provision of State law or regulation.  
8           (10) Utilize a common approach that establishes standards for business  
9           intelligence initiatives for all State agencies and prevents the development of  
10           projects that do not meet the established standards.  
11          (11) The creation of efficiencies in State government by ensuring that State  
12           agencies use the GDAC for agency business intelligence requirements.  
13          (d)    Application to State Government. – The initiative shall include all State agencies,  
14          departments, and institutions, including The University of North Carolina, as follows:  
15           (1)    All State agency business intelligence requirements, including any planning  
16           or development efforts associated with creating business intelligence  
17           capability, as well as any master data management efforts, shall be  
18           implemented through the GDAC.  
19           (2)    The Chief Justice of the North Carolina Supreme Court and the Legislative  
20           Services Commission each shall designate an officer or agency to advise and  
21           assist the State CIO with respect to implementation of the initiative in their  
22           respective branches of government. The judicial and legislative branches  
23           shall fully cooperate in the initiative mandated by this section in the same  
24           manner as is required of State agencies.  
25          (e)    Project Management. – The Department, with the assistance of the Office of State  
26          Budget and Management, shall identify potential funding sources for expansion of existing  
27          projects or development of new projects. No GDAC project shall be initiated, extended, or  
28          expanded (i) without the specific approval of the General Assembly unless the project can be  
29          implemented within funds appropriated for GDAC projects or (ii) without prior consultation to  
30          the Joint Legislative Commission on Governmental Operations and a report to the Joint  
31          Legislative Oversight Committee on Information Technology if the project can be implemented  
32          within funds appropriated for GDAC projects.  
33          **§ 143B-1346. Data sharing.**  
34           (a)    General Duties of All State Agencies. – Unless otherwise provided by this article  
35           and except as limited or prohibited by federal law, the head of each State agency, department,  
36           and institution shall do all of the following:  
37           (1)    Grant the GDAC access to all information required to develop and support  
38           State business intelligence applications pursuant to this section. The State  
39           CIO and the GDAC shall take all necessary actions and precautions,  
40           including training, certifications, background checks, and governance policy  
41           and procedure, to ensure the security, integrity, and privacy of the data in  
42           accordance with State and federal law and as may be required by contract.  
43           (2)    Provide complete information on the State agency's information technology,  
44           operational, and security requirements.  
45           (3)    Provide information on all of the State agency's information technology  
46           activities relevant to the State business intelligence effort.  
47           (4)    Forecast the State agency's projected future business intelligence information  
48           technology needs and capabilities.  
49           (5)    Ensure that the State agency's future information technology initiatives  
50           coordinate efforts with the GDAC to include planning and development of



1 data interfaces to incorporate data into the initiative and to ensure the ability  
2 to leverage analytics capabilities.

3 (6) Provide technical and business resources to participate in the initiative by  
4 providing, upon request and in a timely and responsive manner, complete  
5 and accurate data, business rules and policies, and support.

6 (7) Identify potential resources for deploying business intelligence in their  
7 respective State agencies and as part of the enterprise-level effort.

8 (8) Immediately seek any waivers and enter into any written agreements that  
9 may be required by State or federal law to effectuate data sharing and to  
10 carry out the purposes of this section, as appropriate.

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

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

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

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

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

34 (5) The Department of Revenue shall release to GDAC, or otherwise provide  
35 access to, all data requested by GDAC relating to the registration and  
36 address information of active businesses, business tax reporting, and  
37 aggregate federal tax Form 1099 data for comparison with information from  
38 DES, the Rate Bureau, and the Department of the State CIO for the  
39 evaluation of business reporting. Additionally, the Department of Revenue  
40 shall furnish to the GDAC, upon request, other tax information, provided  
41 that the information furnished does not impair or violate any information  
42 sharing agreements between the Department and the United States Internal  
43 Revenue Service. Notwithstanding any other provision of law, a  
44 determination of whether furnishing the information requested by GDAC  
45 would impair or violate any information sharing agreements between the  
46 Department of Revenue and the United States Internal Revenue Service shall  
47 be within the sole discretion of the State Chief Information Officer. The  
48 Department of Revenue and the Office of the State CIO shall work jointly to  
49 assure that the evaluation of tax information pursuant to this subdivision is  
50 performed in accordance with applicable federal law.

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

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

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

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

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

18           b. Authorized to access and view individually identifiable health  
19 information, provided that the access is essential to the enterprise  
20 fraud, waste, and improper payment detection program or required  
21 for future initiatives having specific definable need for the  
22 information.

23           c. Authorized to access all State and federal data, including revenue and  
24 labor information, deemed to be essential to the enterprise fraud,  
25 waste, and improper payment detection program or future initiatives  
26 having specific definable need for the data.

27           d. Authorized to develop agreements with the federal government to  
28 access data deemed to be essential to the enterprise fraud, waste, and  
29 improper payment detection program or future initiatives having  
30 specific definable need for such data.

31       (e) Release of Information. – The following limitations apply to (i) the release of  
32 information compiled as part of the initiative, (ii) data from State agencies that is incorporated  
33 into the initiative, and (iii) data released as part of the implementation of the initiative:

34           (1) Information compiled as part of the initiative. – Notwithstanding the  
35 provisions of Chapter 132 of the General Statutes, information compiled by  
36 the State CIO and the GDAC related to the initiative may be released as a  
37 public record only if the State CIO, in that officer's sole discretion, finds that  
38 the release of information is in the best interest of the general public and is  
39 not in violation of law or contract.

40           (2) Data from State agencies. – Any data that is not classified as a public record  
41 under G.S. 132-1 shall not be deemed a public record when incorporated into  
42 the data resources comprising the initiative. To maintain confidentiality  
43 requirements attached to the information provided to the State CIO and  
44 GDAC, each source agency providing data shall be the sole custodian of the  
45 data for the purpose of any request for inspection or copies of the data under  
46 Chapter 132 of the General Statutes.

47           (3) Data released as part of implementation. – Information released to persons  
48 engaged in implementing the State's business intelligence strategy under this  
49 section that is used for purposes other than official State business is not a  
50 public record pursuant to Chapter 132 of the General Statutes.

- 1           (4) Data from North Carolina Rate Bureau. – Notwithstanding any other  
2 provision of this section, any data released by or obtained from the North  
3 Carolina Rate Bureau under this initiative relating to workers' compensation  
4 insurance claims, business ratings, or premiums are not public records and  
5 public disclosure of such data, in whole or in part, by the GDAC or State  
6 CIO, or by any State agency, is prohibited.

7 **"§ 143B-1347. GDAC funding.**

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

16 **"§ 143B-1348. GDAC reporting.**

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

- 18           (1) Submit and present quarterly reports on the activities described in this  
19 section to the chairs of the House of Representatives Appropriations and  
20 Senate Base Budget/Appropriations Committees, to the Joint Legislative  
21 Oversight Committee on Information Technology, and to the Fiscal  
22 Research Division of the General Assembly.  
23           (2) Report the following information upon its occurrence or as requested:  
24           a. Any failure of a State agency to provide information requested  
25 pursuant to this section. The failure shall be reported to the Joint  
26 Legislative Oversight Committee on Information Technology and to  
27 the chairs of the House of Representatives Appropriations and Senate  
28 Base Budget/Appropriations Committees.  
29           b. Any additional information to the Joint Legislative Commission on  
30 Governmental Operations and the Joint Legislative Oversight  
31 Committee on Information Technology that is requested by those  
32 entities.  
33           c. The State CIO shall report to the Joint Legislative Oversight  
34 Committee on Information Technology on projects that are not  
35 achieving projected savings. The report shall include a proposed  
36 corrective action plan for the project.

37                       "Part 9. Criminal Justice Information.

38 **"§ 143B-1349. Definitions.**

39       As used in this Part:

- 40           (1) "Board" means the Criminal Justice Information Network Governing Board.  
41           (2) "Local government user" means a unit of local government of this State  
42 having authorized access to the Network.  
43           (3) "Network" means the Criminal Justice Information Network established by  
44 the Board pursuant to this Article.  
45           (4) "Network user" or "user" means any person having authorized access to the  
46 Network.  
47           (5) "State agency" means any State department, agency, institution, board,  
48 commission, or other unit of State government.

49 **"§ 143B-1350. Criminal Justice Information Network.**

50       (a) The Criminal Justice Information Network Governing Board is established within  
51 the Office of the State Chief Information Officer to operate the State's Criminal Justice

1 Information Network, the purpose of which shall be to provide the governmental and technical  
2 information systems infrastructure necessary for accomplishing State and local governmental  
3 public safety and justice functions in the most effective manner by appropriately and efficiently  
4 sharing criminal justice and juvenile justice information among law enforcement, judicial, and  
5 corrections agencies. The Board is established within the Department, for organizational and  
6 budgetary purposes only, and the Board shall exercise all of its statutory powers in this Article  
7 independent of control by State CIO.

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

9 (1) Five members appointed by the Governor, including one member who is a  
10 director or employee of a State correction agency for a term to begin  
11 September 1, 1996, and to expire on June 30, 1997, one member who is an  
12 employee of the North Carolina Department of Public Safety for a term  
13 beginning September 1, 1996, and to expire on June 30, 1997, one member  
14 selected from the North Carolina Association of Chiefs of Police for a term  
15 to begin September 1, 1996, and to expire on June 30, 1999, one member  
16 who is an employee of the Division of Juvenile Justice of the Department of  
17 Public Safety, and one member who represents the Division of Motor  
18 Vehicles.

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

21 a. Three members recommended by the President Pro Tempore of the  
22 Senate, including two members of the general public for terms to  
23 begin on September 1, 1996, and to expire on June 30, 1997, and one  
24 member selected from the North Carolina League of Municipalities  
25 who is a member of, or an employee working directly for, the  
26 governing board of a North Carolina municipality for a term to begin  
27 on September 1, 1996, and to expire on June 30, 1999; and

28 b. Three members recommended by the Speaker of the House of  
29 Representatives, including two members of the general public for  
30 terms to begin on September 1, 1996, and to expire on June 30, 1999,  
31 and one member selected from the North Carolina Association of  
32 County Commissioners who is a member of, or an employee working  
33 directly for, the governing board of a North Carolina county for a  
34 term to begin on September 1, 1996, and to expire on June 30, 1997.

35 (3) Two members appointed by the Attorney General, including one member  
36 who is an employee of the Attorney General for a term to begin on  
37 September 1, 1996, and to expire on June 30, 1997, and one member from  
38 the North Carolina Sheriffs' Association for a term to begin on September 1,  
39 1996, and to expire on June 30, 1999.

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

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

45 b. One member who is a district attorney or an assistant district attorney  
46 upon the recommendation of the Conference of District Attorneys of  
47 North Carolina, for a term beginning July 1, 1998, and expiring June  
48 30, 1999.

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

1           d.     One member who is a magistrate upon the recommendation of the  
2                 North Carolina Magistrates' Association, for a term beginning July 1,  
3                 1998, and expiring June 30, 1999.

4           e.     One member who is a clerk of superior court upon the  
5                 recommendation of the North Carolina Association of Clerks of  
6                 Superior Court, for a term beginning July 1, 1998, and expiring June  
7                 30, 1999.

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

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

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

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

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

29           **"§ 143B-1351. Compensation and expenses of Board members.**

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

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

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

35           **"§ 143B-1352. Powers and duties.**

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

37           (1)    To establish and operate the Network as an integrated system of State and  
38                 local government components for effectively and efficiently storing,  
39                 communicating, and using criminal justice information at the State and local  
40                 levels throughout North Carolina's law enforcement, judicial, juvenile  
41                 justice, and corrections agencies, with the components of the Network to  
42                 include electronic devices, programs, data, and governance and to set the  
43                 Network's policies and procedures.

44           (2)    To develop and adopt uniform standards and cost-effective information  
45                 technology, after thorough evaluation of the capacity of information  
46                 technology to meet the present and future needs of the State and, in  
47                 consultation with the Department of Information Technology, to develop and  
48                 adopt standards for entering, storing, and transmitting information in  
49                 criminal justice databases and for achieving maximum compatibility among  
50                 user technologies.

- 1           (3)    To identify the funds needed to establish and maintain the Network, identify  
2           public and private sources of funding, and secure funding to:  
3           a.     Create the Network and facilitate the sharing of information among  
4           users of the Network; and  
5           b.     Make grants to local government users to enable them to acquire or  
6           improve elements of the Network that lie within the responsibility of  
7           their agencies or State agencies; provided that the elements  
8           developed with the funds must be available for use by the State or by  
9           local governments without cost and the applicable State agencies join  
10          in the request for funding.  
11          (4)    To provide assistance to local governments for the financial and systems  
12          planning for Network-related automation and to coordinate and assist the  
13          Network users of this State in soliciting bids for information technology  
14          hardware, software, and services in order to assure compliance with the  
15          Board's technical standards, to gain the most advantageous contracts for the  
16          Network users of this State, and to assure financial accountability where  
17          State funds are used.  
18          (5)    To provide a liaison among local government users and to advocate on  
19          behalf of the Network and its users in connection with legislation affecting  
20          the Network.  
21          (6)    To facilitate the sharing of knowledge about information technologies  
22          among users of the Network.  
23          (7)    To take any other appropriate actions to foster the development of the  
24          Network.

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

27          **"§ 143B-1353. Election of officers; meetings; staff, etc.**

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

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

37                                    "Part 10. Emergency Telephone Service.

38          **"§ 143B-1354 through § 143B-1364.**

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

40          **"§ 143B-1365 through § 143B-1368."**

41  
42          **INSTRUCTIONS TO THE REVISOR OF STATUTES**

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

- 45                  (1)    Article 3 of Chapter 62A of the General Statutes (Emergency Telephone  
46                          Service) is recodified as Part 10 of Article 14 of Chapter 143B of the  
47                          General Statutes with the sections to be numbered as G.S. 143B-1354  
48                          through G.S. 143B-1364, respectively.  
49                  (2)    Article 76 of Chapter 143 of the General Statutes (North Carolina  
50                          Geographic Information Coordinating Council) is recodified as Part 11 of

1 Article 14 of Chapter 143B of the General Statutes with the sections to be  
2 recodified as G.S. 143B-1365 through 143B-1368, respectively.

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

7  
8 **CONFORMING AND TECHNICAL CHANGES RELATING TO DEPARTMENT OF**  
9 **INFORMATION TECHNOLOGY**

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

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

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

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

18 ...  
19 (2) Article 3D of Chapter 147 of the General Statutes. The Authority may use  
20 the services of the ~~Office of Information Technology Services~~ Department of  
21 Information Technology in procuring goods and services that are not specific  
22 to establishing and operating a toll revenue system. ~~All~~ However, all  
23 contract information for contracts for information technology are subject to  
24 disclosure in accordance with ~~G.S. 147-33.95~~ Article 14 of Chapter 143B of  
25 the General Statutes."

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

27 **"§ 138A-3. Definitions.**

28 The following definitions apply in this Chapter:

29 ...  
30 (30) Public servants. – All of the following:

31 ...  
32 p. ~~The chief information officer,~~ State Chief Information Officer,  
33 deputy chief information officers, chief financial officers, and  
34 general counsel of the ~~Office of~~ Department of Information  
35 Technology.

36 ...."

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

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

39 ...  
40 (7) Purchases of information technology through contracts established by the  
41 ~~State Office of~~ Department of Information Technology as provided in  
42 ~~G.S. 147-33.82(b) and G.S. 147-33.92(b).~~ Article 14 of Chapter 143B of the  
43 General Statutes."

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

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

50 (1) A statement of its needs for information technology and related resources,  
51 including expected improvements to programmatic or business operations,

1 together with a review and evaluation of that statement prepared by the State  
2 Chief Information Officer.

- 3 (2) A statement setting forth the requirements for State resources, together with  
4 an evaluation of those requirements by the State Chief Information Officer  
5 that takes into consideration the State's current technology, the opportunities  
6 for technology sharing, the requirements of ~~Article 3D of Chapter 147~~  
7 Article 14 of Chapter 143B of the General Statutes, and any other factors  
8 relevant to the analysis. And, in cases of an acquisition, an explanation of the  
9 method by which the acquisition is to be financed.
- 10 (3) A statement by the State Chief Information Officer that sets forth viable  
11 alternatives, if any, for meeting the agency needs in an economical and  
12 efficient manner. A statement setting forth the requirements for State  
13 resources, together with an evaluation of those requirements, including  
14 expected improvements to programmatic or business operations by the  
15 Secretary that takes into consideration the State's current technology, the  
16 opportunities for technology sharing, the requirements of the General  
17 Statutes, and any other factors relevant to the analysis.
- 18 (4) In the case of an acquisition, an explanation of the method by which the  
19 acquisition is to be financed.

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

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

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

- 26 ...
- 27 (10) The need for the State Chief Information Officer to implement the  
28 information technology procurement provisions of ~~Article 3D of Chapter~~  
29 ~~147 of Article 14 of Chapter 143B of the General Statutes.~~"

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

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

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

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

37 ...."

### 38 ADMINISTRATIVE MATTERS/DIT

39 **SECTION 7A.5.** No action or proceeding pending on July 1, 2015, brought by or  
40 against the Office of Information Technology Services or the Office of the State Chief  
41 Information Officer shall be affected by any provision of this act, but the same may be  
42 prosecuted or defended in the name of the Department of Information Technology. In these  
43 actions and proceedings, the Department shall be substituted as a party upon proper application  
44 to the courts or other public bodies. Any business or other matter undertaken or commanded by  
45 the Office of Information Technology Services or the Office of the State Chief Information  
46 Officer regarding any State program, office, or contract or pertaining to or connected with its  
47 respective functions, powers, obligations, and duties that are pending on the date this act  
48 becomes effective may be conducted and completed by the Department of Information  
49 Technology in the same manner and under the same terms and conditions and with the same  
50 effect as if conducted and completed by the former commission, director, or office. Unless  
51



1 otherwise specifically provided by this act, any previous assignment of duties within the  
2 purview of this act by the Governor or General Assembly shall have continued validity.

## 3 4 **PART VIII. PUBLIC SCHOOLS**

### 5 6 **FUNDS FOR CHILDREN WITH DISABILITIES**

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

### 16 17 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

18 **SECTION 8.2.** The State Board of Education shall allocate additional funds for  
19 academically or intellectually gifted children on the basis of one thousand two hundred eighty  
20 dollars and seventy cents (\$1,280.70) per child for fiscal years 2015-2016 and 2016-2017. A  
21 local school administrative unit shall receive funds for a maximum of four percent (4%) of its  
22 2015-2016 allocated average daily membership, regardless of the number of children identified  
23 as academically or intellectually gifted in the unit. The dollar amounts allocated under this  
24 section for academically or intellectually gifted children shall also be adjusted in accordance  
25 with legislative salary increments, retirement rate adjustments, and health benefit adjustments  
26 for personnel who serve academically or intellectually gifted children.

### 27 28 **USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

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

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

- 40 (1) "Anticipated county property tax revenue availability" means the  
41 county-adjusted property tax base multiplied by the effective State average  
42 tax rate.
- 43 (2) "Anticipated total county revenue availability" means the sum of the  
44 following:
- 45 a. Anticipated county property tax revenue availability.
  - 46 b. Local sales and use taxes received by the county that are levied under  
47 Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of  
48 Chapter 105 of the General Statutes.
  - 49 c. Fines and forfeitures deposited in the county school fund for the most  
50 recent year for which data are available.

- 1 (3) "Anticipated total county revenue availability per student" means the  
2 anticipated total county revenue availability for the county divided by the  
3 average daily membership of the county.
- 4 (4) "Anticipated State average revenue availability per student" means the sum  
5 of all anticipated total county revenue availability divided by the average  
6 daily membership for the State.
- 7 (5) "Average daily membership" means average daily membership as defined in  
8 the North Carolina Public Schools Allotment Policy Manual adopted by the  
9 State Board of Education. If a county contains only part of a local school  
10 administrative unit, the average daily membership of that county includes all  
11 students who reside within the county and attend that local school  
12 administrative unit.
- 13 (6) "County-adjusted property tax base" shall be computed as follows:  
14 a. Subtract the present-use value of agricultural land, horticultural land,  
15 and forestland in the county, as defined in G.S. 105-277.2, from the  
16 total assessed real property valuation of the county.  
17 b. Adjust the resulting amount by multiplying by a weighted average of  
18 the three most recent annual sales assessment ratio studies.  
19 c. Add to the resulting amount the following:  
20 1. Present-use value of agricultural land, horticultural land, and  
21 forestland, as defined in G.S. 105-277.2.  
22 2. Value of property of public service companies, determined in  
23 accordance with Article 23 of Chapter 105 of the General  
24 Statutes.  
25 3. Personal property value for the county.
- 26 (7) "County-adjusted property tax base per square mile" means the  
27 county-adjusted property tax base divided by the number of square miles of  
28 land area in the county.
- 29 (8) "County wealth as a percentage of State average wealth" shall be computed  
30 as follows:  
31 a. Compute the percentage that the county per capita income is of the  
32 State per capita income and weight the resulting percentage by a  
33 factor of five-tenths.  
34 b. Compute the percentage that the anticipated total county revenue  
35 availability per student is of the anticipated State average revenue  
36 availability per student and weight the resulting percentage by a  
37 factor of four-tenths.  
38 c. Compute the percentage that the county-adjusted property tax base  
39 per square mile is of the State-adjusted property tax base per square  
40 mile and weight the resulting percentage by a factor of one-tenth.  
41 d. Add the three weighted percentages to derive the county wealth as a  
42 percentage of the State average wealth.
- 43 (9) "Effective county tax rate" means the actual county tax rate multiplied by a  
44 weighted average of the three most recent annual sales assessment ratio  
45 studies.
- 46 (10) "Effective State average tax rate" means the average of effective county tax  
47 rates for all counties.
- 48 (11) "Local current expense funds" means the most recent county current expense  
49 appropriations to public schools, as reported by local boards of education in  
50 the audit report filed with the Secretary of the Local Government  
51 Commission pursuant to G.S. 115C-447.

- 1 (12) "Per capita income" means the average for the most recent three years for  
2 which data are available of the per capita income according to the most  
3 recent report of the United States Department of Commerce, Bureau of  
4 Economic Analysis, including any reported modifications for prior years as  
5 outlined in the most recent report.
- 6 (13) "Sales assessment ratio studies" means sales assessment ratio studies  
7 performed by the Department of Revenue under G.S. 105-289(h).
- 8 (14) "State average current expense appropriations per student" means the most  
9 recent State total of county current expense appropriations to public schools,  
10 as reported by local boards of education in the audit report filed with the  
11 Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- 12 (15) "State average adjusted property tax base per square mile" means the sum of  
13 the county-adjusted property tax bases for all counties divided by the  
14 number of square miles of land area in the State.
- 15 (16) "Supplant" means to decrease local per student current expense  
16 appropriations from one fiscal year to the next fiscal year.
- 17 (17) "Weighted average of the three most recent annual sales assessment ratio  
18 studies" means the weighted average of the three most recent annual sales  
19 assessment ratio studies in the most recent years for which county current  
20 expense appropriations and adjusted property tax valuations are available. If  
21 real property in a county has been revalued one year prior to the most recent  
22 sales assessment ratio study, a weighted average of the two most recent sales  
23 assessment ratios shall be used. If property has been revalued the year of the  
24 most recent sales assessment ratio study, the sales assessment ratio for the  
25 year of revaluation shall be used.

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

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

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

50 **SECTION 8.3.(f)** Minimum Effort Required. – A county that (i) maintains an  
51 effective county tax rate that is at least one hundred percent (100%) of the effective State

1 average tax rate in the most recent year for which data are available or (ii) maintains a county  
2 appropriation per student to the school local current expense fund of at least one hundred  
3 percent (100%) of the current expense appropriations per student to the school local current  
4 expense fund that the county could provide given the county's wealth and an average effort to  
5 fund public schools shall receive full funding under this section. A county that maintains a  
6 county appropriation per student to the school local current expense fund of less than one  
7 hundred percent (100%) of the current expense appropriations per student to the school local  
8 current expense fund that the county could provide given the county's wealth and an average  
9 effort to fund public schools shall receive funding under this section at the same percentage that  
10 the county's appropriation per student to the school local current expense fund is of the current  
11 expense appropriations per student to the school local current expense fund that the county  
12 could provide given the county's wealth and an average effort to fund public schools.

13 **SECTION 8.3.(g) Nonsupplant Requirement.** – A county in which a local school  
14 administrative unit receives funds under this section shall use the funds to supplement local  
15 current expense funds and shall not supplant local current expense funds. For the 2015-2017  
16 fiscal biennium, the State Board of Education shall not allocate funds under this section to a  
17 county found to have used these funds to supplant local per student current expense funds. The  
18 State Board of Education shall make a finding that a county has used these funds to supplant  
19 local current expense funds in the prior year, or the year for which the most recent data are  
20 available, if all of the following criteria apply:

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

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

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

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

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

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

## 50 51 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

1           **SECTION 8.4.(a)** Allotment Schedule for the 2015-2017 Fiscal Biennium. –  
 2 Except as otherwise provided in subsection (d) of this section, each eligible county school  
 3 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

13           **SECTION 8.4.(b)** Phase-Out Provision for the 2015-2016 Fiscal Year. – If a local  
 14 school administrative unit becomes ineligible for funding under the schedule in subsection (a)  
 15 of this section in the 2015-2016 fiscal year, funding for that unit shall be phased out over a  
 16 five-year period. Funding for such local administrative units shall be reduced in equal  
 17 increments in each of the five years after the local administrative unit becomes ineligible.  
 18 Funding shall be eliminated in the fifth fiscal year after the local administrative unit becomes  
 19 ineligible.

20           Allotments for eligible local school administrative units under this subsection shall  
 21 not be reduced by more than twenty percent (20%) of the amount received in fiscal year  
 22 2014-2015 in any fiscal year.

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

30           Allotments for eligible local school administrative units under this subsection shall  
 31 not be reduced by more than twenty percent (20%) of the amount received in fiscal year  
 32 2015-2016 in any fiscal year.

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

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

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

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

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

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

#### 9 **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING (DSSF)**

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

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

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

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

- 30           (1) For counties with wealth greater than ninety percent (90%) of the statewide  
31 average, a ratio of 1:19.9.
- 32           (2) For counties with wealth not less than eighty percent (80%) and not greater  
33 than ninety percent (90%) of the statewide average, a ratio of 1:19.4.
- 34           (3) For counties with wealth less than eighty percent (80%) of the statewide  
35 average, a ratio of 1:19.1.
- 36           (4) For local school administrative units receiving DSSF funds in fiscal year  
37 2005-2006, a ratio of 1:16. These local school administrative units shall  
38 receive no less than the DSSF amount allotted in fiscal year 2006-2007.

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

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

#### 45 **UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS**

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

#### 49 **COOPERATIVE INNOVATIVE HIGH SCHOOLS**

1           **SECTION 8.8.** G.S. 115C-238.54 is amended by adding a new subsection to read:  
2           "(j) Any State funds appropriated for cooperative innovative high schools shall not be  
3 adjusted to reflect legislative salary increments, retirement rate adjustments, and health benefit  
4 adjustments for school personnel, unless specifically provided for by the General Assembly."  
5

#### 6 **STUDY NCVPS ALTERNATIVE FUNDING FORMULA**

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

14           **SECTION 8.11.(b)** The State Board of Education shall report the results of the  
15 study under subsection (a) of this section and any legislative recommendations to the Joint  
16 Legislative Education Oversight Committee by January 15, 2016.  
17

#### 18 **REVISE THE DESIGNATION OF THE TEXTBOOK FUNDING ALLOTMENT**

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

22           **SECTION 8.18.(b)** The State Board of Education shall establish the purposes for  
23 which the funds within the new Textbooks and Digital Resources funding allotment may be  
24 used for as follows: (i) to acquire textbooks as defined in G.S. 115C-85, which includes  
25 technology-based programs, and (ii) only for allowable expenditures as were permitted under  
26 the Textbooks funding allotment as of June 30, 2015.  
27

#### 28 **REPEAL UNNECESSARY STATE BOARD OF EDUCATION REPORTS**

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

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

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

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

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

9 ~~The Beginning in 2016, the State Board shall report to the Joint~~  
10 ~~Legislative Education Oversight Committee by November 15 of each~~  
11 ~~even-numbered year on the reports identified that are required at the State~~  
12 ~~level, the evaluation and determination for continuing individual reports,~~  
13 ~~including the consideration of whether those reports exceed what is required~~  
14 ~~by State and federal law, and any reports that it has consolidated or~~  
15 ~~eliminated for the upcoming school year."~~

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

17 "(25) Duty to Report to Joint Legislative Education Oversight Committee. – Upon  
18 the request of the Joint Legislative Education Oversight Committee, the  
19 State Board shall examine and evaluate issues, programs, policies, and fiscal  
20 information, and shall make reports to that Committee. Furthermore,  
21 beginning ~~October 15, 1997, October 15, 2015,~~ and annually thereafter, the  
22 State Board shall submit reports to that Committee regarding ~~the continued~~  
23 ~~implementation of Chapter 716 of the 1995 Session Laws, 1996 Regular~~  
24 ~~Session. Each report shall include information regarding the composition~~  
25 ~~and activity of assistance teams, schools that received incentive awards,~~  
26 schools identified as low-performing, school improvement plans found to  
27 significantly improve student performance, personnel actions taken in  
28 low-performing schools, and recommendations for additional legislation to  
29 improve student performance and increase local flexibility."

30 **SECTION 8.25.(c)** Report on State School Technology Plan. –

31 G.S. 115C-102.6B(b) reads as rewritten:

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

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

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

40 **"§ 115C-375.3. Guidelines to support and assist students with diabetes.**

41 Local boards of education and boards of directors of charter schools shall ensure that the  
42 guidelines adopted by the State Board of Education under G.S. 115C-12(31) are implemented  
43 in schools in which students with diabetes are enrolled. In particular, the boards shall require  
44 the implementation of the procedures set forth in those guidelines for the development and  
45 implementation of individual diabetes care plans. The boards also shall make available  
46 necessary information and staff development to teachers and school personnel in order to  
47 appropriately support and assist students with diabetes in accordance with their individual  
48 diabetes care plans. ~~Local boards of education and boards of directors of charter schools shall~~  
49 ~~report to the State Board of Education annually, on or before August 15, whether they have~~  
50 ~~students with diabetes enrolled and provide information showing compliance with the~~  
51 ~~guidelines adopted by the State Board of Education under G.S. 115C 12(31). These reports~~



1 shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. §  
2 1232g."  
3

#### 4 **INVESTING IN INNOVATION GRANT**

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

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

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

19 **SECTION 8.27.(d)** Research conducted as part of the federal grant program under  
20 subsection (a) of this section shall address the effects of early college strategies in preparing  
21 students for college completion. The North Carolina New Schools Project shall report on the  
22 implementation of the grant to the State Board of Education, State Board of Community  
23 Colleges, Office of the Governor, and the Joint Legislative Education Oversight Committee no  
24 later than March 15, 2016, and annually thereafter until the end of the grant period.  
25

#### 26 **STUDY ON CHARTER SCHOOL CLOSURE FUNDS**

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

37 **SECTION 8.28.(b)** By February 15, 2016, the State Board of Education shall  
38 report to the Joint Legislative Education Oversight Committee on the results of the study and a  
39 proposed policy as required by subsection (a) of this section, including any legislative  
40 recommendations.  
41

#### 42 **TEXTBOOKS AND DIGITAL RESOURCES ALLOTMENT/USE OF FUNDS**

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

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

- 47 (1) A description of each program report code, written in plain English, and a  
48 summary of the prior fiscal year's expenditure of State funds within each  
49 program report code.

- 1 (2) A description of each object code within a program report code, written in  
2 plain English, and a summary of the prior fiscal year's expenditure of State  
3 funds for each object code.
- 4 (3) A description of each allotment transfer that increased or decreased the  
5 initial allotment amount by more than five percent (5%) and the educational  
6 priorities that necessitated the transfer.
- 7 (4) A description of any transfer of funds from the textbooks and digital  
8 resources allotment into another allotment category with an explanation of  
9 why the transfer from the textbooks and digital resources allotment was  
10 made to a different allotment category.
- 11 (5) A chart that clearly reflects how the local school administrative unit spent  
12 State funds."

#### 13 14 **STUDY ON JUVENILE LITERACY PROGRAM**

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

- 18 (1) Examine the impact of the program on (i) improving basic literacy skills, (ii)  
19 reintegrating juveniles into schools, (iii) preventing criminal behavior and  
20 recidivism, (iv) developing overall academic skills, and (v) addressing  
21 problem behaviors in school.
- 22 (2) Evaluate the existing program for potential expansion into other counties,  
23 including projected costs, feasibility of implementation, and  
24 recommendations for locations for additional programs.

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

#### 28 29 **BUDGET REDUCTIONS/DEPARTMENT OF PUBLIC INSTRUCTION**

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

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

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

#### 48 49 **LOCAL BOARDS OF EDUCATION/PERFORMANCE-BASED RIFS**

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

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

3       (1) In determining which positions shall be subject to a reduction, a local school  
4 administrative unit shall consider the following:

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

11       b. Organizational considerations, such as anticipated organizational  
12 needs of the school system and program or school enrollment.

13       (2) In identifying which teachers in similar positions shall be subject to a  
14 dismissal, demotion, or reduction to employment on a part-time basis under  
15 the policy, a local school administrative unit shall consider work  
16 performance and teacher evaluations."

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

18 "(2) Reduction in Force. –

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

22       1. In determining which positions shall be subject to a reduction,  
23 a local school administrative unit shall consider the  
24 following:

25       I. Structural considerations, such as identifying  
26 positions, departments, courses, programs, operations,  
27 and other areas where there are (i) less essential,  
28 duplicative, or excess personnel; (ii) job responsibility  
29 and position inefficiencies; (iii) opportunities for  
30 combined work functions; and (iv) decreased student  
31 or other demands for curriculum, programs,  
32 operations, or other services.

33       II. Organizational considerations, such as anticipated  
34 organizational needs of the school system and  
35 program or school enrollment.

36       2. In identifying which teachers in similar positions shall be  
37 subject to a dismissal, demotion, or reduction to employment  
38 on a part-time basis under the policy, a local school  
39 administrative unit shall consider work performance and  
40 teacher evaluations.

41       b. Before recommending to a board the dismissal or demotion of the  
42 career employee pursuant to G.S. 115C-325(e)(1)l., the  
43 superintendent shall give written notice to the career employee by  
44 certified mail or personal delivery of his intention to make such  
45 recommendation and shall set forth as part of his or her  
46 recommendation the grounds upon which he or she believes such  
47 dismissal or demotion is justified. The notice shall include a  
48 statement to the effect that if the career employee within 15 days  
49 after receipt of the notice requests a review, he or she shall be  
50 entitled to have the proposed recommendations of the superintendent  
51 reviewed by the board. Within the 15-day period after receipt of the

1 notice, the career employee may file with the superintendent a  
2 written request for a hearing before the board within 10 days. If the  
3 career employee requests a hearing before the board, the hearing  
4 procedures provided in G.S. 115C-325(j3) shall be followed. If no  
5 request is made within the 15-day period, the superintendent may file  
6 his or her recommendation with the board. If, after considering the  
7 recommendation of the superintendent and the evidence adduced at  
8 the hearing if there is one, the board concludes that the grounds for  
9 the recommendation are true and substantiated by a preponderance of  
10 the evidence, the board, if it sees fit, may by resolution order such  
11 dismissal. Provisions of this section which permit a hearing by a  
12 hearing officer shall not apply to a dismissal or demotion  
13 recommended pursuant to G.S. 115C-325(e)(1)l.

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

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

## 20 DRIVER EDUCATION TRAINING

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

22 "**§ 115C-216. Boards of education required to provide courses in operation of motor**  
23 **vehicles.**

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

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

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

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

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

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

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

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

43 "(b86) Concerned Bikers Association/ABATE of North Carolina. – The Division must  
44 receive 300 or more applications for the "Concerned Bikers Association/ABATE of North  
45 Carolina" plate before the plate may be developed. The Division shall transfer quarterly the  
46 money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the  
47 "Concerned Bikers Association/ABATE of North Carolina" plates to the ~~Department of Public~~  
48 ~~Instruction~~ Community Colleges System Office to support the driver training and safety  
49 education program established pursuant to ~~G.S. 115C-215~~ G.S. 115D-76.5 and to support  
50 motorcycle safety and awareness training as part of the driver training program."

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

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

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

7       "(4) At any other time when windshield wipers are in use as a result of smoke,  
8 fog, rain, sleet, or snow, or when inclement weather or environmental factors  
9 severely reduce the ability to clearly discern persons and vehicles on the  
10 street and highway at a distance of 500 feet ahead, provided, however, the  
11 provisions of this subdivision shall not apply to instances when windshield  
12 wipers are used intermittently in misting rain, sleet, or snow. Any person  
13 violating this subdivision during the period from October 1, 1990, through  
14 December 31, 1991, shall be given a warning of the violation only.  
15 Thereafter, any person violating this subdivision shall have committed an  
16 infraction and shall pay a fine of five dollars (\$5.00) and shall not be  
17 assessed court costs. No drivers license points, insurance points or premium  
18 surcharge shall be assessed on account of violation of this subdivision and  
19 no negligence or liability shall be assessed on or imputed to any party on  
20 account of a violation of this subdivision. The Commissioner of Motor  
21 Vehicles and the ~~Superintendent of Public Instruction~~ State Board of  
22 Community Colleges shall incorporate into driver education programs and  
23 driver licensing programs instruction designed to encourage compliance with  
24 this subdivision as an important means of reducing accidents by making  
25 vehicles more discernible during periods of limited visibility."

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

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

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

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

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

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

- 46       a. By a retailer and is to be transferred back to the retailer within 300  
47 days after the transfer to the ~~local board~~ board of trustees of the  
48 community college.
- 49       b. By a ~~local board of education~~ board of trustees of the community  
50 college."

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

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

- 5           a.     To define what is equivalent to a high school diploma for the  
6           purposes of G.S. 20-11 and G.S. 20-13.2. These rules shall apply to  
7           all educational programs offered in the State by public schools,  
8           charter schools, nonpublic schools, or community colleges.
- 9           b.     To establish the procedures a person who is or was enrolled in a  
10          public school or in a charter school must follow and the requirements  
11          that person shall meet to obtain a driving eligibility certificate.
- 12          c.     To require the person who is required under G.S. 20-11(n) to sign the  
13          driving eligibility certificate to provide the certificate if he or she  
14          determines that one of the following requirements is met:
- 15                 1.     The person seeking the certificate is eligible for the certificate  
16                         under G.S. 20-11(n)(1) and is not subject to G.S. 20-11(n1).
- 17                 2.     The person seeking the certificate is eligible for the certificate  
18                         under G.S. 20-11(n)(1) and G.S. 20-11(n1).
- 19          These rules shall apply to public schools and charter schools.
- 20          d.     To provide for an appeal to an appropriate education authority by a  
21          person who is denied a driving eligibility certificate. These rules  
22          shall apply to public schools and charter schools.
- 23          e.     To define exemplary student behavior and to define what constitutes  
24          the successful completion of a drug or alcohol treatment counseling  
25          program. These rules shall apply to public schools and charter  
26          schools.

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

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

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

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

#### 46                 **OFFICE OF EDUCATOR LICENSURE/TRANSFER FROM LICENSURE SECTION**

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

#### 49                 "§ 115C-295.5. Office of Educator Licensure.

50                 (a)     There is created the Office of Educator Licensure (OEL), which shall be under the  
51                 control of the State Board of Education. The OEL shall consist of an executive director

1 appointed by the State Board of Education and such other professional, administrative,  
2 technical, and clerical personnel as may be necessary to assist the OEL in carrying out its  
3 powers and duties within the funds available for this purpose. The State Board may direct the  
4 Department of Public Instruction to provide technical and administrative support to the OEL.

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

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

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

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

17 (d) The OEL shall maintain information on a publicly accessible Web site about the  
18 following:

19 (1) The process for licensure for educators in the State, including initial  
20 licensure, renewal of licensure, licensure reciprocity with other states, and  
21 lateral entry licensure.

22 (2) Licensure fee schedules.

23 (3) Licensure policies related to experience and degree credit for salary  
24 purposes.

25 (4) Licensure suspension and revocation.

26 (5) The current status of licensed educators in the State in a searchable format.

27 (e) The OEL shall maintain and make available statistical information about licensure  
28 in the State on a publicly accessible Web site, including the following:

29 (1) Updated at least weekly:

30 a. Number of applications received and transactions completed.

31 b. Number of newly licensed educators.

32 c. Number of licensure renewals.

33 (2) Updated at least annually:

34 a. Demographic information regarding currently licensed educators.

35 b. Number of licenses issued by area of licensure and type of license.

36 c. Number of initial licenses for the following:

37 1. Graduates of educator preparation programs.

38 2. Lateral entry.

39 3. International educators.

40 4. Out-of-State educators seeking reciprocity.

41 (f) The OEL shall be supported by fees as provided in G.S. 115C-296(a2)."

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

48 **SECTION 8.40.(c)** Effective January 1, 2016, the Licensure Section within the  
49 Department of Public Instruction is dissolved and the duties and functions of that section are  
50 transferred to the OEL, established under G.S. 115C-295.5, as enacted by subsection (a) of this  
51 section. This transfer shall have all of the elements of a Type I transfer, as defined in

1 G.S. 143A-6. Prior to the transfer on January 1, 2016, the executive director of the OEL shall,  
2 in consultation with the Licensure Section within the Department of Public Instruction, develop  
3 and implement a transition plan that addresses the transfer of duties and functions of the  
4 Licensure Section to the OEL to minimize disruption in the provision of services for educator  
5 licensure and renewals.

## 7 **MODIFY EDUCATOR PREPARATION PROGRAM APPROVAL PROCESS**

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

### 10 **"§ 115C-296.8. Educator preparation program approval process.**

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

18 (b) The standards for approval of educator preparation programs shall require that  
19 educator preparation program providers be either State-approved or nationally accredited.  
20 North Carolina program approval site visitors shall coordinate with educator preparation  
21 programs seeking national accreditation. State educator preparation program approval shall  
22 include the following components:

23 (1) Adoption of rules for granting State approval to educator preparation  
24 programs and units. These rules shall mirror national accreditation in efforts  
25 to maintain the same level of quality preparation across programs. The rules  
26 shall include all content, pedagogy, and clinical requirements required by  
27 State law.

28 (2) A State peer review process that includes highly qualified and trained  
29 members to adequately review programs within the State.

30 (3) Technical assistance to educator preparation programs in efforts to do the  
31 following:

32 a. Improve education quality and educator preparation program  
33 performance.

34 b. Inform programs about the program approval process as part of  
35 educator preparation program performance based on outcome data.

36 c. Assist with State and federal reporting process.

37 d. Help build and maintain partnerships between elementary and  
38 secondary schools and educator preparation programs.

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

43 (1) Failing to report required information to the State Board of Education as part  
44 of the reporting requirement.

45 (2) Offering misleading or false information about approved programs.

46 (3) Accepting students into any part of an educator preparation program that is  
47 not approved by the State Board of Education.

48 (4) Failing to comply with the educator preparation program review process.

49 (5) Failing to meet standards for approval set forth by the State Board of  
50 Education.

### 51 **"§ 115C-296.9. Minimum admissions requirements for educator preparation programs.**



1        (a) Testing. – An undergraduate student seeking a degree in education shall attain  
2 passing scores on a preprofessional skills test prior to admission to an approved program in the  
3 State. The State Board of Education shall permit students to fulfill this requirement by  
4 achieving the prescribed minimum scores set by the State Board of Education for the Praxis  
5 Core tests or by achieving the appropriate required scores, as determined by the State Board of  
6 Education, on the verbal and mathematics portions of the SAT or ACT. The minimum  
7 combined verbal and mathematics score set by the State Board for the SAT shall be 1,100 or  
8 greater. The minimum composite score set by the State Board for the ACT shall be 24 or  
9 greater.

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

15 **"§ 115C-296.10. Content and pedagogy requirements.**

16       (a) Content and Pedagogy Requirements for Educator Preparation Programs. – To  
17 ensure that educator preparation programs remain current and reflect a rigorous course of study  
18 that is aligned to State and national standards, the State Board of Education, in consultation  
19 with the Board of Governors of The University of North Carolina and the North Carolina  
20 Independent Colleges and Universities, Inc., shall require that the rules for approval of educator  
21 preparation programs include the following requirements with demonstrated competencies:

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

- 23           a. The identification and education of children with disabilities.  
24           b. Positive management of student behavior and effective  
25 communication techniques for defusing and deescalating disruptive  
26 or dangerous behavior.  
27           c. Demonstration of competencies in using digital and other  
28 instructional technologies to provide high-quality, integrated digital  
29 teaching and learning to all students.

30           (2) Elementary education teacher education preparation programs shall include  
31 the following:

- 32           a. Adequate coursework in the teaching of reading, writing, and  
33 mathematics.  
34           b. Assessment prior to licensure to determine if a student possesses the  
35 requisite knowledge in scientifically based reading, writing, and  
36 mathematics instruction that is aligned with the State Board's  
37 expectations.  
38           c. Instruction in application of formative and summative assessments  
39 within the school and classroom setting through technology-based  
40 assessment systems available in North Carolina schools that measure  
41 and predict expected student improvement.  
42           d. Instruction in integration of arts education across the curriculum.

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

- 47           a. Instruction in the teaching of reading, including a substantive  
48 understanding of reading as a process involving oral language,  
49 phonological and phonemic awareness, phonics, fluency, vocabulary,  
50 and comprehension. Instruction shall include appropriate application

- 1 of instructional supports and services and reading interventions to  
2 ensure reading proficiency for all students.
- 3 b. Instruction in evidence-based assessment and diagnosis of specific  
4 areas of difficulty with reading development and of reading  
5 deficiencies.
- 6 c. Instruction in appropriate application of instructional supports and  
7 services and reading interventions to ensure reading proficiency for  
8 all students.
- 9 (4) Middle and high school science teacher education preparation programs  
10 shall include adequate preparation in issues related to science laboratory  
11 safety.
- 12 (b) School Administrator Preparation Programs. – Rules for approval of school  
13 administrator preparation programs shall incorporate the criteria developed in accordance with  
14 G.S. 116-74.21 for assessing proposals under the School Administrator Training Program.
- 15 **§ 115C-296.11. Clinical partnerships and practice in educator preparation programs.**
- 16 (a) As used in this section, the following definitions shall apply:
- 17 (1) Clinical educator. – An individual employed by an elementary or secondary  
18 school, including a classroom teacher, who assesses, supports, and develops  
19 a student's knowledge, skills, and professional disposition during the clinical  
20 experience.
- 21 (2) Internship. – Part of a formal program to provide practical experience and  
22 training for beginners in the education profession.
- 23 (3) Residency. – A specified period of time in which a person is employed by a  
24 local school administrative unit to gain practical experience and training in  
25 educator preparation.
- 26 (b) The State Board of Education, in consultation with the Board of Governors of The  
27 University of North Carolina and the North Carolina Independent Colleges and Universities,  
28 Inc., shall adopt and establish rules for educator preparation that require at least the following:
- 29 (1) Educator preparation programs shall establish and maintain collaborative,  
30 formalized partnerships with elementary and secondary schools that are  
31 focused on student achievement, continuous school improvement, and the  
32 professional development of elementary and secondary educators, as well as  
33 those preparing educators.
- 34 (2) Educator preparation programs shall work collaboratively with elementary  
35 and secondary schools and enter into a memorandum of understanding with  
36 local school administrative units where students are placed. In the  
37 memorandum, the educator preparation program and the local school  
38 administrative unit shall:
- 39 a. Define the collaborative relationship between the educator  
40 preparation program and the local school administrative unit and how  
41 this partnership will be focused on continuous school improvement  
42 and student achievement.
- 43 b. Adopt a plan for collaborative teacher selection, orientation, and  
44 student placement.
- 45 c. Determine how information will be shared and verified between the  
46 educator preparation program and local school administrative unit.
- 47 (3) Educator preparation programs shall ensure clinical educators who supervise  
48 students in residencies or internships meet the following requirements:
- 49 a. Be professionally licensed in the field of licensure sought by the  
50 student.
- 51 b. Have a minimum of three years of experience in a teaching role.

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

5           (4)   Educator preparation programs shall require, in all programs leading to  
6               initial licensure, field experiences that include organized and sequenced  
7               engagement of students in settings that provide them with opportunities to  
8               observe, practice, and demonstrate knowledge and skills. The experiences  
9               shall be systematically designed and sequenced to increase the complexity  
10              and levels of engagement with which students apply, reflect upon, and  
11              expand their knowledge and skills.

12          (5)   Educator preparation programs shall require clinical practice in the form of  
13               residencies or internships in those fields for which they are approved by the  
14               State Board of Education. Residencies or internships shall be a minimum of  
15               16 weeks. Residencies and internships may be over the course of two  
16               semesters and shall, to the extent practicable, provide student experiences at  
17               both the beginning and ending of the school year.

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

23   **§ 115C-296.12. Lateral entry teacher education preparation programs.**

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

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

32               (2)   Positive management of student behavior.

33               (3)   Effective communication for defusing and deescalating disruptive or  
34               dangerous behavior.

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

36          (b)   The State Board of Education, in consultation with the State Board of Community  
37               Colleges and North Carolina Independent Colleges and Universities, Inc., may provide a  
38               competency-based program of study for lateral entry teachers to complete the coursework  
39               necessary to earn a teaching license. To this end, the State Board of Education, in consultation  
40               with the State Board of Community Colleges and North Carolina Independent Colleges and  
41               Universities, Inc., shall establish a competency-based program of study for lateral entry  
42               teachers to be implemented within the Community College System and at approved educator  
43               preparation programs at private, nonprofit two-year colleges. These programs shall meet  
44               standards set by the State Board of Education. To ensure that programs of study for lateral  
45               entry remain current and reflect a rigorous course of study that is aligned to State and national  
46               standards, the State Board of Education shall do all of the following to ensure that lateral entry  
47               personnel are prepared to teach:

48               (1)   Provide adequate coursework in the teaching of reading and mathematics for  
49               lateral entry teachers seeking certification in elementary education.

- 1           (2)   Assess lateral entry teachers prior to licensure to determine that they possess  
2           the requisite knowledge in scientifically based reading and mathematics  
3           instruction that is aligned with the State Board's expectations.  
4           (3)   Prepare all lateral entry teachers to apply formative and summative  
5           assessments within the school and classroom setting through  
6           technology-based assessment systems available in North Carolina schools  
7           that measure and predict expected student improvement.  
8           (4)   Require that lateral entry teachers demonstrate competencies in using digital  
9           and other instructional technologies to provide high-quality, integrated  
10          digital teaching and learning to all students.

11          (c)   The State Board of Community Colleges and the State Board of Education shall  
12          jointly identify the community college courses and the educator preparation program courses  
13          that are necessary and appropriate for inclusion in the community college program of study for  
14          lateral entry teachers. To the extent possible, any courses that must be completed through an  
15          approved educator preparation program shall be taught on a community college campus or shall  
16          be available through distance learning. The State Board of Education shall identify the  
17          appropriate courses for a private, nonprofit two-year college to include in the program of study  
18          for lateral entry teachers.

19          (d)   In order to participate in the community college or private, nonprofit two-year  
20          college program of study for lateral entry teachers, an individual must hold at least a bachelor's  
21          degree from a regionally accredited institution of higher education.

22          (e)   An individual who successfully completes the lateral entry program of study and  
23          meets all other requirements of licensure set by the State Board of Education shall be  
24          recommended for a North Carolina teaching license.

25          (f)   It is further the policy of the State of North Carolina to ensure that local boards of  
26          education can provide the strongest possible leadership for schools based upon the identified  
27          and changing needs of individual schools. The State Board of Education shall carefully  
28          consider a lateral entry program for school administrators to ensure that local boards of  
29          education will have sufficient flexibility to attract able candidates.

30          **"§ 115C-296.13. Educator preparation program reporting.**

31          (a)   Annual Performance Reports. – The State Board of Education shall require all  
32          approved educator preparation programs, including master's degree programs in teacher  
33          preparation and master's degree programs in school administration, to submit annual  
34          performance reports. The performance reports shall provide the State Board of Education with  
35          a focused review of the programs and the current process of accrediting these programs in order  
36          to ensure that the programs produce graduates that are well prepared to teach.

37          (b)   Required Elements. – The performance report for each educator preparation  
38          program in North Carolina shall follow a common format and include at least the following  
39          elements:

- 40               (1)   Quality of students entering the educator preparation program, including the  
41               average grade point average and average score on preprofessional skills tests  
42               that assess reading, writing, mathematics, and other competencies.  
43               (2)   Graduation rates.  
44               (3)   Time-to-graduation rates.  
45               (4)   Average scores of graduates on professional and content area examination  
46               for the purpose of licensure.  
47               (5)   Percentage of graduates receiving initial licenses.  
48               (6)   Percentage of graduates hired as teachers.  
49               (7)   Percentage of graduates remaining in teaching for four years.  
50               (8)   Graduate satisfaction based on a common survey.  
51               (9)   Employer satisfaction based on a common survey.

1           (10) Effectiveness of teacher preparation program graduates.

2           (c) Submission of Annual Performance Reports. – Performance reports shall be  
3 provided annually to the Board of Governors of The University of North Carolina, the State  
4 Board of Education, and the boards of trustees of nonpublic postsecondary colleges. The State  
5 Board of Education shall review the educator preparation program performance reports each  
6 year the performance reports are submitted.

7           (d) Educator Preparation Program Report Card. – The State Board shall create a higher  
8 education educator preparation program report card reflecting the information collected in the  
9 annual performance reports for each North Carolina institution offering educator preparation  
10 programs. The report cards shall, at a minimum, summarize information reported on all of the  
11 performance indicators for the performance reports required by subsection (b) of this section.

12           (e) Annual State Board of Education Report. – The educator preparation program report  
13 cards shall be submitted to the Joint Legislative Education Oversight Committee on an annual  
14 basis by November 15.

15           (f) State Board of Education Action Based on Performance. – Based upon the  
16 performance reports and other criteria established by the State Board, the State Board may  
17 reward an educator preparation program, impose probationary status and plans of improvement  
18 on an educator preparation program, or revoke approval of an educator preparation program."

19           **SECTION 8.41.(b)** G.S. 115C-296(b) reads as rewritten:

20           "~~It is the policy of the State of North Carolina to maintain the highest quality teacher~~  
21 ~~education programs and school administrator programs in order to enhance the competence of~~  
22 ~~professional personnel licensed in North Carolina. To the end that teacher preparation programs~~  
23 ~~are upgraded to reflect a more rigorous course of study, the~~ The State Board of Education, as  
24 lead agency in coordination and cooperation with the University Board of Governors, the State  
25 Board of Community Colleges and such other public and private agencies as are necessary,  
26 shall continue to refine the several licensure requirements, standards for approval of institutions  
27 of teacher education, standards for institution-based innovative and experimental programs,  
28 standards for implementing consortium-based teacher education, and standards for improved  
29 efficiencies in the administration of the approved programs [ , as follows]:as follows:

30           ...."

31           **SECTION 8.41.(c)** G.S. 115C-296(b)(2) is repealed.

32           **SECTION 8.41.(d)** G.S. 115C-296(b1) is repealed.

33           **SECTION 8.41.(e)** G.S. 115C-296(b2) is repealed.

34           **SECTION 8.41.(f)** G.S. 115C-296(c) is repealed.

35           **SECTION 8.41.(g)** G.S. 115C-296(c1) is repealed.

36           **SECTION 8.41.(h)** G.S. 115C-296(c2) is repealed.

37           **SECTION 8.41.(i)** G.S. 115C-296.7(g) reads as rewritten:

38           "(g) NC Teaching Corps members shall be granted lateral entry teaching licenses  
39 pursuant to ~~G.S. 115C-296(e)~~ G.S. 115C-296.12(a)."

40           **SECTION 8.41.(j)** G.S. 115D-5(p) reads as rewritten:

41           "(p) The North Carolina Community College System may offer courses, in accordance  
42 with the lateral entry program of study established under ~~G.S. 115C-296(e1),~~  
43 G.S. 115C-296.12, to individuals who choose to enter the teaching profession by lateral entry."

44           **SECTION 8.41.(k)** Educator preparation programs approved by the State Board of  
45 Education as of July 1, 2015, shall meet the requirements of subsection (a) of this section no  
46 later than July 1, 2017. Educator preparation programs seeking approval by the State Board of  
47 Education on or after July 1, 2015, shall meet the requirements of subsection (a) of this section  
48 at the time approval is sought from the State Board of Education. The State Board of Education  
49 shall not require students enrolled in educator preparation programs that require a nationally  
50 normed and valid pedagogy assessment to determine clinical practice performance to provide  
51 scores for a pedagogy assessment based on multiple choice or constructed responses.

**ACCESS FOR TEACHERS TO EVAAS DATA**

**SECTION 8.42.(a)** Article 22 of Chapter 115C of the General Statutes is amended by adding a new section to read:

**"§ 115C-333.2. Teacher evaluation reports.**

Each local school administrative unit shall ensure that individual teachers are provided access to school-level value-added data, the teacher's own value-added data, when applicable, and the teacher's evaluation dashboard through the Education Value-Added Assessment System (EVAAS). The principal of each school shall notify teachers at least annually when EVAAS data has been updated to reflect teacher performance from the previous school year."

**SECTION 8.42.(b)** This section applies beginning with the 2015-2016 school year.

**CERTAIN CIHS OPERATING WITHOUT ADDITIONAL FUNDS**

**SECTION 8.43.** Notwithstanding G.S. 115C-238.51A(c) and G.S. 115C-238.54, the Academy at High Point Central, the Academy at Ben L. Smith High School, STEM Early College at NC A&T State University, Middle College at the University of North Carolina at Greensboro, Vernon Malone College and Career Academy, and the Northeast Regional School of Biotechnology and Agriscience shall be permitted to operate in accordance with G.S. 115C-238.53 and G.S. 115C-238.54 as cooperative innovative high schools approved under G.S. 115C-238.51A(c) and shall be subject to the evaluation requirements of G.S. 115C-238.55.

**ELIMINATE MANDATORY ANNUAL TRAINING FOR LOCAL BOARDS OF EDUCATION**

**SECTION 8.44.** G.S. 115C-50 is repealed.

**PART VIII-A. LEGISLATIVE FINDINGS, DIRECTION, AUTHORITY, AND RESOURCES TO ENSURE THAT ALL STUDENTS HAVE THE OPPORTUNITY TO RECEIVE A SOUND BASIC EDUCATION****LEGISLATIVE FINDINGS**

**SECTION 8A.1.(a)** The General Assembly finds that some local boards of education are not in compliance with the requirements of the judiciary's decisions in *Leandro* to provide all public school students the opportunity to receive a sound basic education. Notwithstanding a history of adequate State and local funding and legislatively-granted flexibility in administration, management, and employment at the local level to provide tools to facilitate compliance with *Leandro*, some local boards of education have failed to take actions sufficient to:

- (1) Prevent education bureaucracies from interfering with and overriding accountability measures and education reforms required by State law.
- (2) Properly administer the public schools.
- (3) Provide high-quality principals in every school and high-quality teachers in every classroom.

**SECTION 8A.1.(b)** It is the intent of the General Assembly in this act to provide the following additional direction, authority, and resources to local boards of education and to the State Board of Education to enable them to correct these deficiencies:

- (1) Clarify the role of local boards of education to ensure that their main focus is to provide each public school student with the opportunity to receive a sound basic education, and that all policy decisions should be made with that objective in mind, including employment decisions, budget development, and other administrative actions.

- 1 (2) Direct the State Board of Education not to allow waivers of State laws and  
2 rules that permit local boards to avoid accountability measures and education  
3 reforms required by the State.
- 4 (3) Provide additional teacher positions to transition to lower class size in  
5 kindergarten through third grade and require local boards of education to use  
6 those positions to maintain class sizes that, according to research, are  
7 optimal for learning at this critical time.
- 8 (4) Facilitate the identification of low-performing schools and low-performing  
9 local school administrative units.
- 10 (5) Provide the State Board of Education with authority to consolidate local  
11 school administrative units in contiguous counties as necessary to ensure that  
12 all school systems have the size, expertise, and other resources necessary to  
13 provide their students with the opportunity to receive a sound basic  
14 education.
- 15 (6) Provide one hundred fifty-seven million ninety-six thousand four hundred  
16 thirty-seven dollars (\$157,096,437) in additional funds to increase the base  
17 teacher salary paid by the State and provide additional funds for the salaries  
18 of principals and assistant principals.
- 19

20 **DUTY OF LOCAL BOARDS OF EDUCATION TO PROVIDE STUDENTS WITH THE**  
21 **OPPORTUNITY TO RECEIVE A SOUND BASIC EDUCATION**

22 **SECTION 8A.2.** G.S. 115C-47(1) reads as rewritten:

- 23 "(1) To Provide ~~an Adequate School System~~ the Opportunity to Receive a Sound  
24 Basic Education. It shall be the duty of local boards of education to provide  
25 adequate school systems ~~students with the opportunity to receive a sound~~  
26 basic education and to make all policy decisions with that objective in mind,  
27 including employment decisions, budget development, and other  
28 administrative actions, within their respective local school administrative  
29 units, as directed by law."  
30

31 **CLASS SIZE IN KINDERGARTEN THROUGH THIRD GRADE**

32 **SECTION 8A.3.(a)** G.S. 115C-301 reads as rewritten:

33 **"§ 115C-301. Allocation of teachers; class size.**

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

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

40 (c) Maximum Class Size for Kindergarten Through Third Grade. – The average class  
41 size for kindergarten through third grade in a local school administrative unit shall at no time  
42 exceed the funded allotment ratio of teachers to students in kindergarten through third grade. At  
43 the end of the second school month and for the remainder of the school year, the size of an  
44 individual class in kindergarten through third grade shall not exceed the allotment ratio by more  
45 than three students. In grades four through 12, local school administrative units shall have the  
46 maximum flexibility to use allotted teacher positions to maximize student achievement.

47 (d), (e) Repealed by Session Laws 2013-363, s. 3.3(a), effective July 1, 2013.

48 (f) Second Month Reports. – At the end of the second month of each school year, each  
49 local board of education, through the superintendent, shall file a report for each school within  
50 the school unit with the State Board of Education. The report shall be filed in a format  
51 prescribed by the State Board of Education and shall include the organization for each school,

1 the duties of each teacher, the size of each class, and such other information as the State Board  
 2 may require. As of February 1 each year, local boards of education, through the superintendent,  
 3 shall report all exceptions to individual class size maximums in kindergarten through third  
 4 grade that occur at that time.

5 (g) Waivers and Allotment Adjustments. – Local boards of education shall report  
 6 exceptions to the class size requirements set out for kindergarten through third grade and  
 7 significant increases in class size at other grade levels to the State Board and shall request  
 8 allotment adjustments at any grade level, waivers from the requirements for kindergarten  
 9 through third grade, or both. Within 45 days of receipt of reports, the State Board of Education,  
 10 within funds available, may allot additional positions at any grade level. The State Board shall  
 11 not grant waivers for the excess class size in kindergarten through third grade, except  
 12 under the following circumstances: (i) emergencies or acts of God that impact the availability  
 13 of classroom space or facilities; (ii) an unanticipated increase in student population of an  
 14 individual school in excess of two percent (2%) of the average daily membership of that  
 15 school; (iii) organizational problems in geographically isolated local school administrative units  
 16 in which the average daily membership is less than one and one-half per square mile; (iv)  
 17 classes organized for a solitary curricular area; or (v) a charter school closure.

18 (h) State Board Rules. – The State Board of Education shall adopt rules necessary for  
 19 the implementation of this section.

20 (i) Repealed by Session Laws 2013-363, s. 3.3(a), effective July 1, 2013.

21 (j) Penalty for Noncompliance. – If the State Board of Education determines that a  
 22 local superintendent has willfully failed to comply with the requirements of this section, no  
 23 State funds shall be allocated to pay the superintendent's salary for the period of time the  
 24 superintendent is in noncompliance. The local board of education shall continue to be  
 25 responsible for complying with the terms of the superintendent's employment contract."

26 **SECTION 8A.3.(b)** Notwithstanding G.S. 115C-301, as amended by this section,  
 27 for the 2015-2016 school year only, the funded class size allotment ratio, the maximum average  
 28 class size for all classes within a local school administrative unit, and the maximum individual  
 29 class size for kindergarten through third grade are as follows:

Grade Level	Funded Class Size	Maximum Average Class Size	Maximum Individual Class Size
Kindergarten	18	21	24
1-3	16	19	22.

35 **SECTION 8A.3.(c)** For the 2016-2017 school year, the funded class size allotment  
 36 ratio, the maximum average class size for all classes within a local school administrative unit,  
 37 and the maximum individual class size for kindergarten through third grade are as follows:

Grade Level	Funded Class Size	Maximum Average Class Size	Maximum Individual Class Size
Kindergarten	17	17	20
1-3	15	15	18.

44 **IDENTIFICATION OF LOW-PERFORMING SCHOOLS AND UNITS**

45 **SECTION 8A.4.(a)** G.S. 115C-105.35(c) is repealed.

46 **SECTION 8A.4.(b)** G.S. 115C-105.36 is repealed.

47 **SECTION 8A.4.(c)** G.S. 115C-105.37 reads as rewritten:

48 "**§ 115C-105.37. Identification of low-performing schools.**

49 (a) Identification of Low-Performing Schools. – The State Board of Education shall  
 50 design and implement a procedure to identify low-performing schools on an annual basis.  
 51 Low-performing schools are those that receive a school performance grade of D or F and a



1 school growth score of "met expected growth" or "not met expected growth" as defined by  
2 G.S. 115C-83.15. ~~Low-performing schools are those in which there is a failure to meet the~~  
3 ~~minimum growth standards, as defined by the State Board, and a majority of students are~~  
4 ~~performing below grade level.~~

5 (a1) By July 10 of each year, each local school administrative unit shall do a preliminary  
6 analysis of test results to determine which of its schools the State Board may identify as  
7 low-performing under this section. Plan for Improvement of Low-Performing Schools. – If a  
8 school has been identified as low-performing as provided in this section and the school is not  
9 located in a local school administrative unit identified as low-performing under  
10 G.S. 115C-105.39A, the following actions shall be taken:

11 (1) ~~The superintendent then shall proceed under G.S. 115C-105.39.~~

12 (2) ~~In addition, within~~ Within 30 days of the initial identification of a school as  
13 low-performing by the local school administrative unit or the State Board,  
14 whichever occurs first, the State Board, the superintendent shall submit to  
15 the local board of education a preliminary plan for addressing the needs of  
16 that school, improving both the school performance grade and school growth  
17 score, including how the superintendent and other central office  
18 administrators will work with the school and monitor the school's progress.

19 (3) ~~Within 30 days of its receipt of this~~ the preliminary plan, the local board  
20 shall vote to approve, modify, or reject this plan. Before the local board  
21 makes this vote, votes on the preliminary plan, it shall make the plan  
22 available to the public, including the personnel assigned to that school and  
23 the parents and guardians of the students who are assigned to the school, and  
24 shall allow for written comments.

25 (4) ~~The local board shall submit the~~ a final plan to the State Board within five  
26 days of the local board's vote. approval of the plan. The State Board shall  
27 review the plan expeditiously and, if appropriate, may offer  
28 recommendations to modify the plan. The local board shall consider any  
29 recommendations made by the State Board. Board and, if necessary, amend  
30 the plan and vote on approval of any changes to the final plan.

31 (5) The local board of education shall provide access to the final plan on the  
32 local school administrative unit's Web site. The State Board of Education  
33 shall also provide access to each low-performing school plan on the  
34 Department of Public Instruction's Web site.

35 (b) Parental Notice of Low-Performing School Status. – Each school that the State  
36 Board identifies as low-performing shall provide written notification to the parents and  
37 guardians of students attending that school. school within 30 days of the identification that  
38 includes the following information:

39 (1) ~~The written notification shall include a~~ A statement that the State Board of  
40 Education has found that the school has "failed to meet the minimum growth  
41 standards, as defined by the State Board, and a majority of students in the  
42 school are performing below grade level." received a school performance  
43 grade of D or F and a school growth score of "met expected growth" or "not  
44 met expected growth" and has been identified as a low-performing school as  
45 defined by G.S. 115C-105.37." The statement shall include an explanation of  
46 the school performance grades and growth scores.

47 (2) ~~This notification also shall include information~~ The school performance  
48 grade and growth score received.

49 (3) Information about the preliminary plan developed under subsection (a1) of  
50 this section and a section and the availability of the final plan on the local  
51 school administrative unit's Web site.

1           (4) The meeting date for when the preliminary plan will be considered by the  
2           local board of education.

3           (5) A description of any additional steps the school is taking to improve student  
4           performance."

5           **SECTION 8A.4.(d)** Article 8B of Chapter 115C of the General Statutes is  
6 amended by adding a new section to read:

7 **"§ 115C-105.39A. Identification of low-performing local school administrative units.**

8           (a) Identification of Low-Performing Local School Administrative Units. – The State  
9 Board of Education shall identify low-performing local school administrative units on an  
10 annual basis. A low-performing local school administrative unit is a unit in which the majority  
11 of the schools in that unit that received a school performance grade and growth score as  
12 provided in G.S. 115C-83.15 have been identified as a low-performing school, as provided in  
13 G.S. 115C-105.37.

14           (b) Plan for Improvement of Low-Performing Local School Administrative Units. –  
15 Once a local school administrative unit has been identified as low-performing under this  
16 section, the following actions shall be taken:

17           (1) The superintendent shall proceed under G.S. 115C-105.39.

18           (2) Within 30 days of the identification of a local school administrative unit as  
19 low-performing by the State Board, the superintendent shall submit to the  
20 local board of education a preliminary plan for improving both the school  
21 performance grade and school growth score of each low-performing school  
22 in the unit, including how the superintendent and other central office  
23 administrators will work with each low-performing school and monitor the  
24 low-performing school's progress, and how current local school  
25 administrative unit policy should be changed to improve student  
26 achievement throughout the local school administrative unit.

27           (3) Within 30 days of its receipt of the preliminary plan, the local board shall  
28 vote to approve, modify, or reject this plan. Before the local board votes on  
29 the plan, it shall make the plan available to the public, including the  
30 personnel assigned to each low-performing school and the parents and  
31 guardians of the students who are assigned to each low-performing school,  
32 and shall allow for written comments.

33           (4) The local board shall submit a final plan to the State Board within five days  
34 of the local board's approval of the plan. The State Board shall review the  
35 plan expeditiously and, if appropriate, may offer recommendations to  
36 modify the plan. The local board shall consider any recommendations made  
37 by the State Board and, if necessary, amend the plan and vote on approval of  
38 any changes to the final plan.

39           (5) The local board of education shall provide access to the final plan on the  
40 local school administrative unit's Web site. The State Board of Education  
41 shall also provide access to each low-performing local school administrative  
42 unit plan on the Department of Public Instruction's Web site.

43           (c) Parental Notice of Low-Performing Local School Administrative Unit Status. –  
44 Each local school administrative unit that the State Board identifies as low-performing shall  
45 provide written notification to the parents and guardians of all students attending any school in  
46 the local school administrative unit within 30 days of the identification that includes the  
47 following information:

48           (1) A statement that the State Board of Education has found that a majority of  
49 the schools in the local school administrative unit have "received a school  
50 performance grade of D or F and a school growth score of "met expected  
51 growth" or "not met expected growth" and have been identified as

1 low-performing schools as defined by G.S. 115C-105.37." The statement  
 2 shall also include an explanation of the school performance grades and  
 3 growth scores.

4 (2) The percentage of schools identified as low-performing.

5 (3) Information about the preliminary plan developed under subsection (b) of  
 6 this section and the availability of the final plan on the local school  
 7 administrative unit's Web site.

8 (4) The meeting date for when the preliminary plan will be considered by the  
 9 local board of education.

10 (5) A description of any additional steps the local school administrative unit and  
 11 schools are taking to improve student performance.

12 (6) For notifications sent to parents and guardians of students attending a school  
 13 that is identified as low-performing under G.S. 115C-105.37, a statement  
 14 that the State Board of Education has found that the school has "received a  
 15 school performance grade of D or F and a school growth score of "met  
 16 expected growth" or "not met expected growth" and has been identified as a  
 17 low-performing school as defined by G.S. 115C-105.37." This notification  
 18 also shall include the school performance grade and school growth score the  
 19 school received and an explanation of the school performance grades and  
 20 growth scores."

## 22 STATE BOARD AUTHORITY TO CONSOLIDATE CONTIGUOUS COUNTY 23 SCHOOL ADMINISTRATIVE UNITS

24 SECTION 8A.5. Article 7 of Chapter 115C of the General Statutes is amended by  
 25 adding a new section to read:

### 26 "§ 115C-66.5. Merger of county school administrative units by the State Board of 27 Education.

28 The State Board of Education shall have the authority to consolidate and merge contiguous  
 29 county school administrative units or a group of county school administrative units in which  
 30 each county unit is contiguous with at least one other county unit in the group. The State Board  
 31 shall adopt a written plan setting forth the conditions of the merger. A merger of county units  
 32 and reorganization of those units under this section shall not have the effect of abolishing any  
 33 special taxes that may have been voted in any such units."

## 35 LIMIT LOCAL BOARD OF EDUCATION WAIVERS

36 SECTION 8A.6.(a) G.S. 115C-105.26 reads as rewritten:

### 37 "§ 115C-105.26. Waivers of State laws, rules, or policies.

38 (a) ~~When included as part of a school improvement plan accepted under~~  
 39 ~~G.S. 115C-105.27, local boards of education shall submit requests for waivers of State laws,~~  
 40 ~~rules, or policies to the State Board of Education. A~~ Except as otherwise provided for in this  
 41 section, the State Board of Education shall not grant waivers of State laws or rules to local  
 42 boards of education. If permitted under this section, a request for a waiver by a local board of  
 43 education shall (i) identify the school or schools making the request, (ii) identify the State laws,  
 44 rules, or policies that inhibit the school's ability to improve student performance, law or rule  
 45 requesting to be waived, (iii) set out with specificity the circumstances under which the waiver  
 46 may be used, and (iv) explain how the requested waiver will permit the school to improve  
 47 student performance.

48 ~~Except as provided in subsection (c) of this section, the State Board shall grant waivers only~~  
 49 ~~for the specific schools for which they are requested and shall be used only under the specific~~  
 50 ~~circumstances for which they are requested.~~

1 (b) ~~When requested as part of a school improvement plan, the~~ The State Board of  
2 Education may grant waivers of: ~~to local boards of education of State laws and rules pertaining~~  
3 to the following:

4 (1) ~~State laws pertaining to class~~ Class size and teacher certification;  
5 ~~and requirements only as provided in G.S. 115C-301(g).~~

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

13 (3) School calendar requirements in order to provide sufficient days to  
14 accommodate anticipated makeup days due to school closings only as  
15 provided in G.S. 115C-84.2(d).

16 (c) ~~The State Board also may grant requests received from local boards for waivers of~~  
17 ~~State laws, rules, or policies that affect the organization, duties, and assignment of central~~  
18 ~~office staff only. However, none of the duties to be performed under G.S. 115C-436 may be~~  
19 ~~waived.~~

20 (c1) ~~The State Board also may grant requests received from local boards for waivers of~~  
21 ~~State laws, rules, or policies that require that each local school administrative unit provide at~~  
22 ~~least one alternative school or at least one alternative learning program.~~

23 (d) ~~Notwithstanding subsections (b) and (c) of this section, the State Board shall not~~  
24 ~~grant waivers of G.S. 115C-12(16)b. regarding the placement of State allotted office support~~  
25 ~~personnel, teacher assistants, and custodial personnel on the salary schedule adopted by the~~  
26 ~~State Board.~~

27 (e) ~~Notwithstanding subsection (b) of this section, the State Board may grant requests~~  
28 ~~received from local boards for waivers of State laws, rules, or policies pertaining to the~~  
29 ~~placement of principals on the State salary schedule for public school administrators in order to~~  
30 ~~provide financial incentives to encourage principals to accept employment in a school that has~~  
31 ~~been identified as low performing under G.S. 115C-105.37. The State Board shall act on~~  
32 ~~requests under this subsection at the first Board meeting following receipt of each request.~~

33 (f) ~~Except as provided in subsection (e) of this section, the~~ The State Board shall act  
34 within 60 days of receipt of all requests for waivers under this section.

35 (g) The State Board shall, on a regular basis, review all waivers it has granted to  
36 determine whether any rules should be repealed or modified or whether the Board should  
37 recommend to the General Assembly the repeal or modification of any laws.

38 (h) By September 15 of each year, the State Board shall report to the Joint Legislative  
39 Education Oversight Committee with a list of the specific waivers granted to each local board  
40 of education under this section. The State Board may include any legislative recommendations  
41 identified under subsection (g) of this section in its report."

42 **SECTION 8A.6.(b)** This section applies beginning with the 2015-2016 school  
43 year.

## 44 **PART IX. COMPENSATION OF PUBLIC SCHOOL EMPLOYEES**

### 45 **TEACHER SALARY SCHEDULE**

46 **SECTION 9.1.(a)** The following monthly teacher salary schedule shall apply for  
47 the 2015-2017 fiscal biennium to licensed personnel of the public schools who are classified as  
48 teachers. The salary schedule is based on years of teaching experience.

#### 49 **2015-2017 Teacher Monthly Salary Schedule**

	Years of Experience	"A" Teachers
1		
2	0-4	\$3,500
3	5-9	3,825
4	10-14	4,125
5	15-19	4,425
6	20-24	4,700
7	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 fifty-three dollars (\$253.00) per month in addition to the supplement provided to them as "M" teachers.
- (5) Certified school nurses shall receive a salary supplement each month of ten percent (10%) of their monthly salary on the "A" salary schedule.

**SECTION 9.1.(c)** The first step of the salary schedule for (i) school psychologists, (ii) school speech pathologists who are licensed as speech pathologists at the master's degree level or higher, and (iii) school audiologists who are licensed as audiologists at the master's degree level or higher shall be equivalent to Step 5 of the "A" salary schedule. These employees shall receive a salary supplement each month of ten percent (10%) of their monthly salary and are eligible to receive salary supplements equivalent to those of teachers for academic preparation at the six-year degree level or the doctoral degree level.

**SECTION 9.1.(d)** Beginning with the 2014-2015 fiscal year, in lieu of providing annual longevity payments to teachers paid on the teacher salary schedule, the amounts of those longevity payments are included in the monthly amounts under the teacher salary schedule.

**SECTION 9.1.(e)** A teacher compensated in accordance with this salary schedule for the 2015-2016 and 2016-2017 school years shall receive an amount equal to the greater of the following:

- (1) The applicable amount on the salary schedule for the applicable school year.
- (2) For teachers who were eligible for longevity for the 2013-2014 school year, the sum of the following:
  - a. The teacher's salary provided in S.L. 2013-360, Sec. 35.11.
  - b. The longevity that the teacher would have received under the longevity system in effect for the 2013-2014 school year provided in S.L. 2013-360, Sec. 35.11, based on the teacher's current years of service.
  - c. The annual bonus provided in S.L. 2014-100, Sec. 9.1(e).
- (3) For teachers who were not eligible for longevity for the 2013-2014 school year, the sum of the teacher's salary and annual bonus provided in S.L. 2014-100, Sec. 9.1.

SECTION 9.1.(f) As used in this section, the term "teacher" shall also include instructional support personnel.

**SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

SECTION 9.2.(a) The following monthly base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2015-2016 fiscal year commencing July 1, 2015.

**2015-2016 Principal and Assistant Principal Salary Schedules**

		Classification				
Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)	
0-9	\$3,895	-	-	-	-	
10	\$3,977	-	-	-	-	
11	\$4,123	-	-	-	-	
12	\$4,240	-	-	-	-	
13	\$4,323	\$4,323	-	-	-	
14	\$4,377	\$4,377	-	-	-	
15	\$4,434	\$4,434	\$4,489	-	-	
16	\$4,489	\$4,489	\$4,547	-	-	
17	\$4,547	\$4,547	\$4,606	\$4,665	-	
18	\$4,606	\$4,606	\$4,665	\$4,726	\$4,788	
19	\$4,665	\$4,665	\$4,726	\$4,788	\$4,851	
20	\$4,726	\$4,726	\$4,788	\$4,851	\$4,918	
21	\$4,788	\$4,788	\$4,851	\$4,918	\$4,983	
22	\$4,851	\$4,851	\$4,918	\$4,983	\$5,050	
23	\$4,918	\$4,918	\$4,983	\$5,050	\$5,119	
24	\$4,983	\$4,983	\$5,050	\$5,119	\$5,188	
25	\$5,050	\$5,050	\$5,119	\$5,188	\$5,263	
26	\$5,119	\$5,119	\$5,188	\$5,263	\$5,335	
27	\$5,188	\$5,188	\$5,263	\$5,335	\$5,409	
28	\$5,263	\$5,263	\$5,335	\$5,409	\$5,483	
29	\$5,335	\$5,335	\$5,409	\$5,483	\$5,561	
30	\$5,409	\$5,409	\$5,483	\$5,561	\$5,641	
31	\$5,483	\$5,483	\$5,561	\$5,641	\$5,722	
32	\$5,561	\$5,561	\$5,641	\$5,722	\$5,794	
33	\$5,641	\$5,641	\$5,722	\$5,794	\$5,909	
34	\$5,722	\$5,722	\$5,794	\$5,909	\$6,027	
35	\$5,794	\$5,794	\$5,909	\$6,027	\$6,148	
36	\$5,909	\$5,909	\$6,027	\$6,148	\$6,271	
37	-	\$6,027	\$6,148	\$6,271	\$6,396	
38	-	-	\$6,271	\$6,396	\$6,524	
39	-	-	\$6,396	\$6,524	\$6,654	
40	-	-	-	\$6,654	\$6,787	
41	-	-	-	\$6,787	\$6,923	
42	-	-	-	-	\$7,061	

**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	-	-	-	

1	20	\$4,983	-	-	-
2	21	\$5,050	\$5,119	-	-
3	22	\$5,119	\$5,188	\$5,335	-
4	23	\$5,188	\$5,263	\$5,409	\$5,483
5	24	\$5,263	\$5,335	\$5,483	\$5,561
6	25	\$5,335	\$5,409	\$5,561	\$5,641
7	26	\$5,409	\$5,483	\$5,641	\$5,722
8	27	\$5,483	\$5,561	\$5,722	\$5,794
9	28	\$5,561	\$5,641	\$5,794	\$5,909
10	29	\$5,641	\$5,722	\$5,909	\$6,027
11	30	\$5,722	\$5,794	\$6,027	\$6,148
12	31	\$5,794	\$5,909	\$6,148	\$6,271
13	32	\$5,909	\$6,027	\$6,271	\$6,396
14	33	\$6,027	\$6,148	\$6,396	\$6,524
15	34	\$6,148	\$6,271	\$6,524	\$6,654
16	35	\$6,271	\$6,396	\$6,654	\$6,787
17	36	\$6,396	\$6,524	\$6,787	\$6,923
18	37	\$6,524	\$6,654	\$6,923	\$7,061
19	38	\$6,654	\$6,787	\$7,061	\$7,202
20	39	\$6,787	\$6,923	\$7,202	\$7,346
21	40	\$6,923	\$7,061	\$7,346	\$7,493
22	41	\$7,061	\$7,202	\$7,493	\$7,643
23	42	\$7,202	\$7,346	\$7,643	\$7,796
24	43	\$7,346	\$7,493	\$7,796	\$7,952
25	44		\$7,643	\$7,952	\$8,111
26	45	-	\$7,796	\$8,111	\$8,273
27	46+	-	-	\$8,273	\$8,438

**SECTION 9.2.(b)** The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

**SECTION 9.2.(c)** A principal shall be placed on the step on the salary schedule that reflects the total number of years of experience as a certified employee of the public schools and an additional step for every three years of experience serving as a principal on or

1 before June 30, 2009. A principal or assistant principal shall also continue to receive any  
 2 additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and  
 3 1999-2000 school years for improvement in student performance or maintaining a safe and  
 4 orderly school.

5 **SECTION 9.2.(d)** Principals and assistant principals with certification based on  
 6 academic preparation at the six-year degree level shall be paid a salary supplement of one  
 7 hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a  
 8 salary supplement of two hundred fifty-three dollars (\$253.00) per month.

9 **SECTION 9.2.(e)** Longevity pay for principals and assistant principals shall be as  
 10 provided for State employees under the North Carolina Human Resources Act.

11 **SECTION 9.2.(f)** If a principal is reassigned to a higher job classification because  
 12 the principal is transferred to a school within a local school administrative unit with a larger  
 13 number of State-allotted teachers, the principal shall be placed on the salary schedule as if the  
 14 principal had served the principal's entire career as a principal at the higher job classification.

15 If a principal is reassigned to a lower job classification because the principal is  
 16 transferred to a school within a local school administrative unit with a smaller number of  
 17 State-allotted teachers, the principal shall be placed on the salary schedule as if the principal  
 18 had served the principal's entire career as a principal at the lower job classification.

19 This subsection applies to all transfers on or after the effective date of this section,  
 20 except transfers in school systems that have been created, or will be created, by merging two or  
 21 more school systems. Transfers in these merged systems are exempt from the provisions of this  
 22 subsection for one calendar year following the date of the merger.

23 **SECTION 9.2.(g)** Participants in an approved full-time master's in-school  
 24 administration program shall receive up to a 10-month stipend at the beginning salary of an  
 25 assistant principal during the internship period of the master's program. The stipend shall not  
 26 exceed the difference between the beginning salary of an assistant principal plus the cost of  
 27 tuition, fees, and books and any fellowship funds received by the intern as a full-time student,  
 28 including awards of the Principal Fellows Program. The Principal Fellows Program or the  
 29 school of education where the intern participates in a full-time master's in-school administration  
 30 program shall supply the Department of Public Instruction with certification of eligible  
 31 full-time interns.

32 **SECTION 9.2.(h)** During the 2015-2016 fiscal year, the placement on the salary  
 33 schedule of an administrator with a one-year provisional assistant principal's certificate shall be  
 34 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary  
 35 schedule, whichever is higher.

36 **SECTION 9.2.(i)** It is the intent of the General Assembly to modify the  
 37 compensation system for principals and assistant principals, effective July 1, 2016.

### 38 39 **CENTRAL OFFICE SALARIES**

40 **SECTION 9.3.(a)** The monthly salary ranges that follow apply to assistant  
 41 superintendents, associate superintendents, directors/coordinators, supervisors, and finance  
 42 officers for the 2015-2017 fiscal biennium, beginning July 1, 2015.

43	School Administrator I	\$ 3,391	\$ 6,323
44	School Administrator II	\$ 3,592	\$ 6,704
45	School Administrator III	\$ 3,811	\$ 7,110
46	School Administrator IV	\$ 3,962	\$ 7,391
47	School Administrator V	\$ 4,120	\$ 7,689
48	School Administrator VI	\$ 4,368	\$ 8,151
49	School Administrator VII	\$ 4,542	\$ 8,478

50 The local board of education shall determine the appropriate category and  
 51 placement for each assistant superintendent, associate superintendent, director/coordinator,



1 supervisor, or finance officer within the salary ranges and within funds appropriated by the  
2 General Assembly for central office administrators and superintendents. The category in which  
3 an employee is placed shall be included in the contract of any employee.

4 **SECTION 9.3.(b)** The monthly salary ranges that follow apply to public school  
5 superintendents for the 2015-2017 fiscal biennium, beginning July 1, 2015.

6 Superintendent I	\$ 4,819	\$ 8,991
7 Superintendent II	\$ 5,113	\$ 9,532
8 Superintendent III	\$ 5,422	\$ 10,109
9 Superintendent IV	\$ 5,752	\$ 10,721
10 Superintendent V	\$ 6,102	\$ 11,372

11 The local board of education shall determine the appropriate category and  
12 placement for the superintendent based on the average daily membership of the local school  
13 administrative unit and within funds appropriated by the General Assembly for central office  
14 administrators and superintendents.

15 **SECTION 9.3.(c)** Longevity pay for superintendents, assistant superintendents,  
16 associate superintendents, directors/coordinators, supervisors, and finance officers shall be as  
17 provided for State employees under the State Personnel Act.

18 **SECTION 9.3.(d)** Superintendents, assistant superintendents, associate  
19 superintendents, directors/coordinators, supervisors, and finance officers with certification  
20 based on academic preparation at the six-year degree level shall receive a salary supplement of  
21 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided  
22 pursuant to this section. Superintendents, assistant superintendents, associate superintendents,  
23 directors/coordinators, supervisors, and finance officers with certification based on academic  
24 preparation at the doctoral degree level shall receive a salary supplement of two hundred  
25 fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this  
26 section.

27 **SECTION 9.3.(e)** The State Board of Education shall not permit local school  
28 administrative units to transfer State funds from other funding categories for salaries for public  
29 school central office administrators.  
30

### 31 **NONCERTIFIED PERSONNEL SALARIES**

32 **SECTION 9.4.** The annual salary for permanent full-time and part-time  
33 noncertified public school employees whose salaries are supported from the State's General  
34 Fund shall remain unchanged for the 2015-2017 fiscal biennium.  
35

### 36 **NO PAY LOSS FOR TEACHERS WHO BECOME ADMINISTRATORS OR** 37 **ASSISTANT PRINCIPALS WHO BECOME PRINCIPALS**

38 **SECTION 9.5.(a)** Section 7.22(b) of S.L. 2009-451 reads as rewritten:

39 "**SECTION 7.22.(b)** This section becomes effective ~~July 1, 2009, and applies to all~~  
40 ~~persons initially employed as assistant principals on or after that date.~~ July 1, 2009."

41 **SECTION 9.5.(b)** G.S. 115C-285(a) is amended by adding a new subdivision to  
42 read:

43 "(9) An assistant principal who becomes a principal without a break in service  
44 shall be paid, on a monthly basis, at least as much as he or she would earn as  
45 an assistant principal employed by that local school administrative unit."  
46

## 47 **PART X. COMMUNITY COLLEGES**

### 48 **REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE**

49 **SECTION 10.1.(a)** Notwithstanding any other provision of law, and consistent  
50 with the authority established in G.S. 115D-3, the President of the North Carolina Community  
51

1 College System may reorganize the System Office in accordance with recommendations and  
2 plans submitted to and approved by the State Board of Community Colleges.

3 **SECTION 10.1.(b)** This section expires June 30, 2017.  
4

#### 5 **BASIC SKILLS PLUS**

6 **SECTION 10.2.(a)** G.S. 115D-5(b) is amended by adding a new subdivision to  
7 read:

8 "(b) In order to make instruction as accessible as possible to all citizens, the teaching of  
9 curricular courses and of noncurricular extension courses at convenient locations away from  
10 institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata  
11 portion of the established regular tuition rate charged a full-time student shall be charged a  
12 part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of  
13 Community Colleges shall establish a uniform registration fee, or a schedule of uniform  
14 registration fees, to be charged students enrolling in extension courses for which instruction is  
15 financed primarily from State funds. The State Board of Community Colleges may provide by  
16 general and uniform regulations for waiver of tuition and registration fees for the following:

17 ...

18 (15) Courses providing employability skills, job-specific occupational or  
19 technical skills, or developmental education instruction to certain students  
20 who are concurrently enrolled in an eligible community college literacy  
21 course, in accordance with rules adopted by the State Board of Community  
22 Colleges.

23 ...

24 The State Board of Community Colleges shall not waive tuition and registration fees for  
25 other individuals."

26 **SECTION 10.2.(b)** G.S. 115D-31(b1) reads as rewritten:

27 "(b1) A local community college may use all State funds allocated to it, except for  
28 Literacy funds and Customized Training funds, for any authorized purpose that is consistent  
29 with the college's Institutional Effectiveness Plan. The State Board of Community Colleges  
30 may authorize a local community college to use up to twenty percent (20%) of the State  
31 Literacy funds allocated to it to provide employability skills, job-specific occupational and  
32 technical skills, and developmental education instruction to students concurrently enrolled in an  
33 eligible community college literacy course.

34 Each local community college shall include in its Institutional Effectiveness Plan a section  
35 on how funding flexibility allows the college to meet the demands of the local community and  
36 to maintain a presence in all previously funded categorical programs."  
37

#### 38 **EQUIPMENT FUNDING**

39 **SECTION 10.3.** For the 2015-2017 fiscal biennium, community colleges may  
40 expend regular equipment allocations on equipment and on repairs, renovations, and new  
41 construction, necessary to accommodate equipment. Colleges must match funds expended on  
42 new construction on an equal matching-fund basis in accordance with G.S.115D-31.  
43 Notwithstanding any other provision of law, community colleges are not required to match  
44 funds expended on repairs and renovations of existing facilities.

45 Colleges must have capital improvement projects approved by the State Board of  
46 Community Colleges and any required matching funds identified by June 30, 2017.  
47

#### 48 **COLLEGES EARN BUDGET FTE FOR CERTAIN COURSES TAUGHT DURING** 49 **THE SUMMER TERM**

50 **SECTION 10.5.(a)** G.S. 115D-5(v) reads as rewritten:

1       "(v) Community colleges may teach technical education, health care, developmental  
2 education, ~~and STEM-related courses~~ courses, and the Universal General Education Transfer  
3 Courses contained in the Comprehensive Articulation Agreement entered into between The  
4 University of North Carolina and the North Carolina Community College System at any time  
5 during the year, including the summer term. Student membership hours from these courses  
6 shall be counted when computing full-time equivalent students (FTE) for use in budget funding  
7 formulas at the State level."

8               **SECTION 10.5.(b)** The State Board of Community Colleges shall report to the  
9 Joint Legislative Education Oversight Committee by October 1, 2015, on FTE for the summer  
10 2015 term.

11               **SECTION 10.5.(c)** This section applies beginning with the summer 2015 term.

### 13 **COMMUNITY COLLEGES PROGRAM COMPLIANCE REVIEW FUNCTION**

14               **SECTION 10.6.(a)** Section 10.15(a) of S.L. 2013-360 is repealed.

15               **SECTION 10.6.(b)** G.S. 115D-5(m) reads as rewritten:

16       "(m) The State Board of Community Colleges shall maintain an ~~education program~~  
17 ~~auditing accountability~~ function that conducts an annual audit periodic reviews of each  
18 community college operating under the provisions of this Chapter. The purpose of the annual  
19 audit compliance review shall be to ensure that college programs and related fiscal operations  
20 comply with State law, State regulations, State Board policies, and System Office guidance. (i)  
21 data used to allocate State funds among community colleges is reported accurately to the  
22 System Office and (ii) community colleges are charging and waiving tuition and registration  
23 fees consistent with law. The State Board of Community Colleges shall require auditors of  
24 community college programs to the use of a statistically valid sample size in performing  
25 program audits compliance reviews of community colleges. All education program audit  
26 compliance review findings that are determined to be material shall be forwarded to the college  
27 president, local college board of trustees, the State Board of Community Colleges, and the State  
28 Auditor. The State Board of Community Colleges shall adopt rules governing the frequency,  
29 scope, and standard of materiality for compliance reviews."

30               **SECTION 10.6.(c)** Subsection (b) of this section applies to compliance reviews  
31 beginning with the 2015-2016 academic year.

### 33 **CAREER AND COLLEGE READY GRADUATES**

34               **SECTION 10.13.(a)** The State Board of Community Colleges, in consultation with  
35 the State Board of Education, shall develop a program for implementation in the 2016-2017  
36 school year that introduces the college developmental mathematics and developmental reading  
37 and English curriculums in the high school senior year and provide opportunities for college  
38 remediation for students prior to high school graduation through cooperation with community  
39 college partners. Students who are enrolled in the Occupational Course of Study to receive their  
40 high school diplomas shall not be required to participate in the program or be required to take  
41 mandatory remedial courses as provided for in this section, unless a parent specifically requests  
42 through the individualized education program (IEP) process that the student participates. The  
43 program shall require the following:

- 44               (1) Establishment by the State Board of Community Colleges of measures for  
45 determining student readiness and preparation for college coursework by  
46 using ACT scores, student grade point averages, or other measures currently  
47 used by the State Board of Community Colleges to determine college  
48 readiness for entering students.
- 49               (2) Changes in curriculum, policy, and rules as needed by the State Board of  
50 Community Colleges and State Board of Education to make remedial  
51 courses mandatory for students who do not meet readiness indicators by

1 their junior year to ensure college readiness prior to high school graduation.  
2 These changes shall include the flexibility for students to fulfill senior  
3 mathematics and English graduation requirements through enrollment in  
4 mandatory remedial courses or to enroll in those courses as electives.

5 (3) Revisions to current direct instruction remediation modules used by the  
6 North Carolina community colleges by the State Board of Community  
7 Colleges, in cooperation with the State Board of Education, to provide  
8 remedial education to high school students.

9 (4) Determinations by the State Board of Community Colleges on the following:  
10 a. Appropriate measures of successful completion of the remedial  
11 courses to ensure students are prepared for coursework at a North  
12 Carolina community college without need for further remediation in  
13 mathematics or reading and English.  
14 b. The length of time following high school graduation in which a  
15 student who successfully completed high school remedial courses  
16 will not be required to enroll in developmental courses at a North  
17 Carolina community college.

18 (5) Policies established by the State Board of Community Colleges and State  
19 Board of Education for delivery of college remediation instruction in high  
20 schools. The policies shall include the following requirements:

- 21 a. Faculty from the partner community college will provide training and  
22 oversight for high school faculty who will serve as facilitators for  
23 high school students enrolled in the remedial courses.  
24 b. Faculty from the partner community college will make regular site  
25 visits to provide assistance to students and high school faculty with  
26 the remedial courses.  
27 c. Partner high schools shall identify and assign appropriate faculty to  
28 the remedial course. Assigned faculty shall be trained by partner  
29 community college faculty prior to the start of the school year or  
30 semester in which the faculty will facilitate the remedial course.  
31 d. Partner high schools shall provide appropriate technology resources  
32 for delivery of the remedial course modules.

33 **SECTION 10.13.(b)** The State Board of Community Colleges and the State Board  
34 of Education shall report on progress of implementation of the program statewide, including the  
35 requirements in subsection (a) of this section, to the Joint Legislative Education Oversight  
36 Committee no later than January 15, 2016.  
37

## 38 NC WORKS CAREER COACHES

39 **SECTION 10.14.(a)** Article 2 of Chapter 115D of the General Statutes is amended  
40 by adding a new section to read:

### 41 **"§ 115D-21.5. NC Works Career Coach Program.**

42 (a) Purpose. – There is established the NC Works Career Coach Program to place  
43 community college career coaches in high schools to assist students with determining career  
44 goals and identifying community college programs that would enable students to achieve these  
45 goals.

46 (b) Memorandum of Understanding. – The board of trustees of a community college  
47 and a local board of education of a local school administrative unit within the service area of  
48 the community college shall enter into a memorandum of understanding for the placement of  
49 career coaches employed by the board of trustees of the community college in schools within  
50 the local school administrative unit. At a minimum, the memorandum of understanding shall  
51 include the following:

- 1           (1)   Requirement that the community college provides the following:  
2           a.     Hiring, training, and supervision of career coaches. The board of  
3           trustees may include a local board of education liaison on the hiring  
4           committee and to participate in the decision making regarding hiring  
5           for the coach positions.  
6           b.     Salary, benefits, and all other expenses related to the employment of  
7           the career coach. The coach will be an employee of the board of  
8           trustees and will not be an agent or employee of the local board of  
9           education.  
10          c.     Development of pedagogical materials and technologies needed to  
11          enhance the advising process.  
12          d.     Criminal background checks required by the local school  
13          administrative unit for employees working directly with students.  
14          e.     Agreement that, while on any school campus, the career coach will  
15          obey all local board of education rules and will be subject to the  
16          authority of the school building administration.  
17          (2)   Requirement that the local school administrative unit provides the following  
18          to career coaches:  
19          a.     Access to student records, as needed to carry out the coach's job  
20          responsibilities.  
21          b.     Office space on site appropriate for student advising.  
22          c.     Information technology resources, including, but not limited to,  
23          Internet access, telephone, and copying.  
24          d.     Initial school orientation and ongoing integration into the faculty and  
25          staff community.  
26          e.     Promotion of school-wide awareness of coach duties.  
27          f.     Facilitation of coach's access to individual classes and larger  
28          assemblies for the purposes of awareness-building.  
29          (c)   Application for NC Works Career Coach Program Funding. – The board of trustees  
30          of a community college and a local board of education of a local school administrative unit  
31          within the service area of the community college jointly may apply for available funds for NC  
32          Works Career Coach Program funding from the State Board of Community Colleges. The State  
33          Board of Community Colleges shall establish a process for award of funds as follows:  
34               (1)   Advisory committee. – Establishment of an advisory committee, which shall  
35               include representatives from the NC Community College System, the  
36               Department of Public Instruction, the NC Works initiative located in the  
37               Department of Commerce, and at least three representatives of the business  
38               community, to review applications and make recommendations for funding  
39               awards to the State Board.  
40               (2)   Application submission requirements. – The State Board shall require at  
41               least the following:  
42               a.     Evidence of a signed memorandum of understanding that meets, at a  
43               minimum, the requirements of this section.  
44               b.     Evidence that the funding request will be matched dollar-for-dollar  
45               with local funds. Matching funds may come from public or private  
46               sources.  
47               (3)   Awards criteria. – The State Board shall develop criteria for consideration in  
48               determining the award of funds that shall include the following:  
49               a.     Consideration of the workforce needs of business and industry in the  
50               region.

- 1                    b. Targeting of resources to enhance ongoing economic activity within  
 2                    the community college service area and surrounding counties.  
 3                    c. Geographic diversity of awards.  
 4        (d) Annual Report. –  
 5                    (1) The board of trustees of a community college that employs one or more  
 6                    career coaches shall report annually to the State Board of Community  
 7                    Colleges on implementation and outcomes of the program, including the  
 8                    following information:  
 9                    a. Number of career coaches employed.  
 10                    b. Number of local school administrative units served and names of  
 11                    schools in which career coaches are placed.  
 12                    c. Number of students annually counselled by career coaches.  
 13                    d. Impact of career coaches on student choices, as determined by a valid  
 14                    measure selected by the State Board of Community Colleges.  
 15                    (2) The State Board of Community Colleges shall report annually no later than  
 16                    October 1 to the Joint Legislative Education Oversight Committee on the  
 17                    following:  
 18                    a. A compilation of the information reported by the board of trustees of  
 19                    community colleges, as provided in subdivision (1) of this  
 20                    subsection.  
 21                    b. Number and names of partnership applicants for NC Works Career  
 22                    Coach Program funding.  
 23                    c. Number, names, and amounts of those awarded NC Works Career  
 24                    Coach Program funding."

25                    **SECTION 10.14.(b)** The State Board of Community Colleges shall begin  
 26 accepting applications for available funds for NC Works Career Coach Program funding no  
 27 later than December 1, 2015, and shall select the initial recipients for the award of funds no  
 28 later than February 1, 2016.

29                    **SECTION 10.14.(c)** The funds appropriated under this act to the Community  
 30 Colleges System Office for the 2015-2017 fiscal biennium to match non-State funds to  
 31 implement the NC Works Career Coach Program shall only be used for salary and benefits for  
 32 NC Works Career Coaches.

### 33 **DRIVER EDUCATION AND SAFETY INSTRUCTION PROGRAM**

34                    **SECTION 10.15.(a)** The North Carolina Community Colleges System Office shall  
 35 conduct a feasibility study on the establishment of a statewide, tuition-based drivers education  
 36 program delivered through the Community Colleges System Office for all students older than  
 37 14 years and six months who (i) are enrolled in a public high school, a private high school, or a  
 38 home school within the State and (ii) have not previously enrolled in a program delivered  
 39 through the public schools or the Community Colleges System Office. In the course of the  
 40 study, the System Office shall consider the cost of the program and options for funding it,  
 41 including fees, State funds, or a combination of fees and State funds.  
 42

43                    The System Office shall report to the Joint Legislative Education Oversight  
 44 Committee prior to March 15, 2016, on the results of the study.

45                    **SECTION 10.15.(b)** G.S. 115D-20(4)c. reads as rewritten:

- 46                    "c. ~~High school students may be permitted to take noncredit courses in~~  
 47                    ~~safe driving on a self-supporting basis during the academic year or~~  
 48                    ~~the summer.~~ Students older than 14 years and six months who (i) are  
 49                    enrolled in a public high school, a private high school, or a home  
 50                    school within the State and (ii) have not previously enrolled in a  
 51                    program delivered through the public schools or the Community

1 Colleges System Office may take driver education and safety  
2 instruction in accordance with the Driver Education Safety  
3 Instruction Program, as established under G.S. 115D-76.5. The  
4 program may be funded with State funds, on a self-supporting basis,  
5 or a combination of both and may be offered during the academic  
6 year or the summer."

7 **SECTION 10.15.(c)** Chapter 115D of the General Statutes is amended by adding a  
8 new article to read:

9 "Article 6B.

10 "Driver Education and Safety Instruction.

11 **§ 115D-76.5. Driver Education and Safety Instruction Program.**

12 (a) There is created a Driver Education and Safety Instruction Program for the purpose  
13 of establishing statewide driver education and safety instruction to be delivered through the  
14 Community Colleges System Office for all students older than 14 years and six months who (i)  
15 are enrolled in a public high school, a private high school, or a home school within the State  
16 and (ii) have not previously enrolled in a program delivered through the public schools or the  
17 Community Colleges System Office. The Program may be administered by a driver education  
18 and safety coordinator who shall be responsible for the planning, curriculum, and completion  
19 requirements of the Program. The State Board of Community Colleges may elect a driver  
20 education and safety coordinator upon nomination by the President of the Community College  
21 System, and the compensation of the driver education and safety coordinator shall be fixed by  
22 the State Board upon recommendation of the President of the Community College System  
23 pursuant to G.S. 115D-3. The State Board of Community Colleges may contract with an  
24 appropriate public or private agency or person to carry out the duties of the driver education  
25 and safety coordinator.

26 (b) The Driver Education and Safety Instruction Program shall be implemented through  
27 the Community Colleges System Office. The driver education and safety coordinator shall  
28 select and facilitate the training and certification of instructors who will implement the  
29 Program.

30 (c) The State Board of Community Colleges shall adopt a curriculum, standards, and  
31 other policies and procedures for the program."

32 **SECTION 10.15.(d)** Effective July 1, 2016, the Community Colleges System  
33 Office shall provide driver education and safety instruction in accordance with G.S. 115D-76.5,  
34 as enacted in subsection (b) of this section.

35 **SECTION 10.15.(e)** Notwithstanding G.S. 20-87(6), of the revenue collected on or  
36 after the date this act becomes law for the Motorcycle Safety Instruction Program, the  
37 Community Colleges System Office may use up to two hundred thousand dollars (\$200,000)  
38 for the 2015-2016 fiscal year to conduct the study required by subsection (a) of this section.

39 **SECTION 10.15.(f)** Subsection (b) of this section is effective July 1, 2016.

## 40 41 **PART XI. UNIVERSITIES**

### 42 43 **USE OF ESCHEAT FUNDS FOR STUDENT FINANCIAL AID** 44 **PROGRAMS/TECHNICAL CORRECTIONS**

45 **SECTION 11.1.(a)** The funds appropriated by this act from the Escheat Fund for  
46 the 2015-2017 fiscal biennium for student financial aid shall be allocated in accordance with  
47 G.S. 116B-7. Notwithstanding any other provision of Chapter 116B of the General Statutes, if  
48 the interest income generated from the Escheat Fund is less than the amounts referenced in this  
49 act, the difference may be taken from the Escheat Fund principal to reach the appropriations  
50 referenced in this act; however, under no circumstances shall the Escheat Fund principal be  
51 reduced below the sum required in G.S. 116B-6(f). If any funds appropriated from the Escheat

1 Fund by this act for student financial aid remain uncommitted aid as of the end of a fiscal year,  
2 the funds shall be returned to the Escheat Fund, but only to the extent the funds exceed the  
3 amount of the Escheat Fund income for that fiscal year.

4 **SECTION 11.1.(b)** The State Education Assistance Authority (SEAA) shall  
5 conduct periodic evaluations of expenditures of the student financial aid programs administered  
6 by SEAA to determine if allocations are utilized to ensure access to institutions of higher  
7 learning and to meet the goals of the respective programs. The SEAA may make  
8 recommendations for redistribution of funds to The University of North Carolina, and the  
9 President of the Community College System regarding their respective student financial aid  
10 programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

11 **SECTION 11.1.(c)** G.S. 116B-7(b) reads as rewritten:

12 "(b) An amount specified in the Current Operations Appropriations Act shall be  
13 transferred annually from the Escheat Fund to the Department of ~~Administration~~ Military and  
14 Veterans Affairs to partially fund the program of Scholarships for Children of War Veterans  
15 established by Article 4 of Chapter 165 of the General Statutes. Those funds may be used only  
16 for residents of this State who (i) are worthy and needy as determined by the Department of  
17 ~~Administration~~ Military and Veterans Affairs and (ii) are enrolled in public institutions of  
18 higher education of this State."

19 **SECTION 11.1.(d)** G.S. 116B-6 reads as rewritten:

20 "**§ 116B-6. Administration of Escheat Fund; Escheat Account.**

21 ...

22 (g) Additional Funds for Refunds. – If at any time the amount of the refund reserve  
23 shall be insufficient to make refunds required to be made, the Treasurer, in addition, may use  
24 all current receipts derived from escheated or abandoned property, exclusive of earnings and  
25 profits on investments of the Escheat Fund and the Escheat Account, for the purpose of making  
26 such refunds; and if all such funds shall be inadequate for such refunds, the Treasurer may  
27 apply to the Council of State, pursuant to the ~~Executive State~~ Budget Act, to the limit of funds  
28 available from the Contingency and Emergency Fund, for a loan, without interest, to supply  
29 any deficiencies, in whole or in part. No receipts derived from escheated or abandoned  
30 property, other than earnings or profits on investments, shall be paid to the Authority until: (i)  
31 all valid claims for refund have been paid; (ii) the reserve for refund shall equal five million  
32 dollars (\$5,000,000); and (iii) the amount loaned from the Contingency and Emergency Fund  
33 shall have been repaid by the Escheat Fund.

34 (h) Expenditures. – The Treasurer may expend the funds in the Escheat Fund, other  
35 than funds in the Escheat Account, for the payment of claims for refunds to owners, holders  
36 and claimants under G.S. 116B-4; for the payment of costs of maintenance and upkeep of  
37 abandoned or escheated property; costs of preparing lists of names of owners of abandoned  
38 property to be furnished to clerks of superior court; costs of notice and publication; costs of  
39 appraisals; fees of persons employed pursuant to G.S. 116B-8 costs involved in determining  
40 whether a decedent died without heirs; fees of persons employed pursuant to G.S. 116B-8 to  
41 conduct audits; costs of a title search of real property that has escheated; and costs of auction or  
42 sale under this Chapter. All other costs, including salaries of personnel, necessary to carry out  
43 the duties of the Treasurer under this Chapter, shall be appropriated from the funds of the  
44 Escheat Fund pursuant to the provisions of ~~Article 1, Chapter 143~~ Chapter 143C of the General  
45 Statutes.

46 ...."

47  
48 **AMEND REGULATION OF UNC INSTITUTIONAL TRUST FUNDS AND FUNDS OF**  
49 **UNC HEALTH CARE SYSTEM**

50 **SECTION 11.2.(a)** G.S. 116-36.1(h) reads as rewritten:



1       "(h) The Board may authorize, through the President, that the chancellors may deposit or  
2 invest each institution's available trust fund cash balances in interest-bearing accounts and other  
3 investments as may be authorized by the Board in the exercise of its sound discretion, without  
4 regard to any statute or rule of law relating to the investment of funds by ~~fiduciaries~~fiduciaries;  
5 provided however, funds deposited and invested under this section are subject to  
6 G.S. 116-36.1A."

7           **SECTION 11.2.(b)** Article 1 of Chapter 116 of the General Statutes is amended by  
8 adding a new section to read:

9 **"§116-36.1A. Institutional trust fund deposits to be secured; reports of depositories.**

10       (a) The amount of funds deposited pursuant to G.S. 116-36.1 in an official depository  
11 shall be adequately secured by deposit insurance, surety bonds, or investment securities of such  
12 nature in such amounts and in such manner as may be prescribed by policy of the Board of  
13 Governors. No security is required for the protection of funds remitted to and received by a  
14 bank or trust company designated by the Board of Governors under Chapter 116D or Part 4 of  
15 Article 1 of Chapter 116 of the General Statutes and acting as paying agent for the payment of  
16 the principal of or interest on bonds or notes of the State.

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

24       (c) Violation of the provisions of this section shall be a Class 1 misdemeanor."

## 25 26 **IN-STATE TUITION FOR CERTAIN VETERANS AND OTHER INDIVIDUALS** 27 **ENTITLED TO FEDERAL EDUCATIONAL BENEFITS**

28           **SECTION 11.3.(a)** Article 14 of Chapter 116 of the General Statutes is amended  
29 by adding a new section to read:

30 **"§ 116-143.3A. Waiver of 12-month residency requirement for certain veterans and other**  
31 **individuals entitled to federal education benefits under 38 U.S.C. Chapter 30 or**  
32 **38 U.S.C. Chapter 33.**

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

34           (1) Abode. – Has the same meaning as G.S. 116-143.3(a)(1).

35           (2) Armed Forces. – Has the same meaning as G.S. 116-143.3(a)(2).

36           (3) Veteran. – A person who served active duty for not less than 90 days in the  
37 Armed Forces, the Commissioned Corps of the U.S. Public Health Service,  
38 or the National Oceanic and Atmospheric Administration and who was  
39 discharged or released from such service under conditions other than  
40 dishonorable.

41       (b) Waiver of 12-Month Residency Requirement for Veteran. – Any veteran who  
42 qualifies for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3)  
43 is eligible to be charged the in-State tuition rate and applicable mandatory fees for enrollment  
44 without satisfying the 12-month residency requirement under G.S. 116-143.1, provided the  
45 veteran meets all of the following criteria:

46           (1) The veteran applies for admission to the institution of higher education and  
47 enrolls within three years of the veteran's discharge or release from the  
48 Armed Forces, the Commissioned Corps of the U.S. Public Health Service,  
49 or the National Oceanic and Atmospheric Administration.

50           (2) The veteran qualifies for and uses educational benefits pursuant to 38 U.S.C.  
51 Chapter 30 (Montgomery G.I. Bill Active Duty Education Assistance

1 Program) or 38 U.S.C. Chapter 33 (Post-9/11 Educational Assistance), as  
2 administered by the U.S. Department of Veterans Affairs.

3 (3) The veteran's abode is North Carolina.

4 (4) The veteran provides the institution of higher education at which the veteran  
5 intends to enroll a letter of intent to establish residence in North Carolina.

6 (c) Eligibility of Other Individuals Entitled to Federal Educational Benefits Under 38  
7 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33. – Any person who is entitled to federal educational  
8 benefits under 38 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33 is also eligible to be charged the  
9 in-State tuition rate and applicable mandatory fees for enrollment without satisfying the  
10 12-month residency requirement under G.S. 116-143.1 if the person meets all of the following  
11 criteria:

12 (1) The person qualifies for admission to the institution of higher education as  
13 defined in G.S. 116-143.1(a)(3) and enrolls in the institution of higher  
14 education within three years of the veteran's discharge or release from the  
15 Armed Forces, the Commissioned Corps of the U.S. Public Health Service,  
16 or the National Oceanic and Atmospheric Administration.

17 (2) The person is the recipient of federal educational benefits pursuant to 38  
18 U.S.C. Chapter 30 (Montgomery G.I. Bill Active Duty Education Assistance  
19 Program) or 38 U.S.C. Chapter 33 (Post-9/11 Educational Assistance), as  
20 administered by the U.S. Department of Veterans Affairs.

21 (3) The person's abode is North Carolina.

22 (4) The person provides the institution of higher education at which the person  
23 intends to enroll a letter of intent to establish residence in North Carolina.

24 (d) After the expiration of the three-year period following discharge or death as  
25 described in 38 U.S.C. § 3679(c), any enrolled veteran entitled to federal educational benefits  
26 under 38 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33 and any other enrolled individual entitled  
27 to federal educational benefits under 38 U.S.C. Chapter 30 or 38 U.S.C. Chapter 33 who is  
28 eligible for in-State tuition under this section shall continue to be eligible for the in-State tuition  
29 rate so long as the covered individual remains continuously enrolled (other than during  
30 regularly scheduled breaks between courses, quarters, terms, or semesters) at that institution of  
31 higher education."

32 **SECTION 11.3.(b)** G.S. 116-143.8 is repealed.

33 **SECTION 11.3.(c)** This section applies to qualifying veterans and other  
34 individuals entitled to federal educational benefits under 38 U.S.C. Chapter 30 or 38 U.S.C.  
35 Chapter 33 who are enrolled or who enroll in institutions of higher education for any academic  
36 quarter, term, or semester that begins on or after the effective date of this act.  
37

### 38 **UNC MANAGEMENT FLEXIBILITY REDUCTION**

39 **SECTION 11.4.(a)** The management flexibility reduction for The University of  
40 North Carolina shall not be allocated by the Board of Governors to the constituent institutions  
41 and affiliated entities using an across-the-board method but shall be done in a manner that  
42 recognizes the importance of the academic missions and differences among The University of  
43 North Carolina entities.

44 Before taking reductions in instructional budgets, the Board of Governors and the  
45 campuses of the constituent institutions shall consider all of the following:

46 (1) Reducing State funding for centers and institutes, speaker series, and other  
47 nonacademic activities.

48 (2) Faculty workload adjustments.

49 (3) Restructuring of research activities.

50 (4) Implementing cost-saving span of control measures.

51 (5) Reducing the number of senior and middle management positions.

1 (6) Eliminating low-performing, redundant, or low-enrollment programs.

2 (7) Using alternative funding sources.

3 (8) Protecting direct classroom services.

4 The Board of Governors and the campuses of the constituent institutions also shall  
5 review the institutional trust funds and the special funds held by or on behalf of The University  
6 of North Carolina and its constituent institutions to determine whether there are monies  
7 available in those funds that can be used to assist with operating costs. In addition, the  
8 campuses of the constituent institutions also shall require their faculty to have a teaching  
9 workload equal to the national average in their Carnegie classification.

10 **SECTION 11.4.(b)** In allocating the management flexibility reduction, no  
11 reduction in State funds shall be allocated in either fiscal year of the 2015-2017 biennium to  
12 any of the following:

13 (1) UNC Need-Based Financial Aid.

14 (2) NC School of Science and Mathematics.

15 (3) University of North Carolina at Asheville.

16 (4) University of North Carolina School of the Arts.

17 **SECTION 11.4.(c)** The University of North Carolina shall report on the  
18 implementation of the management flexibility reduction in subsection (a) of this section to the  
19 Office of State Budget and Management and the Fiscal Research Division no later than April 1,  
20 2016. This report shall identify both of the following by campus:

21 (1) The total number of positions eliminated by type (faculty/nonfaculty).

22 (2) The low-performing, redundant, and low-enrollment programs that were  
23 eliminated.

## 24 25 **UNC TO FUND NORTH CAROLINA RESEARCH CAMPUS**

26 **SECTION 11.5.** Of the funds appropriated in this act to the Board of Governors of  
27 The University of North Carolina, the Board of Governors shall use twenty-nine million dollars  
28 (\$29,000,000) for the 2015-2016 fiscal year and twenty-nine million dollars (\$29,000,000) for  
29 the 2016-2017 fiscal year to support UNC-related activities at the North Carolina Research  
30 Campus at Kannapolis.

## 31 32 **PROGRAM EVALUATION DIVISION STUDY GRADUATION RATES AT** 33 **CONSTITUENT INSTITUTIONS AND RECOMMENDATIONS REGARDING** 34 **POLICIES TO INCREASE GRADUATION RATES**

35 **SECTION 11.7.(a)** The General Assembly finds that the six-year graduation rate  
36 for students pursuing a baccalaureate degree from any constituent institution of The University  
37 of North Carolina is too low. The General Assembly further finds that it is important to design  
38 and implement a program for the purpose of achieving the following goals: to assist more  
39 students to obtain a baccalaureate degree within a shorter time period; to provide students with  
40 a college education at significantly lower costs for both the student and the State; to help  
41 decrease the amount of debt resulting from loans that a student may owe upon graduation; to  
42 provide a student with an interim degree that may increase a student's job opportunities if the  
43 student chooses not to continue postsecondary education; and to provide easier access to  
44 academic counseling that will assist a student in selecting coursework that reflects the student's  
45 educational and career goals and helps the student succeed academically.

46 **SECTION 11.7.(b)** To address the issues and goals set out in subsection (a) of this  
47 section, the Program Evaluation Division shall review current six-year graduation rates for each  
48 constituent institution in the University of North Carolina system, determine what factors are  
49 associated with academic success and failure, and make recommendations on any policy  
50 changes needed to increase graduation rates at specific institutions, including, but not limited  
51 to, increasing the minimum high school GPA required for admission to 3.00 and implementing

1 a deferred admission program, to be known as the North Carolina Guaranteed Admission  
2 Program (NCGAP), for students identified as academically at risk. The University of North  
3 Carolina and its constituent institutions shall provide any data necessary and perform any  
4 analyses for this study as directed by the Program Evaluation Division. The Program  
5 Evaluation Division shall report on the findings of this study and make recommendations to the  
6 Joint Legislative Program Evaluation Oversight Committee by April 1, 2016.

## 8 **SPECIAL EDUCATION SCHOLARSHIP CHANGES AND REEVALUATION FUNDS**

9 **SECTION 11.11.(a)** G.S. 115C-112.6 reads as rewritten:

### 10 **"§ 115C-112.6. Scholarships.**

11 (a) Scholarship Applications. – The Authority shall make available no later than May 1  
12 annually applications to eligible students for the award of scholarships. Information about  
13 scholarships and the application process shall be made available on the Authority's Web site.  
14 The Authority shall give priority in awarding scholarships to eligible students who received a  
15 scholarship during the previous semester. Except as otherwise provided by the Authority for  
16 prior scholarship recipients, scholarships shall be awarded to eligible students in the order in  
17 which the applications are received.

18 (a1) Web Site Availability. – Information about scholarships and the application process  
19 shall be made available on the Authority's Web site. The Authority shall also include  
20 information on the Web site notifying parents that federal regulations adopted under IDEA  
21 provide that no parentally placed private school child with a disability has an individual right to  
22 receive some or all of the special education and related services that the child would receive if  
23 enrolled in a public school.

24 (b) Scholarship Awards. – Scholarships awarded to eligible students shall be for  
25 amounts of not more than ~~three~~ four thousand dollars ~~(\$3,000)~~ (\$4,000) per semester per  
26 eligible student. Eligible students awarded scholarships may not be enrolled in a public school  
27 to which that student has been assigned as provided in G.S. 115C-366. Scholarships shall be  
28 awarded only for tuition and for the reimbursement of tuition, special education, related  
29 services, and educational technology, as provided in subsection (b1) of this section. The  
30 Authority shall notify parents in writing of their eligibility to receive scholarships for costs that  
31 will be incurred during the spring semester of the following year by December 1 and for costs  
32 incurred during the fall semester of that year by July 1.

33 (b1) Disbursement of Scholarship Funds. – The Authority shall disburse scholarship  
34 funds for tuition and for the reimbursement of costs incurred by the parent of an eligible student  
35 as follows:

- 36 (1) Scholarship endorsement for tuition. – The Authority shall remit, at least two  
37 times each school year, scholarship funds awarded to eligible students for  
38 endorsement by at least one of the student's parents or guardians for tuition  
39 to attend (i) a North Carolina public school other than the public school to  
40 which that student has been assigned as provided in G.S. 115C-366 or (ii) a  
41 nonpublic school that meets the requirements of Part 1 or Part 2 of Article 39  
42 of this Chapter as identified by the Department of Administration, Division  
43 of Nonpublic Education. Scholarship funds shall not be provided for tuition  
44 for home schooled students. If the student is attending a nonpublic school,  
45 the school must be deemed eligible by the Division of Nonpublic Education,  
46 pursuant to G.S. 115C-562.4, and the school shall be subject to the  
47 requirements of G.S. 115C-562.5. The parent or guardian shall restrictively  
48 endorse the scholarship funds awarded to the eligible student to the school  
49 for deposit into the account of the school. The parent or guardian shall not  
50 designate any entity or individual associated with the school as the parent's  
51 attorney-in-fact to endorse the scholarship funds but shall endorse the

1 scholarship funds in person at the site of the school. A parent's or guardian's  
2 failure to comply with this section shall result in forfeiture of the scholarship  
3 funds. A scholarship forfeited for failure to comply with this section shall be  
4 returned to the Authority to be awarded to another student.

5 (2) Scholarship Reimbursements.—reimbursements for costs. – Scholarship  
6 reimbursement for costs incurred shall be provided as follows:

7 ~~(1)~~a. Preapproval process. – Prior to the start of each school semester, the  
8 parent of an eligible student may submit documentation of the  
9 ~~tuition,~~ special education, related services, or educational technology  
10 the parent anticipates incurring costs on in that semester for  
11 preapproval by the Authority.

12 ~~(2)~~b. Reimbursement submissions. – Following the conclusion of each  
13 school semester, the parent of an eligible student shall submit to the  
14 Authority any receipts or other documentation approved by the  
15 Authority to demonstrate the costs incurred during the semester. In  
16 addition, parents shall provide documentation of the following to  
17 seek reimbursement:

18 a. ~~Tuition reimbursement.~~—~~Parents may only receive~~  
19 ~~reimbursement for tuition if the parent provides~~  
20 ~~documentation that the student was enrolled in nonpublic~~  
21 ~~school or public school for which payment of tuition is~~  
22 ~~required for no less than 75 days of the semester for which~~  
23 ~~the parent seeks reimbursement. Tuition reimbursement shall~~  
24 ~~not be provided for home schooled students.~~

25 b.1. Special education reimbursement. – Parents may only receive  
26 reimbursement for special education if the parent provides  
27 documentation that the student received special education for  
28 no less than 75 days of the semester for which the parent  
29 seeks reimbursement. Special education reimbursement shall  
30 not be provided for special education instruction provided to  
31 a home schooled student by a member of the household of a  
32 home school, as defined in G.S. 115C-563(a).

33 e.2. Related services reimbursement. – Parents may only receive  
34 reimbursement for related services if the parent provides  
35 documentation that the student also received special  
36 education for no less than 75 days of the semester for which  
37 the parent seeks reimbursement for the related services.  
38 Related services reimbursement shall not be provided for  
39 related services provided to a home schooled student by a  
40 member of the household of a home school, as defined in  
41 G.S. 115C-563(a).

42 d.3. Educational technology reimbursement. – Parents may only  
43 receive reimbursement for educational technology if the  
44 parent provides documentation that the student used the  
45 educational technology for no less than 75 days of the  
46 semester for which the parent seeks reimbursement.

47 ~~(3)~~c. Scholarship award. – The Authority shall award a scholarship in the  
48 amount of costs demonstrated by the parent up to the maximum  
49 amount. If the costs incurred by the parent do not meet the maximum  
50 amount, the Authority shall use the remainder of those funds for the  
51 award of scholarships to eligible students for the following semester.

1 The Authority shall award scholarships to the parents of eligible  
2 students at least semiannually.

3 (c) Student Reevaluation. – After an eligible student's initial receipt of a scholarship,  
4 the Authority shall ensure that the student is reevaluated at least every three years by the local  
5 educational agency in order to verify that the student continues to be a child with a disability.

6 (d) Rule Making. – The Authority shall establish rules and regulations for the  
7 administration and awarding of scholarships. The Authority shall adopt rules providing for pro  
8 rata return of funds if a student withdraws prior to the end of the semester from a school to  
9 which scholarship funds have been remitted. The Authority shall annually develop a list of  
10 educational technology for which scholarships may be used and shall provide scholarship  
11 recipients with information about the list.

12 (e) Public Records Exception. – Scholarship applications and personally identifiable  
13 information related to eligible students receiving scholarships shall not be a public record under  
14 Chapter 132 of the General Statutes. For the purposes of this section, personally identifiable  
15 information means any information directly related to a student or members of a student's  
16 household, including the name, birthdate, address, Social Security number, telephone number,  
17 e-mail address, financial information, or any other information or identification number that  
18 would provide information about a specific student or members of a specific student's  
19 household."

20 **SECTION 11.11.(b)** G.S. 115C-112.9 reads as rewritten:

21 "**§ 115C-112.9. Duties of State Board of Education agencies.**

22 (a) The State Board, as part of its duty to monitor all local educational agencies to  
23 determine compliance with this Article and IDEA as provided in G.S. 115C-107.4, shall ensure  
24 that local educational agencies do the following:

- 25 (1) Conduct evaluations requested by a child's parent or guardian of suspected  
26 children with disabilities, as defined in G.S. 115C-107.3, in a timely manner  
27 as required by IDEA.  
28 (2) Provide reevaluations to identified children with disabilities receiving  
29 scholarships as provided in Part 1H of this Article at the request of the parent  
30 or guardian to ensure compliance with G.S. 115C-112.6(c).

31 (b) The Authority shall analyze, in conjunction with the Department of Public  
32 Instruction, past trends in scholarship data on an annual basis to ensure that the amount of  
33 funds transferred each fiscal year by the Authority to the Department for reevaluations by local  
34 school administrative units of eligible students under G.S. 115C-112.6(c) are sufficient and  
35 based on actual annual cost requirements."

36 **SECTION 11.11.(c)** The Authority shall adopt rules within 60 days of the date this  
37 act becomes law providing for pro rata return of funds if a student withdraws prior to the end of  
38 the semester from a school to which scholarship funds have been remitted.

39 **SECTION 11.11.(d)** This section applies to scholarships awarded for the  
40 2015-2016 school year and each subsequent school year.

41  
42 **INTERNSHIPS AND CAREER-BASED OPPORTUNITIES FOR STUDENTS**  
43 **ATTENDING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES**  
44 **(HBCU)**

45 **SECTION 11.12.(a)** The internship program created pursuant to S.L. 2014-100 to  
46 provide internships and career-based opportunities for students attending Historically Black  
47 Colleges and Universities may be offered to four or more HBCUs in the discretion of the Board  
48 of Governors of The University of North Carolina. Further, there is no requirement that  
49 Elizabeth City State University be a permanent participant in the internship program. The  
50 internship program shall be administered as provided by subsection (b) of this section.

1           **SECTION 11.12.(b)** The Board of Governors shall conduct a competitive process  
2 to select institutions of higher education that are Historically Black Colleges and Universities to  
3 participate in the internship program which links 60 students attending Historically Black  
4 Colleges and Universities with North Carolina-based companies. The Board of Governors shall  
5 determine the number of institutions that may participate in the program; however, at least two  
6 of the institutions shall be private institutions. Funds appropriated by this act for this internship  
7 program shall be allocated only to constituent institutions of The University of North Carolina  
8 that are designated as an HBCU and private colleges and universities located in North Carolina  
9 that are designated as an HBCU.

10           **SECTION 11.12.(c)** Of the funds appropriated by this act for the support of the  
11 internship program, The University of North Carolina may use up to five percent (5%) for costs  
12 associated with administering this program.

13           **SECTION 11.12.(d)** This section applies to the 2015-2016 fiscal year and each  
14 subsequent fiscal year.

## 15 16 **ELIZABETH CITY STATE UNIVERSITY BUDGET STABILIZATION FUNDS** 17 **REPORT**

18           **SECTION 11.13.** The President of The University of North Carolina shall report  
19 each quarter of the 2015-2016 fiscal year to the Office of State Budget and Management and  
20 the Fiscal Research Division of the General Assembly on the status of budget stabilization  
21 funds appropriated to Elizabeth City State University by this act for the purpose of enhancing  
22 technology related to enrollment and recruitment of students, campus access and safety, and  
23 human resources management. The reports shall provide detailed descriptions of the scope of  
24 work that has been completed to date, anticipated activities for the next quarter, and a plan with  
25 time line to complete the full scope of work. The reports shall also include evidence of  
26 improved services and outcomes achieved from improvements implemented using these funds.  
27 The first quarterly report required by this section shall be made no later than October 1, 2015.

## 28 29 **UNC ENROLLMENT GROWTH REPORT**

30           **SECTION 11.14.** G.S. 116-30.7 reads as rewritten:

31 **"§ 116-30.7. Biennial projection of enrollment growth for The University of North**  
32 **Carolina.**

33           By ~~October~~ December 15 of each even-numbered year, the General Administration of The  
34 University of North Carolina shall provide to the Joint Education Legislative Oversight  
35 Committee and to the Office of State Budget and Management a projection of the total student  
36 enrollment in The University of North Carolina that is anticipated for the next biennium. The  
37 enrollment projection shall be divided into the following categories and shall include the  
38 projected growth for each year of the biennium in each category at each of the constituent  
39 institutions: undergraduate students, graduate students (students earning master's and doctoral  
40 degrees), first professional students, and any other categories deemed appropriate by General  
41 Administration. The projection shall also distinguish between on-campus and distance  
42 education students. The projections shall be considered by the Director of the Budget when  
43 determining the amount the Director proposes to appropriate to The University of North  
44 Carolina in the Recommended State Budget submitted pursuant to G.S. 143C-3-5(b)."

## 45 46 **EARLY COLLEGE GRADUATES/UNC ADMISSION POLICY**

47           **SECTION 11.16.(a)** The Board of Governors of The University of North Carolina  
48 shall adopt a policy to require each constituent institution to offer to any student who graduated  
49 from a cooperative innovative high school program with an associate degree and who applies  
50 for admission to the constituent institution the option of being considered for admission as a  
51 freshman or as a transfer student. The constituent institution shall also provide written

1 information to the student regarding the consequences that accompany each option and any  
2 other relevant information that may be helpful to the student when considering which option to  
3 select.

4 **SECTION 11.16.(b)** Beginning November 1, 2016, the Board of Governors shall  
5 report annually to the Joint Legislative Education Oversight Committee regarding the number  
6 of students who graduated from a cooperative innovative high school program with an  
7 associate degree and which option was chosen by those students when applying for admission  
8 to a constituent institution.

9 **SECTION 11.16.(c)** This section applies to the 2016-2017 academic year and each  
10 subsequent academic year.

## 11 12 **SEAA FUNDS FOR ADMINISTRATION OF SPECIAL EDUCATION SCHOLARSHIP** 13 **GRANT PROGRAM**

14 **SECTION 11.18.** Section 5(b) of S.L. 2013-364, as amended by Section 3.2 of  
15 S.L. 2013-363, reads as rewritten:

16 "**SECTION 5.(b)** Of the funds allocated to NCSEAA to be used for the award of  
17 scholarship grants to eligible students under subsection (a) of this section, for fiscal year  
18 2013-2014, NCSEAA may retain up to two hundred thousand dollars (\$200,000) for  
19 administrative costs associated with the scholarship grant program. For fiscal year ~~2014-2015~~  
20 2015-2016 and subsequent years, NCSEAA may retain up to ~~two percent (2%)~~ four percent  
21 (4%) annually for administrative costs associated with the scholarship grant program."

## 22 23 **WESTERN GOVERNORS UNIVERSITY CHALLENGE GRANT**

24 **SECTION 11.20.** Of the funds appropriated in this act to the Board of Governors  
25 of The University of North Carolina, the sum of two million dollars (\$2,000,000) in  
26 nonrecurring funds for the 2015-2016 fiscal year shall be used as a challenge grant to Western  
27 Governors University to raise the sum of five million dollars (\$5,000,000) in private funds for  
28 the 2015-2016 fiscal year to establish a North Carolina campus. The allocation of two million  
29 dollars (\$2,000,000) under this section is contingent upon receipt by Western Governors  
30 University of five million dollars (\$5,000,000) in private funds for the purpose of establishing a  
31 North Carolina campus.

## 32 33 **HUNT INSTITUTE/NO GENERAL FUNDS**

34 **SECTION 11.21.** Notwithstanding any other provision of law, no monies from the  
35 General Fund shall be used for the support of The Hunt Institute which is an affiliate of the  
36 University of North Carolina at Chapel Hill.

## 37 38 **REDUCE UNC LAW SCHOOL FUNDS**

39 **SECTION 11.22.(a)** Notwithstanding any other provision in this act to the  
40 contrary, funds appropriated by this act to the Board of Governors of The University of North  
41 Carolina and allocated to the University of North Carolina at Chapel Hill for UNC School of  
42 Law for the 2015-2016 fiscal year and for the 2016-2017 fiscal year shall be reduced by the  
43 sum of three million dollars (\$3,000,000) in recurring funds each fiscal year.

44 **SECTION 11.22.(b)** Notwithstanding any other provision in this act to the  
45 contrary, funds appropriated by this act to the Board of Governors of The University of North  
46 Carolina and allocated to the Mountain Area Health Education Center (MAHEC) for surgery  
47 and family medicine residencies in the MAHEC service area shall be increased by the sum of  
48 three million dollars (\$3,000,000) in recurring funds for the 2015-2016 fiscal year and the sum  
49 of three million dollars (\$3,000,000) in recurring funds for the 2016-2017 fiscal year.

## 50 51 **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
(6) Triple P-Positive Parenting Program	828,233 NR
(7) NC Perinatal and Maternal Substance Abuse Initiative	2,729,316 NR
(8) Perinatal Substance Abuse Specialist	45,000 NR

**SECTION 12A.2.(d)** Statewide Proposal and Justification Review. – By March 1, 2016, the Secretary shall submit the statewide proposal developed pursuant to subsection (b) of this section to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division for consideration during the 2016 Regular Session of the 2015 General Assembly. The statewide proposal shall include at least all of the following:

- (1) Details of the statewide plan and identification of the lead agency responsible for assuring the success of the plan.
- (2) Justification for continuing, reducing, or eliminating funding for the programs and activities that receive nonrecurring allocations for the 2015-2016 fiscal year.
- (3) Recommendations for reallocation of funding from programs and activities that are not evidence-based and that are not producing positive returns on

1 investment consistent with the goals described in subdivision (1) of  
2 subsection (b) of this section.

- 3 (4) Recommendations for investments in new initiatives that accomplish the  
4 goals described in subdivision (1) of subsection (b) of this section.

5 **SECTION 12A.2.(e)** Establishment of Competitive Grants Process for Local  
6 Health Departments. – It is the intent of the General Assembly that, beginning in the 2016-2017  
7 fiscal year, the Department of Health and Human Services implement a competitive grants  
8 process for local health departments based on a county's current health status and the county's  
9 detailed proposal to invest in evidence-based programs to achieve the goals described in  
10 subdivision (1) of subsection (b) of this section. To that end, the Department shall develop a  
11 plan that establishes a competitive grants process to be administered by the Division of Central  
12 Management and Support. The Department shall develop a plan that, at a minimum, includes  
13 each of the following components:

- 14 (1) A request for application (RFA) process to allow local health departments to  
15 apply for and receive State funds on a competitive basis.  
16 (2) A requirement that the Secretary prioritize grant awards to those local health  
17 departments that are able to leverage non-State funds in addition to the grant  
18 award.  
19 (3) A process that awards grants to local health departments dedicated to  
20 providing services on a countywide basis and that supports the goals  
21 described in subdivision (1) of subsection (b) of this section.  
22 (4) Ensures that funds received by the Department to implement the plan  
23 supplement and do not supplant existing funds for health and wellness  
24 programs and initiatives.

25 **SECTION 12A.2.(f)** Funds for Competitive Grants Process. – Of the funds  
26 appropriated in this act to the Department of Health and Human Services, Division of Public  
27 Health, the sum of two million five hundred thousand dollars (\$2,500,000) in recurring funds  
28 for each year of the 2015-2017 fiscal biennium shall be used to establish the competitive grants  
29 process for local health departments described in subsection (e) of this section. The Department  
30 shall not use more than five percent (5%) of these funds for administrative purposes.

31 **SECTION 12A.2.(g)** Evaluation Protocol for Future Program Funding. – The  
32 Department shall work with the University of North Carolina Gillings School of Global Public  
33 Health (School of Global Public Health) to establish an evaluation protocol for determining  
34 program effectiveness and future funding requirements at the local level. By April 1, 2016, the  
35 Department, in consultation with the School of Global Public Health, shall submit a report to  
36 the Joint Legislative Oversight Committee on Health and Human Services on the request for  
37 application process to allow local health departments to apply for and receive State funds on a  
38 competitive basis. The report shall include the counties awarded, the amount of the award, the  
39 types of programs to be funded, and the evaluation process to be used in determining county  
40 performance.

## 41 **HEALTH INFORMATION TECHNOLOGY**

42 **SECTION 12A.4.(a)** The Department of Health and Human Services  
43 (Department), in cooperation with the State Chief Information Officer (State CIO), shall  
44 coordinate health information technology (HIT) policies and programs within the State of  
45 North Carolina. The goal of the DHHS CIO in coordinating State HIT policy and programs  
46 shall be to avoid duplication of efforts and to ensure that each State agency, public entity, and  
47 private entity that undertakes health information technology activities does so within the area of  
48 its greatest expertise and technical capability and in a manner that supports coordinated State  
49 and national goals, which shall include at least all of the following:  
50

- 1 (1) Ensuring that patient health information is secure and protected, in  
2 accordance with applicable law.
- 3 (2) Improving health care quality, reducing medical errors, reducing health  
4 disparities, and advancing the delivery of patient-centered medical care.
- 5 (3) Providing appropriate information to guide medical decisions at the time and  
6 place of care.
- 7 (4) Ensuring meaningful public input into HIT infrastructure development.
- 8 (5) Improving the coordination of information among hospitals, laboratories,  
9 physicians' offices, and other entities through an effective infrastructure for  
10 the secure and authorized exchange of health care information.
- 11 (6) Improving public health services and facilitating early identification and  
12 rapid response to public health threats and emergencies, including  
13 bioterrorist events and infectious disease outbreaks.
- 14 (7) Facilitating health and clinical research.
- 15 (8) Promoting early detection, prevention, and management of chronic diseases.

16 **SECTION 12A.4.(b)** The Department, in cooperation with the State CIO, shall  
17 establish and direct an HIT management structure that is efficient and transparent and that is  
18 compatible with the Office of the National Health Coordinator for Information Technology  
19 (National Coordinator) governance mechanism. The HIT management structure shall be  
20 responsible for all of the following:

- 21 (1) Developing a State plan for implementing and ensuring compliance with  
22 national HIT standards and for the most efficient, effective, and widespread  
23 adoption of HIT.
- 24 (2) Ensuring that (i) specific populations are effectively integrated into the State  
25 plan, including aging populations, populations requiring mental health  
26 services, and populations utilizing the public health system, and (ii) unserved  
27 and underserved populations receive priority consideration for HIT support.
- 28 (3) Identifying all HIT stakeholders and soliciting feedback and participation  
29 from each stakeholder in the development of the State plan.
- 30 (4) Ensuring that existing HIT capabilities are considered and incorporated into  
31 the State plan.
- 32 (5) Identifying and eliminating conflicting HIT efforts where necessary.
- 33 (6) Identifying available resources for the implementation, operation, and  
34 maintenance of health information technology, including identifying  
35 resources and available opportunities for North Carolina institutions of  
36 higher education.
- 37 (7) Ensuring that potential State plan participants are aware of HIT policies and  
38 programs and the opportunity for improved health information technology.
- 39 (8) Monitoring HIT efforts and initiatives in other states and replicating  
40 successful efforts and initiatives in North Carolina.
- 41 (9) Monitoring the development of the National Coordinator's strategic plan and  
42 ensuring that all stakeholders are aware of and in compliance with its  
43 requirements.
- 44 (10) Monitoring the progress and recommendations of the HIT Policy and  
45 Standards Committee and ensuring that all stakeholders remain informed of  
46 the Committee's recommendations.
- 47 (11) Monitoring all studies and reports provided to the United States Congress  
48 and reporting to the Joint Legislative Oversight Committee on Information  
49 Technology and the Fiscal Research Division on the impact of report  
50 recommendations on State efforts to implement coordinated HIT.

1           **SECTION 12A.4.(c)** By no later than January 15, 2016, the Department shall  
2 provide a written report on the status of HIT efforts to the Joint Legislative Oversight  
3 Committees on Health and Human Services and Information Technology and to the Fiscal  
4 Research Division. The report shall be comprehensive and shall include all of the following:

- 5           (1) Current status of federal HIT initiatives.
- 6           (2) Current status of State HIT efforts and initiatives among both public and  
7 private entities.
- 8           (3) Other State information technology initiatives with potential applicability to  
9 State HIT efforts.
- 10          (4) Efforts to ensure coordination and avoid duplication of HIT efforts within  
11 the State.
- 12          (5) A breakdown of current public and private funding sources and dollar  
13 amounts for State HIT initiatives.
- 14          (6) Efforts by the DHHS CIO to coordinate HIT initiatives within the State and  
15 any obstacles or impediments to coordination.
- 16          (7) HIT research efforts being conducted within the State and sources of funding  
17 for research efforts.
- 18          (8) Opportunities for stakeholders to participate in HIT funding and other efforts  
19 and initiatives during the next quarter.
- 20          (9) Issues associated with the implementation of HIT in North Carolina and  
21 recommended solutions to these issues.

22  
23 **FUNDS FOR OVERSIGHT AND ADMINISTRATION OF STATEWIDE HEALTH**  
24 **INFORMATION EXCHANGE NETWORK**

25           **SECTION 12A.5.(a)** It is the intent of the General Assembly to do all of the  
26 following with respect to health information exchange:

- 27          (1) Establish a successor HIE Network to which (i) all Medicaid providers shall  
28 be connected by July 1, 2017, and (ii) all other entities that receive State  
29 funds for the provision of health services shall be connected by January 1,  
30 2018.
- 31          (2) Establish (i) a State-controlled Health Information Exchange Authority to  
32 oversee and administer the successor HIE Network and (ii) a Health  
33 Information Exchange Advisory Board to provide consultation to the  
34 Authority on matters pertaining to administration and operation of the HIE  
35 Network and on statewide health information exchange, generally.
- 36          (3) Have the successor HIE Network gradually become and remain one hundred  
37 percent (100%) receipt-supported by establishing reasonable participation  
38 fees approved by the General Assembly and by drawing down available  
39 matching funds whenever possible.

40           **SECTION 12A.5.(b)** In order to achieve the objectives described in subsection (a)  
41 of this section, funds appropriated in this act to the Department of Health and Human Services,  
42 Division of Central Management and Support, for the 2015-2016 fiscal year and for the  
43 2016-2017 fiscal year to continue efforts toward the implementation of a statewide health  
44 information exchange network shall be transferred to the Department of Information  
45 Technology. By 30 days after the effective date of this section, the Secretary of the Department  
46 of Health and Human Services and the State Chief Information Officer (State CIO) shall enter  
47 into a written memorandum of understanding pursuant to which the State CIO will have sole  
48 authority to direct the expenditure of these funds until (i) the North Carolina Health  
49 Information Exchange Authority (Authority) is established and the State CIO has appointed an  
50 Authority Director and (ii) the North Carolina Health Information Exchange Advisory Board  
51 (Advisory Board) is established with members appointed pursuant to Article 29B of Chapter 90

1 of the General Statutes, as enacted by subsection (d) of this section. The State CIO shall use  
2 these transferred funds to accomplish the following:

- 3 (1) Beginning immediately upon receipt of the transferred funds, facilitate the  
4 following:
  - 5 a. Establishment of the successor HIE Network described in subsection  
6 (a) of this section.
  - 7 b. Termination or assignment to the Authority by December 31, 2015,  
8 of any contracts pertaining to the HIE Network established under  
9 Article 29A of Chapter 90 of the General Statutes (i) between the  
10 State and the NC HIE and (ii) between the NC HIE and any third  
11 parties.
- 12 (2) Fund the monthly operational expenses incurred or encumbered by the NC  
13 HIE from July 1, 2015, until December 31, 2015. Notwithstanding any other  
14 provision of law to the contrary, the total amount of monthly operating  
15 expenses paid for with these funds shall not exceed one hundred  
16 seventy-seven thousand dollars (\$177,000) per month, or a total of one  
17 million sixty-two thousand dollars (\$1,062,000) for the six-month period  
18 commencing July 1, 2015, and ending December 31, 2015. The State CIO  
19 shall terminate payments for these monthly operational expenses upon the  
20 earlier of December 31, 2015, or upon the termination or assignment to the  
21 Authority of all contracts pertaining to the HIE Network established under  
22 Article 29A of Chapter 90 of the General Statutes (i) between the State and  
23 the NC HIE and (ii) between the NC HIE and any third parties.

24 The State CIO is encouraged to explore all available opportunities for the State to receive  
25 federal grant funds and federal matching funds for health information exchange.

26 **SECTION 12A.5.(c)** Once the Authority Director has been hired and the Advisory  
27 Board has been established with members appointed pursuant to Article 29B of Chapter 90 of  
28 the General Statutes, as enacted by subsection (d) of this section, the Authority shall use these  
29 funds to do the following:

- 30 (1) Fund the operational expenses of the Authority and the Advisory Board.
- 31 (2) Establish, oversee, administer, and provide ongoing support of a successor  
32 HIE Network to the HIE Network established under Article 29A of Chapter  
33 90 of the General Statutes.
- 34 (3) Enter into any contracts necessary for the establishment, administration, and  
35 operation of the successor HIE Network.
- 36 (4) Facilitate the termination or assignment to the Authority by December 31,  
37 2015, of any contracts pertaining to the HIE Network established under  
38 Article 29A of Chapter 90 of the General Statutes (i) between the State and  
39 the NC HIE and (ii) between the NC HIE and any third parties.
- 40 (5) Fund the monthly operational expenses incurred or encumbered by the NC  
41 HIE from July 1, 2015, until December 31, 2015. Notwithstanding any other  
42 provision of law to the contrary, the total amount of monthly operating  
43 expenses paid for with these funds shall not exceed one hundred  
44 seventy-seven thousand dollars (\$177,000) per month, or a total of one  
45 million sixty-two thousand dollars (\$1,062,000) for the six-month period  
46 commencing July 1, 2015, and ending December 31, 2015. The Authority  
47 shall terminate payments for these monthly operational expenses upon the  
48 earlier of December 31, 2015, or upon the termination or assignment to the  
49 Authority of all contracts pertaining to the HIE Network established under  
50 Article 29A of Chapter 90 of the General Statutes (i) between the State and  
51 the NC HIE and (ii) between the NC HIE and any third parties.

1 The Authority is encouraged to explore all available opportunities for the State to receive  
2 federal grant funds and federal matching funds for health information exchange.

3 **SECTION 12A.5.(d)** Chapter 90 of the General Statutes is amended by adding a  
4 new Article to read:

5 "Article 29B.

6 "Statewide Health Information Exchange Act.

7 **"§ 90-414.1. Title.**

8 This act shall be known and may be cited as the "Statewide Health Information Exchange  
9 Act."

10 **"§ 90-414.2. Purpose.**

11 This Article is intended to improve the quality of health care delivery within this State by  
12 facilitating and regulating the use of a voluntary, statewide health information exchange  
13 network for the secure electronic transmission of individually identifiable health information  
14 among health care providers, health plans, and health care clearinghouses in a manner that is  
15 consistent with the Health Insurance Portability and Accountability Act, Privacy Rule and  
16 Security Rule, 45 C.F.R. §§ 160, 164.

17 **"§ 90-414.3. Definitions.**

18 The following definitions apply in this Article:

- 19 (1) Business associate. – As defined in 45 C.F.R. § 160.103.
- 20 (2) Business associate contract. – The documentation required by 45 C.F.R. §  
21 164.502(e)(2) that meets the applicable requirements of 45 C.F.R. §  
22 164.504(e).
- 23 (3) Covered entity. – Any entity described in 45 C.F.R. § 160.103 or any other  
24 facility or practitioner licensed by the State to provide health care services.
- 25 (4) Disclose or disclosure. – The release, transfer, provision of access to, or  
26 divulging in any other manner an individual's protected health information  
27 through the HIE Network.
- 28 (5) Emergency medical condition. – A medical condition manifesting itself by  
29 acute symptoms of sufficient severity, including severe pain, such that the  
30 absence of immediate medical attention could reasonably be expected to  
31 result in (i) placing an individual's health in serious jeopardy, (ii) serious  
32 impairment of an individual's bodily functions, or (iii) serious dysfunction of  
33 any bodily organ or part of an individual.
- 34 (6) GDAC. – The North Carolina Government Data Analytics Center.
- 35 (7) Health Benefits Authority. – The Authority established under Article 14 of  
36 Chapter 143B of the General Statutes to operate the Medicaid and NC  
37 Health Choice programs.
- 38 (8) HIE Network. – The voluntary, statewide health information exchange  
39 network overseen and administered by the Authority.
- 40 (9) HIPAA. – The Health Insurance Portability and Accountability Act of 1996,  
41 P.L. 104-191, as amended.
- 42 (10) Individual. – As defined in 45 C.F.R. § 160.103.
- 43 (11) North Carolina Health Information Exchange Authority or Authority. – The  
44 entity established pursuant to G.S. 90-414.5.
- 45 (12) North Carolina Health Information Exchange Advisory Board or Advisory  
46 Board. – The Advisory Board established under G.S. 90-414.6.
- 47 (13) Opt out. – An individual's affirmative decision to disallow his or her  
48 protected health information maintained by or on behalf of one or more  
49 specific covered entities from being disclosed to other covered entities  
50 through the HIE Network.
- 51 (14) Protected health information. – As defined in 45 C.F.R. § 160.103.

- 1           (15) Public health purposes. – The public health activities and purposes described  
2           in 45 C.F.R. § 164.512(b).
- 3           (16) Qualified organization. – An entity designated by the Authority to contract  
4           with covered entities on behalf of the Authority to facilitate the participation  
5           of such covered entities in the HIE Network.
- 6           (17) Research purposes. – Research that meets the standard described in 45  
7           C.F.R. § 164.512(i).
- 8           (18) State CIO. – The State Chief Information Officer.

9 **"§ 90-414.4. Required participation in HIE Network for some providers.**

10        (a) The General Assembly makes the following findings:

- 11           (1) That controlling escalating health care costs of the Medicaid program and  
12           other State-funded health services is of significant importance to the State,  
13           its taxpayers, its Medicaid recipients, and other recipients of State-funded  
14           health services.
- 15           (2) That the Health Benefits Authority needs timely access to claims and clinical  
16           information in order to assess performance, improve health care outcomes,  
17           pinpoint medical expense trends, identify beneficiary health risks, and  
18           evaluate how the State is spending money on Medicaid and other  
19           State-funded health services.
- 20           (3) That making this clinical information available through the HIE Network  
21           will improve care coordination within and across health systems, increase  
22           care quality, enable more effective population health management, reduce  
23           duplication of medical services, augment syndromic surveillance, allow  
24           more accurate measurement of care services and outcomes, increase strategic  
25           knowledge about the health of the population, and facilitate health care cost  
26           containment.

27        (b) As a condition of receiving State funds, including Medicaid funds, the following  
28        entities shall connect to the HIE Network and submit individual patient demographic and  
29        clinical data on services paid for with State funds, including Medicaid funds, based on the  
30        findings set forth in subsection (a) of this section and notwithstanding the voluntary nature of  
31        the HIE Network under G.S. 90-414.2:

- 32           (1) Each hospital, as defined in G.S. 131E-76(3), that has an electronic health  
33           record system.
- 34           (2) Each Medicaid provider.
- 35           (3) Each provider that receives State funds for the provision of health services.

36        (c) The Authority shall give the Health Benefits Authority real-time access to data and  
37        information disclosed through the HIE Network. At the request of the Director of the Fiscal  
38        Research, Bill Drafting, Research, or Program Evaluation Divisions of the General Assembly  
39        for data and information disclosed through the HIE Network or for a consolidation or analysis  
40        of the data and information disclosed through the HIE Network, the Authority shall provide the  
41        professional staff of these Divisions with data and information responsive to the Director's  
42        request. Prior to providing the General Assembly's staff with any data or information disclosed  
43        through the HIE Network or with any compilation or analysis of data or information disclosed  
44        through the HIE Network, the Authority shall redact any personal identifying information in a  
45        manner consistent with the standards specified for de-identification of health information under  
46        the HIPAA Privacy Rule, 45 C.F.R. § 164.15, as amended.

47 **"§ 90-414.4A. State ownership of data disclosed through HIE Network.**

48        Any data disclosed through the HIE Network pursuant to G.S. 90-414.4 or any other  
49        provision of this Article shall be and will remain the sole property of the State. Any data or  
50        product derived from the data disclosed to the HIE Network pursuant to G.S. 90-414.4 or any  
51        other provision of this Article, including a consolidation or analysis of the data, shall be and

1 will remain the sole property of the State. The Authority shall not allow proprietary information  
2 it receives pursuant to G.S. 90-414.4 or any other provision of this Article to be used by any  
3 person or entity for commercial purposes.

4 **"§ 90-414.5. North Carolina Health Information Exchange Authority.**

5 (a) Creation. – There is hereby established the North Carolina Health Information  
6 Exchange Authority to oversee and administer the HIE Network in accordance with this  
7 Article. The Authority shall be located within the Department of Information Technology and  
8 shall be under the supervision, direction, and control of the State CIO. The State CIO shall  
9 employ an Authority Director and may delegate to the Authority Director all powers and duties  
10 associated with the daily operation of the Authority, its staff, and the performance of the  
11 powers and duties set forth in subsection (b) of this section. In making this delegation,  
12 however, the State CIO maintains the responsibility for the performance of these powers and  
13 duties.

14 (b) Powers and Duties. – The Authority has the following powers and duties:

15 (1) Oversee and administer the HIE Network in a manner that ensures all of the  
16 following:

17 a. Compliance with this Article.

18 b. Compliance with HIPAA and any rules adopted under HIPAA,  
19 including the Privacy Rule and Security Rule.

20 c. Compliance with the terms of any business associate contract the  
21 Authority or qualified organization enters into with a covered entity  
22 participating in the HIE Network.

23 d. Notice to the patient by the provider on the initial visit about the HIE  
24 Network, including information and education about the right of  
25 individuals on a continuing basis to opt out or rescind a decision to  
26 opt out.

27 e. Opportunity for all individuals to exercise on a continuing basis the  
28 right to opt out or rescind a decision to opt out.

29 f. Nondiscriminatory treatment by covered entities of individuals who  
30 exercise the right to opt out.

31 (2) Employ staff necessary to carry out the provisions of this Article and  
32 determine the compensation, duties, and other terms and conditions of  
33 employment of hired staff.

34 (3) Enter into contracts pertaining to the oversight and administration of the HIE  
35 Network, including contracts of a consulting or advisory nature.  
36 G.S. 143-64.20 does not apply to this subdivision.

37 (4) Establish fees approved by the General Assembly for participation in the  
38 HIE Network.

39 (5) Following consultation with the Advisory Board, develop and enter into  
40 written participation agreements with covered entities that utilize the HIE  
41 Network. The participation agreements shall specify the terms and  
42 conditions governing participation in the HIE Network. The agreement shall  
43 also require compliance with policies developed by the Authority pursuant to  
44 this Article or pursuant to applicable laws of the state of residence for  
45 entities located outside of North Carolina. In lieu of entering into a  
46 participation agreement directly with covered entities, the Authority may  
47 enter into participation agreements with qualified organizations, which in  
48 turn enter into participation agreements with covered entities.

49 (6) Add, remove, disclose, and access protected health information through the  
50 HIE Network in accordance with this Article.



- 1           (7)    Following consultation with the Advisory Board, enter into a business  
2           associate contract with each of the covered entities participating in the HIE  
3           Network. In lieu of entering into a business associate contract directly with  
4           covered entities, the Authority may enter into business associate contracts  
5           with qualified organizations, which in turn may enter into business associate  
6           contracts with covered entities.
- 7           (8)    Following consultation with the Advisory Board, grant user rights to the HIE  
8           Network to business associates of covered entities participating in the HIE  
9           Network (i) at the request of the covered entities and (ii) at the discretion of  
10          the Authority upon consideration of the business associates' legitimate need  
11          for utilizing the HIE Network and privacy and security concerns.
- 12          (9)    Facilitate and promote use of the HIE Network by covered entities.
- 13          (10)   Periodically monitor compliance with this Article by covered entities  
14          participating in the HIE Network.
- 15          (11)   Collect clinical health data from all Medicaid providers and other providers  
16          that receive State funds for the provision of health services in order to ensure  
17          the efficient delivery of Medicaid and other health services and to improve  
18          patient outcomes and measure performance.
- 19          (12)   Collaborate with the State CIO to ensure that resources available through the  
20          GDAC are properly leveraged, assigned, or deployed to support the work of  
21          the Authority. The duty to collaborate under this subdivision includes  
22          collaboration on data hosting and development, implementation, operation,  
23          and maintenance of the HIE Network.
- 24          (13)   Initiate or direct expansion of existing public-private partnerships within the  
25          GDAC as necessary to meet the requirements, duties, and obligations of the  
26          Authority. Notwithstanding any other provision of law and subject to the  
27          availability of funds, the State CIO, at the request of the Authority, shall  
28          assist and facilitate expansion of existing contracts related to the HIE  
29          Network, provided that such request is made in writing by the Authority to  
30          the State CIO with reference to specific requirements set forth in this Article.
- 31          (14)   In consultation with the Advisory Board, develop a strategic plan for  
32          achieving statewide participation in the HIE Network by all hospitals and  
33          health care providers licensed in this State.
- 34          (15)   In consultation with the Advisory Board, define the following with respect to  
35          operation of the HIE Network:
- 36               a.    Business policy.
- 37               b.    Protocols for data integrity, data sharing, data security, HIPAA  
38               compliance, and business intelligence as defined in  
39               G.S. 143B-426.38A. To the extent permitted by HIPAA, protocols  
40               for data sharing shall allow for the disclosure of data for academic  
41               research.
- 42               c.    Qualitative and quantitative performance measures.
- 43               d.    An operational budget and assumptions.
- 44          (16)   Annually report to the Joint Legislative Oversight Committees on the Health  
45          Benefits Authority and Information Technology on the following:
- 46               a.    The operation of the HIE Network.
- 47               b.    Any efforts or progress in expanding participation in the HIE  
48               Network.
- 49               c.    Health care trends based on information disclosed through the HIE  
50               Network.

51    § 90-414.6. North Carolina Health Information Exchange Advisory Board.

1        (a) Creation and Membership. – There is hereby established the North Carolina Health  
2 Information Exchange Advisory Board within the Department of Information Technology. The  
3 Advisory Board shall consist of the following nine members:

4            (1) The following three members appointed by the President Pro Tempore of the  
5 Senate:

6            a. A licensed physician in good standing and actively practicing in this  
7 State.

8            b. A patient representative.

9            c. An individual with technical expertise in health data analytics.

10          (2) The following three members appointed by the Speaker of the House of  
11 Representatives:

12          a. A representative of a critical access hospital.

13          b. A representative of a federally qualified health center.

14          c. An individual with technical expertise in health information  
15 technology.

16          (3) The following three ex officio, nonvoting members:

17          a. The State Chief Information Officer or a designee.

18          b. The Program Manager of GDAC or a designee.

19          c. The Chief Executive Officer of the Health Benefits Authority or a  
20 designee.

21        (b) Chairperson. – A chairperson shall be elected from among the members. The  
22 chairperson shall organize and direct the work of the Advisory Board.

23        (c) Administrative Support. – The Department of Information Technology shall provide  
24 necessary clerical and administrative support to the Advisory Board.

25        (d) Meetings. – The Advisory Board shall meet at least quarterly and at the call of the  
26 chairperson. A majority of the Advisory Board constitutes a quorum for the transaction of  
27 business.

28        (e) Terms. – In order to stagger terms, in making initial appointments, the President Pro  
29 Tempore shall designate two of the members appointed under subdivision (1) of subsection (a)  
30 of this section to serve for a one-year period from the date of appointment, and the Speaker of  
31 the House of Representatives shall designate two members appointed under subdivision (2) of  
32 subsection (a) of this section to serve for a one-year period from the date of appointment. The  
33 remaining voting members shall serve two-year periods. Future appointees who are voting  
34 members shall serve terms of two years, with staggered terms based on this subsection. Voting  
35 members may serve up to two consecutive terms, not including the abbreviated two-year terms  
36 that establish staggered terms or terms of less than two years that result from the filling of a  
37 vacancy. Ex officio, nonvoting members are not subject to these term limits. A vacancy other  
38 than by expiration of a term shall be filled by the appointing authority.

39        (f) Expenses. – Members of the Advisory Board who are State officers or employees  
40 shall receive no compensation for serving on the Advisory Board but may be reimbursed for  
41 their expenses in accordance with G.S. 138-6. Members of the Advisory Board who are  
42 full-time salaried public officers or employees other than State officers or employees shall  
43 receive no compensation for serving on the Advisory Board but may be reimbursed for their  
44 expenses in accordance with G.S. 138-5(b). All other members of the Advisory Board may  
45 receive compensation and reimbursement for expenses in accordance with G.S. 138-5.

46        (g) Duties. – The Advisory Board shall provide consultation to the Authority with  
47 respect to the advancement, administration, and operation of the HIE Network and on matters  
48 pertaining to health information exchange, generally. In carrying out its responsibilities, the  
49 Advisory Board may form committees of the Advisory Board to examine particular issues  
50 related to the advancement, administration, or operation of the HIE Network.

51 **"§ 90-414.7. Participation by covered entities.**

1       (a) Each covered entity that elects to participate in the HIE Network shall enter into a  
2 business associate contract and a written participation agreement with the Authority or  
3 qualified organization prior to disclosing or accessing any protected health information through  
4 the HIE Network.

5       (b) Each covered entity that elects to participate in the HIE Network may authorize its  
6 business associates to disclose or access protected health information on behalf of the covered  
7 entity through the HIE Network in accordance with this Article and at the discretion of the  
8 Authority, as provided in G.S. 90-414.5(b)(8).

9       (c) Notwithstanding any State law or regulation to the contrary, each covered entity that  
10 elects to participate in the HIE Network may disclose an individual's protected health  
11 information through the HIE Network (i) to other covered entities for any purpose permitted by  
12 HIPAA, unless the individual has exercised the right to opt out, and (ii) in order to facilitate the  
13 provision of emergency medical treatment to the individual, subject to the requirements set  
14 forth in G.S. 90-414.8(e).

15       (d) Any health care provider who relies in good faith upon any information provided  
16 through the Authority or through a qualified organization in the health care provider's treatment  
17 of a patient shall not incur criminal or civil liability for damages caused by the inaccurate or  
18 incomplete nature of this information.

19 **"§ 90-414.8. Continuing right to opt out; effect of opt out; exception for emergency**  
20 **medical treatment.**

21       (a) Each individual has the right on a continuing basis to opt out or rescind a decision to  
22 opt out.

23       (b) The Authority or its designee shall enforce an individual's decision to opt out or  
24 rescind an opt out prospectively from the date the Authority or its designee receives notice of  
25 the individual's decision to opt out or rescind an opt out in the manner prescribed by the  
26 Authority. An individual's decision to opt out or rescind an opt out does not affect any  
27 disclosures made by the Authority or covered entities through the HIE Network prior to receipt  
28 by the Authority or its designee of the individual's notice to opt out or rescind an opt out.

29       (c) A covered entity may not deny treatment or benefits to an individual because of the  
30 individual's decision to opt out. However, nothing in this Article is intended to restrict a  
31 treating physician from otherwise appropriately terminating a relationship with a patient in  
32 accordance with applicable law and professional ethical standards.

33       (d) Except as otherwise permitted in subsection (e) of this section and  
34 G.S. 90-414.9(a)(3), the protected health information of an individual who has exercised the  
35 right to opt out may not be disclosed to covered entities through the HIE Network for any  
36 purpose.

37       (e) The protected health information of an individual who has exercised the right to opt  
38 out may be disclosed through the HIE Network in order to facilitate the provision of emergency  
39 medical treatment to the individual if all of the following criteria are met:

40           (1) The reasonably apparent circumstances indicate to the treating health care  
41 provider that (i) the individual has an emergency medical condition, (ii) a  
42 meaningful discussion with the individual about whether to rescind a  
43 previous decision to opt out is impractical due to the nature of the  
44 individual's emergency medical condition, and (iii) information available  
45 through the HIE Network could assist in the diagnosis or treatment of the  
46 individual's emergency medical condition.

47           (2) The disclosure through the HIE Network is limited to the covered entities  
48 providing diagnosis and treatment of the individual's emergency medical  
49 condition.

- 1           (3)   The circumstances and extent of the disclosure through the HIE Network is  
2           recorded electronically in a manner that permits the Authority or its designee  
3           to periodically audit compliance with this subsection.

4   **"§ 90-414.9. Construction and applicability.**

5   (a)   Nothing in this Article shall be construed to do any of the following:

- 6           (1)   Impair any rights conferred upon an individual under HIPAA, including all  
7           of the following rights related to an individual's protected health  
8           information:  
9           a.   The right to receive a notice of privacy practices.  
10          b.   The right to request restriction of use and disclosure.  
11          c.   The right of access to inspect and obtain copies.  
12          d.   The right to request amendment.  
13          e.   The right to request confidential forms of communication.  
14          f.   The right to receive an accounting of disclosures.  
15          (2)   Authorize the disclosure of protected health information through the HIE  
16          Network to the extent that the disclosure is restricted by federal laws or  
17          regulations, including the federal drug and alcohol confidentiality  
18          regulations set forth in 42 C.F.R. Part 2.  
19          (3)   Restrict the disclosure of protected health information through the HIE  
20          Network for public health purposes or research purposes, so long as  
21          disclosure is permitted by both HIPAA and State law.  
22          (4)   Prohibit the Authority or any covered entity participating in the HIE  
23          Network from maintaining in the Authority's or qualified organization's  
24          computer system a copy of the protected health information of an individual  
25          who has exercised the right to opt out, as long as the Authority or the  
26          qualified organization does not access, use, or disclose the individual's  
27          protected health information for any purpose other than for necessary system  
28          maintenance or as required by federal or State law.

29          (b)   This Article applies only to disclosures of protected health information made  
30          through the HIE Network, including disclosures made within qualified organizations. It does  
31          not apply to the use or disclosure of protected health information in any context outside of the  
32          HIE Network, including the redisclosure of protected health information obtained through the  
33          HIE Network.

34   **"§ 90-414.10. Penalties and remedies.**

35          A covered entity that discloses protected health information in violation of this Article is  
36          subject to the following:

- 37           (1)   Any civil penalty or criminal penalty, or both, that may be imposed on the  
38           covered entity pursuant to the Health Information Technology for Economic  
39           and Clinical Health (HITECH) Act, P.L. 111-5, Div. A, Title XIII, section  
40           13001, as amended, and any regulations adopted under the HITECH Act.  
41           (2)   Any civil remedy under the HITECH Act or any regulations adopted under  
42           the HITECH Act that is available to the Attorney General or to an individual  
43           who has been harmed by a violation of this Article, including damages,  
44           penalties, attorneys' fees, and costs.  
45           (3)   Disciplinary action by the respective licensing board or regulatory agency  
46           with jurisdiction over the covered entity.  
47           (4)   Any penalty authorized under Article 2A of Chapter 75 of the General  
48           Statutes if the violation of this Article is also a violation of Article 2A of  
49           Chapter 75 of the General Statutes.  
50           (5)   Any other civil or administrative remedy available to a plaintiff by State or  
51           federal law or equity."

1           **SECTION 12A.5.(e)** G.S. 126-5 is amended by adding a new subdivision to read:

2   "**§ 126-5. Employees subject to Chapter; exemptions.**

3       ...

4       (c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this  
5 Chapter shall not apply to:

6       ...

7       (31) Employees of the North Carolina Health Information Exchange Authority."

8       **SECTION 12A.5.(f)** Article 29A of Chapter 90 of the General Statutes is repealed.

9       **SECTION 12A.5.(g)** Subsections (d) and (e) of this section become effective  
10 October 1, 2015. Subsection (f) of this section becomes effective on the date the State Chief  
11 Information Officer notifies the Revisor of Statutes that all contracts pertaining to the HIE  
12 Network established under Article 29A of Chapter 90 of the General Statutes (i) between the  
13 State and the NC HIE, as defined in G.S. 90-413.3, and (ii) between the NC HIE and any third  
14 parties have been terminated or assigned to the North Carolina Health Information Exchange  
15 Authority established under Article 29B of Chapter 90 of the General Statutes, as enacted by  
16 subsection (d) of this section. The remainder of this section becomes effective July 1, 2015.

17  
18   **FUNDS FOR NCTRACKS, THE REPLACEMENT MULTIPAYER MEDICAID**  
19   **MANAGEMENT INFORMATION SYSTEM**

20       **SECTION 12A.6.** Of the funds appropriated in this act to the Department of Health  
21 and Human Services, Division of Central Management and Support, for NCTRACKS, the sum  
22 of four hundred thousand dollars (\$400,000) for the 2015-2016 fiscal year and the sum of four  
23 hundred thousand dollars (\$400,000) for the 2016-2017 fiscal year shall be used to operate and  
24 maintain NCTRACKS; and the sum of two million three hundred thousand dollars  
25 (\$2,300,000) in nonrecurring funds for the 2015-2016 fiscal year and the sum of nine hundred  
26 forty thousand dollars (\$940,000) in nonrecurring funds for the 2016-2017 fiscal year shall be  
27 used to develop and implement the ICD-10 Project and the Business Process Automated  
28 System for the Division of Health Service Regulation. In addition, overrealized receipts are  
29 hereby appropriated to the Department of Health and Human Services, Division of Central  
30 Management and Support, up to the amounts necessary to implement this section. In the event  
31 it becomes necessary for the Department to utilize these overrealized receipts or any other  
32 funds appropriated to the Department to implement this section, the Department shall first (i)  
33 obtain prior approval from the Office of State Budget and Management (OSBM) and (ii)  
34 consult with the Joint Legislative Oversight Committees on Health and Human Services and  
35 Information Technology and the Fiscal Research Division. As part of the consultation required  
36 by this section, the Department shall provide the amounts of any overrealized receipts or other  
37 funds it intends to use to make up for any shortfall in funding for NCTRACKS and an  
38 explanation of the circumstances necessitating the use of overrealized receipts or other funds to  
39 make up for the shortfall.

40  
41   **FUNDS FOR NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH**  
42   **TECHNOLOGY (NC FAST)**

43       **SECTION 12A.7.(a)** Departmental receipts appropriated in this act in the amount  
44 of nine million eight hundred seventy-one thousand fifty-nine dollars (\$9,871,059) for the  
45 2015-2016 fiscal year and thirteen million two hundred twenty thousand six hundred sixty-five  
46 dollars (\$13,220,665) for the 2016-2017 fiscal year shall be used to provide ongoing  
47 maintenance and operations for the NC FAST system, including the creation of three full-time  
48 equivalent technology support analyst positions.

49       **SECTION 12A.7.(b)** Prior year earned revenue appropriated in this act in the  
50 amount of six million six hundred forty-seven thousand eight hundred forty-nine dollars  
51 (\$6,647,849) for the 2015-2016 fiscal year and five million two hundred ninety-eight thousand

1 one hundred seventy-eight dollars (\$5,298,178) for the 2016-2017 fiscal year and the cash  
2 balance in Budget Code 24410 Fund 2411 for the North Carolina Families Accessing Services  
3 through Technology (NC FAST) project shall be used to match federal funds in the 2015-2016  
4 and 2016-2017 fiscal years to expedite the development and implementation of Child Care,  
5 Low Income Energy Assistance, Crisis Intervention Programs, Child Services, and NC FAST  
6 Federally-Facilitated Marketplace (FFM) Interoperability components of the NC FAST  
7 program. The Department shall report any changes in approved federal funding or federal  
8 match rates within 30 days after the change to the Joint Legislative Oversight Committees on  
9 Health and Human Services and Information Technology and the Fiscal Research Division.

10  
11 **COMPETITIVE GRANTS/NONPROFIT ORGANIZATIONS, HEALTH**  
12 **DISPARITY-RELATED INITIATIVES, AND PHYSICAL HEALTH AND**  
13 **NUTRITION**

14 **SECTION 12A.8.(a)** Of the funds appropriated in this act to the Department of  
15 Health and Human Services, Division of Central Management and Support, the following  
16 amounts shall be used for the specified purposes:

- 17 (1) The sum of ten million three hundred twenty-eight thousand nine hundred  
18 eleven dollars (\$10,328,911) for each year of the 2015-2017 fiscal biennium  
19 and the sum of three million eight hundred fifty-two thousand five hundred  
20 dollars (\$3,852,500) appropriated in Section 12I.1 of this act in Social  
21 Services Block Grant funds for each year of the 2015-2017 fiscal biennium  
22 shall be used to allocate funds for nonprofit organizations.
- 23 (2) The sum of three million two hundred ninety-nine thousand five hundred  
24 seventy-six dollars (\$3,299,576), offset by receipts in the amount of one  
25 hundred fifty-five thousand four hundred sixty-eight dollars (\$155,468) for  
26 each year of the 2015-2017 fiscal biennium and the sum of two million  
27 seven hundred fifty-six thousand eight hundred fifty-five dollars  
28 (\$2,756,855) appropriated in Section 12I.1 of this act in Preventive Health  
29 Services Block Grant funds for the 2015-2016 fiscal year shall be used to  
30 continue the established competitive grants process for health  
31 disparity-related initiatives.
- 32 (3) The sum of four hundred twenty-six thousand three hundred thirty-three  
33 dollars (\$426,333), offset by receipts in the amount of one hundred sixty  
34 thousand twenty-one dollars (\$160,021) for each year of the 2015-2017  
35 fiscal biennium and the sum of one million two hundred forty-three thousand  
36 eight hundred ninety-nine dollars (\$1,243,899) appropriated in Section 12I.1  
37 of this act in Preventive Health Services Block Grant funds for the  
38 2015-2016 fiscal year shall be used to establish a competitive grants process  
39 for physical health and nutrition-related initiatives.

40 **SECTION 12A.8.(b)** Nonprofit Organizations. –

- 41 (1) The Department shall continue administering a competitive grants process  
42 for nonprofit funding. The Department shall administer a plan that, at a  
43 minimum, includes each of the following:
- 44 a. A request for application (RFA) process to allow nonprofits to apply  
45 for and receive State funds on a competitive basis. The Department  
46 shall require nonprofits to include in the application, a plan to  
47 evaluate the effectiveness, including measurable impact or outcomes,  
48 of the activities, services, and programs for which the funds are being  
49 requested.
- 50 b. A requirement that nonprofits match a minimum of fifteen percent  
51 (15%) of the total amount of the grant award.

- 1 c. A requirement that the Secretary prioritize grant awards to those  
2 nonprofits that are able to leverage non-State funds in addition to the  
3 grant award.
- 4 d. A process that awards grants to nonprofits that have the capacity to  
5 provide services on a statewide basis and that support any of the  
6 following State health and wellness initiatives:
- 7 1. A program targeting advocacy, support, education, or  
8 residential services for persons diagnosed with autism.
  - 9 2. A system of residential supports for those afflicted with  
10 substance abuse addiction.
  - 11 3. A program of advocacy and supports for individuals with  
12 intellectual and developmental disabilities or severe and  
13 persistent mental illness, substance abusers, or the elderly.
  - 14 4. Supports and services to children and adults with  
15 developmental disabilities or mental health diagnoses.
  - 16 5. A food distribution system for needy individuals.
  - 17 6. The provision and coordination of services for the homeless.
  - 18 7. The provision of services for individuals aging out of foster  
19 care.
  - 20 8. Programs promoting wellness, physical activity, and health  
21 education programming for North Carolinians.
  - 22 9. The provision of services and screening for blindness.
  - 23 10. Provision for the delivery of after-school services for  
24 apprenticeships or mentoring at-risk youth.
  - 25 11. The provision of direct services for amyotrophic lateral  
26 sclerosis (ALS) and those diagnosed with the disease.
  - 27 12. A comprehensive smoking prevention and cessation program  
28 that screens and treats tobacco use in pregnant women and  
29 postpartum mothers.
  - 30 13. A program providing short-term or long-term residential  
31 substance abuse services. For purposes of this  
32 sub-subdivision, "long-term" means a minimum of 12  
33 months.
- 34 e. Ensures that funds received by the Department to implement the plan  
35 supplement and do not supplant existing funds for health and  
36 wellness programs and initiatives.
- 37 f. Allows grants to be awarded to nonprofits for up to two years.
- 38 g. With grants awarded beginning July 1, 2016, a requirement that of  
39 the funds provided for competitive grants pursuant to this section, a  
40 minimum of five percent (5%) of the grants be awarded to new grant  
41 recipients who did not receive grant awards during the previous  
42 competitive grants process.
- 43 (2) No later than July 1, 2015, and every two years thereafter, as applicable, the  
44 Secretary shall announce the recipients of the competitive grant awards and  
45 allocate funds to the grant recipients for the respective grant period pursuant  
46 to the amounts designated under subdivision (1) of subsection (a) of this  
47 section. After awards have been granted, the Secretary shall submit a report  
48 to the Joint Legislative Oversight Committee on Health and Human Services  
49 on the grant awards that includes at least all of the following:
- 50 a. The identity and a brief description of each grantee and each program  
51 or initiative offered by the grantee.

- 1           b.       The amount of funding awarded to each grantee.  
2           c.       The number of persons served by each grantee, broken down by  
3                    program or initiative.  
4       (3)   No later than December 1 of each fiscal year, each nonprofit organization  
5           receiving funding pursuant to this subsection in the respective fiscal year  
6           shall submit to the Division of Central Management and Support a written  
7           report of all activities funded by State appropriations. The report shall  
8           include the following information about the fiscal year preceding the year in  
9           which the report is due:  
10          a.       The entity's mission, purpose, and governance structure.  
11          b.       A description of the types of programs, services, and activities  
12                    funded by State appropriations.  
13          c.       Statistical and demographical information on the number of persons  
14                    served by these programs, services, and activities, including the  
15                    counties in which services are provided.  
16          d.       Outcome measures that demonstrate the impact and effectiveness of  
17                    the programs, services, and activities.  
18          e.       A detailed program budget and list of expenditures, including all  
19                    positions funded, matching expenditures, and funding sources.  
20       (4)   For the 2015-2017 fiscal biennium only, from the funds identified in  
21           subdivision (1) of subsection (a) of this section, the Department shall  
22           allocate the sum of two million four hundred twenty-seven thousand nine  
23           hundred seventy-five dollars (\$2,427,975) in each year of the 2015-2017  
24           fiscal biennium to provide grants to Boys and Girls Clubs across the State to  
25           implement (i) programs that improve the motivation, performance, and self-  
26           esteem of youth and (ii) other initiatives that would be expected to reduce  
27           gang participation, school dropout, and teen pregnancy rates. Boys and Girls  
28           Clubs shall be required to seek future funding through the competitive grants  
29           process in accordance with subdivision (1) of this subsection.

30       **SECTION 12A.8.(c) Health Disparity-Related Initiatives. –**

- 31       (1)   Funds identified in subdivision (2) of subsection (a) of this section shall be  
32           used to continue the competitive grants process established to close the gap  
33           in the health status of African-Americans, Hispanics/Latinos, and American  
34           Indians as compared to the health status of white persons. These grants shall  
35           continue to focus on the use of measures to eliminate or reduce health  
36           disparities among minority populations in this State with respect to heart  
37           disease, stroke, diabetes, obesity, asthma, HIV/AIDS, cancer, infant  
38           mortality, and low birth weight.  
39       (2)   It is the intent of the General Assembly that the Department continue  
40           implementing the competitive grants process established for health  
41           disparity-related initiatives funding to be administered by the Division of  
42           Central Management and Support. The Department shall continue  
43           implementing a process that, at a minimum, includes each of the following:  
44          a.       A request for application (RFA) process to allow an entity to apply  
45                    for and receive State funds on a competitive basis. The Department  
46                    shall require entities to include in the application, a plan to evaluate  
47                    the effectiveness, including measurable impact or outcomes, of  
48                    activities, services, and programs for which the funds are being  
49                    requested.  
50          b.       The amount of any grant award is limited to three hundred thousand  
51                    dollars (\$300,000).



- 1 c. Only community-based organizations, faith-based organizations,  
2 local health departments, and hospitals located in urban and rural  
3 areas of the western, eastern, and Piedmont areas of this State are  
4 eligible to apply for these grants. No more than four grants shall be  
5 awarded to applicants located in any one of the three areas specified  
6 in this sub-subdivision.
- 7 d. Each eligible applicant shall be required to demonstrate substantial  
8 participation and involvement with all other categories of eligible  
9 applicants in order to ensure an evidence-based medical home model  
10 that will affect change in health and geographic disparities.
- 11 e. Eligible applicants shall select one or more of the following chronic  
12 illnesses or conditions specific to the applicant's geographic area as  
13 the basis for applying for a grant under this subdivision to affect  
14 change in the health status of African-Americans, Hispanics/Latinos,  
15 or American Indians:
- 16 1. Heart disease.
  - 17 2. Stroke.
  - 18 3. Diabetes.
  - 19 4. Obesity.
  - 20 5. Asthma.
  - 21 6. HIV/AIDS.
  - 22 7. Cancer.
  - 23 8. Infant mortality.
  - 24 9. Low birth weight.
- 25 f. The minimum duration of the grant period for any grant awarded  
26 under this subsection is two years.
- 27 g. The maximum duration of the grant period for any grant awarded  
28 under this subsection is three years.
- 29 h. If approved for a grant award, the grantee (i) shall not use more than  
30 eight percent (8%) of the grant funds for overhead costs and (ii) shall  
31 be required at the end of the grant period to demonstrate significant  
32 gains in addressing one or more of the health disparity focus areas  
33 identified in subdivision (1) of this subsection.
- 34 i. An independent panel with expertise in the delivery of services to  
35 minority populations, health disparities, chronic illnesses and  
36 conditions, and HIV/AIDS shall conduct the review of applications  
37 for grants. The Department shall establish the independent panel  
38 required by this sub-subdivision.
- 39 (3) The grants awarded under this subsection shall be awarded in honor of the  
40 memory of the following deceased members of the General Assembly:  
41 Bernard Allen, Pete Cunningham, John Hall, Robert Holloman, Howard  
42 Hunter, Ed Jones, Jeanne Lucas, Vernon Malone, William Martin, and  
43 William Wainwright. These funds shall be used for concerted efforts to  
44 address large gaps in health status among North Carolinians who are  
45 African-American, as well as disparities among other minority populations  
46 in North Carolina.
- 47 (4) By October 1, 2017, the Department shall submit a report to the Joint  
48 Legislative Oversight Committee on Health and Human Services and the  
49 Fiscal Research Division on funds appropriated for grants allocated pursuant  
50 to this subsection for the 2015-2017 fiscal biennium. The report shall include  
51 specific activities undertaken by grantees pursuant to subdivision (1) of this

1 subsection to address large gaps in health status among North Carolinians  
2 who are African-American and other minority populations in this State and  
3 shall also address all of the following:

- 4 a. Which community-based organizations, faith-based organizations,  
5 local health departments, and hospitals received grants.
- 6 b. The amount of funding awarded to each grantee.
- 7 c. Which of the minority populations were served by each grantee.
- 8 d. Which community-based organizations, faith-based organizations,  
9 local health departments, and hospitals were involved in fulfilling the  
10 goals and activities of each grant-in-aid awarded under this section  
11 and what activities were planned and implemented by the grantee to  
12 fulfill the community focus of grants awarded pursuant to this  
13 subsection.
- 14 e. How the activities implemented by the grantee fulfilled the goal of  
15 reducing health disparities among minority populations and the  
16 specific success in reducing particular incidences.

17 **SECTION 12A.8.(d) Physical Health and Nutrition-Related Activities. –**

- 18 (1) Funds identified in subdivision (3) of subsection (a) of this section shall be  
19 used to establish and administer a competitive grants process for programs  
20 demonstrated to improve physical health and nutrition across the State.
- 21 (2) It is the intent of the General Assembly that, beginning fiscal year  
22 2015-2016, the Department implements a competitive grants process for  
23 physical health and nutrition-related initiatives funding. To that end, the  
24 Department shall develop a plan that establishes a competitive grants process  
25 to be administered by the Division of Central Management and Support. The  
26 Department shall develop a plan that, at a minimum, includes each of the  
27 following:
  - 28 a. A request for application (RFA) process to allow an entity to apply  
29 for and receive State funds on a competitive basis. The Department  
30 shall require entities to include in the application, a plan to evaluate  
31 the effectiveness, including measurable impact or outcomes, of  
32 activities, services, and programs for which the funds are being  
33 requested.
  - 34 b. A process that awards grants to entities that have the capacity to  
35 provide services on a statewide basis and support physical health and  
36 nutrition initiatives.
  - 37 c. Ensures that funds received by the Department to implement the plan  
38 supplement and do not supplant existing funds for physical health  
39 and nutrition programs and initiatives.
  - 40 d. Allows grants to be awarded for up to two years.
- 41 (3) No later than February 1, 2016, the Secretary of Health and Human Services  
42 shall develop a plan for the implementation of the competitive grants process  
43 for physical health and nutrition-related initiative funding and shall report to  
44 the Joint Legislative Oversight Committee on Health and Human Services  
45 on the plan.
- 46 (4) No later than March 1, 2016, the Secretary of Health and Human Services  
47 shall implement the plan for the competitive grants process.
- 48 (5) No later than July 1, 2016, the Secretary shall announce the recipients of the  
49 competitive grant awards and allocate funds to the grant recipients for the  
50 2016-2017 fiscal year pursuant to the amounts designated under subdivision  
51 (3) of subsection (a) of this section. After awards have been granted, the

1 Secretary shall submit a report to the Joint Legislative Oversight Committee  
2 on Health and Human Services on the grant awards that includes at least all  
3 of the following:

- 4 a. The identity and a brief description of each grantee and each program  
5 or initiative offered by the grantee.
- 6 b. The amount of funding awarded to each grantee.
- 7 c. The number of persons served by each grantee, broken down by  
8 program or initiative.

9 (6) No later than December 1, 2016, each program receiving funding pursuant to  
10 subdivision (3) of subsection (a) of this section shall submit to the Division  
11 of Central Management and Support a written report of all activities funded  
12 by State appropriations. The report shall include the following information  
13 about the fiscal year preceding the year in which the report is due:

- 14 a. The entity's mission, purpose, and governance structure.
- 15 b. A description of the type of program, service, or activity funded by  
16 State appropriations.
- 17 c. Statistical and demographical information on the number of persons  
18 served by the program, service, or activity, including the counties in  
19 which services are provided.
- 20 d. Outcome measures that demonstrate the impact and effectiveness of  
21 the program, service, or activity.
- 22 e. A detailed program budget and list of expenditures, including all  
23 positions funded and funding sources.
- 24 f. The source and amount of any matching funds received by the entity.  
25

## 26 **COMMUNITY HEALTH GRANT PROGRAM CHANGES**

27 **SECTION 12A.9.** The Department of Health and Human Services, Office of Rural  
28 Health and Community Care, shall repurpose two million two hundred fifty thousand dollars  
29 (\$2,250,000) in Health Net appropriations to the Community Health Grant Program. The new  
30 appropriation for this program is seven million six hundred eighty-seven thousand one hundred  
31 sixty-nine dollars (\$7,687,169) in recurring funds. To ensure continuity of care, safety-net  
32 agencies receiving Health Net funds at the end of the 2014-2015 fiscal year shall be eligible to  
33 apply for and receive Community Health Grant funds at their current level of funding for the  
34 2015-2016 and 2016-2017 fiscal years. After the 2016-2017 fiscal year, these agencies must  
35 submit an application for funding through the competitive Community Health Grant process.  
36 The Community Health Grant Program is available to rural health centers, free clinics, public  
37 health departments, school-based health centers, federally qualified health centers, and other  
38 nonprofit organizations that provide primary care and preventive health services to low-income  
39 populations, including uninsured, underinsured, Medicaid, and Medicare residents across the  
40 State.

## 41 **RURAL HEALTH LOAN REPAYMENT PROGRAMS**

42 **SECTION 12A.10.(a)** The Department of Health and Human Services, Office of  
43 Rural Health and Community Care, shall use funds appropriated in this act for loan repayment  
44 to medical, dental, and psychiatric providers practicing in State hospitals or in rural or  
45 medically underserved communities in this State to combine the following loan repayment  
46 programs in order to achieve efficient and effective management of these programs:

- 47 (1) The Physician Loan Repayment Program.
- 48 (2) The Psychiatric Loan Repayment Program.
- 49 (3) The Loan Repayment Initiative at State Facilities.  
50

1           **SECTION 12A.10.(b)** These funds may be used for the following additional  
2 purposes:

- 3           (1) Continued funding of the State Loan Repayment Program for primary care  
4 providers and expansion of State incentives to general surgeons practicing in  
5 Critical Access Hospitals (CAHs) located across the State.
- 6           (2) Expansion of the State Loan Repayment Program to include eligible  
7 providers residing in North Carolina who use telemedicine in rural and  
8 underserved areas.

#### 10 **FUNDS FOR COMMUNITY PARAMEDICINE PILOT PROGRAM**

11           **SECTION 12A.12.(a)** Of the funds appropriated in this act to the Department of  
12 Health and Human Services, Division of Central Management and Support, for the 2015-2016  
13 fiscal year, the sum of three hundred fifty thousand dollars (\$350,000) shall be used to  
14 implement a community paramedicine pilot program. The pilot program shall focus on  
15 expanding the role of paramedics to allow for community-based initiatives that result in  
16 providing care that avoids nonemergency use of emergency rooms and 911 services and avoids  
17 unnecessary admissions into health care facilities.

18           **SECTION 12A.12.(b)** The North Carolina Office of Emergency Medical Services  
19 (NCOEMS) shall set the education standards and other requirements necessary to qualify as a  
20 community paramedic eligible to participate in the pilot program established in subsection (a)  
21 of this section. The Department shall consult with the NCOEMS to define the objectives, set  
22 standards, and establish the required outcomes for the pilot program.

23           **SECTION 12A.12.(c)** The Department of Health and Human Services shall  
24 establish up to three program sites to implement the community paramedicine pilot program,  
25 one of which shall be New Hanover Regional Emergency Medical Services. For the 2015-2016  
26 fiscal year, the New Hanover Regional Emergency Medical Services program site shall be  
27 awarded up to two hundred ten thousand dollars (\$210,000), and each of the remaining  
28 program sites may be awarded up to seventy thousand dollars (\$70,000). In selecting the  
29 remaining program sites, the Department may give preference to counties that currently have an  
30 established community paramedic program.

31           **SECTION 12A.12.(d)** The Department of Health and Human Services shall submit  
32 a report to the Senate Appropriations Committee on Health and Human Services, the House of  
33 Representatives Appropriations Committee on Health and Human Services, and the Fiscal  
34 Research Division by June 1, 2016, on the progress of the pilot program and shall include an  
35 evaluation plan based on the U.S. Department of Health and Human Services, Health  
36 Resources and Services Administration Office of Rural Health Policy's Community  
37 Paramedicine Evaluation Tool published in March 2012.

38           **SECTION 12A.12.(e)** The Department of Health and Human Services shall submit  
39 a final report to the Joint Legislative Oversight Committee on Health and Human Services and  
40 the Fiscal Research Division by November 1, 2016. At a minimum, the final report shall  
41 include all of the following:

- 42           (1) An updated version of the evaluation plan required by subsection (d) of this  
43 section.
- 44           (2) An estimate of the cost to expand the program incrementally and statewide.
- 45           (3) An estimate of any potential savings of State funds associated with  
46 expansion of the program.
- 47           (4) If expansion of the program is recommended, a time line for expanding the  
48 program.

#### 50 **FUNDS FOR DESIGN AND IMPLEMENTATION OF CONTRACTING SPECIALIST** 51 **AND CERTIFICATION PROGRAM**

1           **SECTION 12A.13.** Funds appropriated in this act to the Department of Health and  
2 Human Services, Division of Central Management and Support, for the design of a contracting  
3 specialist training and certification program for management level personnel within the  
4 Department of Health and Human Services (DHHS) shall be used as follows:

5           (1) For the 2015-2016 fiscal year, the sum of one hundred fifty thousand dollars  
6 (\$150,000) in nonrecurring funds shall be allocated to the University of  
7 North Carolina School of Government (SOG) to design the program for  
8 permanent administration by the Office of State Human Resources (OSHR).  
9 SOG shall design a program that is similar to its Certified Local Government  
10 Purchasing Officer program and local purchasing and contracts program.  
11 OSHR, SOG, and the Office of the State Chief Information Officer shall  
12 provide assistance on program design and implementation as requested by  
13 DHHS, OSHR, or SOG. To the extent practical, DHHS, OSHR, and SOG  
14 shall design and develop the program as a prototype for a State  
15 government-wide program. Although designed for personal and professional  
16 services contracting, the design may incorporate any applicable best  
17 practices for construction and technology contracting.

18           (2) For the 2016-2017 fiscal year:

- 19           a. The sum of twenty-five thousand dollars (\$25,000) in nonrecurring  
20 funds shall be used to assist both DHHS and OSHR with program  
21 implementation.  
22           b. The sum of one hundred seventy-five thousand dollars (\$175,000) in  
23 recurring funds shall be used for program support and to fund two  
24 full-time equivalent positions within OSHR dedicated to oversight  
25 of, and training for, this new program.  
26

#### 27 **CHILD WELFARE CASE MANAGEMENT SYSTEM**

28           **SECTION 12A.14.(a)** Funds appropriated in this act to the Department of Health  
29 and Human Services, Division of Central Management and Support, in the amount of five  
30 million eight hundred three thousand dollars (\$5,803,000) in nonrecurring funds and prior year  
31 earned revenue in the amount of two million seven hundred fifty-two thousand one hundred  
32 fifty-one dollars (\$2,752,151) for the 2015-2016 fiscal year and in the amount of thirteen  
33 million fifty-two thousand dollars (\$13,052,000) in nonrecurring funds and prior year earned  
34 revenue in the amount of four million one hundred one thousand eight hundred twenty-four  
35 dollars (\$4,101,824) for the 2016-2017 fiscal year shall be used to purchase a child welfare  
36 case management system that has demonstrated its ability to provide child welfare case  
37 management services in another state within the United States. The Division shall purchase a  
38 system that can be integrated with North Carolina Families Accessing Services through  
39 Technology (NC FAST) and the work product of the Child Protective Services Pilot Project  
40 being conducted in accordance with Section 12C.11 of this act. The Division shall issue a  
41 request for proposals (RFP) in selecting a system for purchase. The Department shall not move  
42 forward with implementing the child welfare case management system in NC FAST.

43           **SECTION 12A.14.(b)** It is the intent of the General Assembly that beginning fiscal  
44 year 2016-2017, all Department of Health and Human Services' information technology assets,  
45 resources, and personnel transfer to the Department of Information Technology, as created in  
46 this act. To that end, the planning, development, and implementation of the child welfare case  
47 management system described in this section shall be coordinated with the Department of  
48 Information Technology.

49           **SECTION 12A.14.(c)** The Department shall report on the results of the RFP to the  
50 Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative

1 Oversight Committee on Information Technology, and the Fiscal Research Division no later  
2 than October 1, 2016.

3  
4 **HEALTH CARE COST REDUCTION AND TRANSPARENCY ACT REVISIONS**

5 **SECTION 12A.15.** G.S. 131E-214.13 reads as rewritten:

6 **"§ 131E-214.13. Disclosure of prices for most frequently reported DRGs, CPTs, and**  
7 **HCPCSs.**

8 (a) The following definitions apply in this Article:

- 9 (1) Ambulatory surgical facility. – A facility licensed under Part 4 of Article 6  
10 of this Chapter.  
11 (2) Commission. – The North Carolina Medical Care Commission.  
12 (3) Health insurer. – An entity that writes a health benefit plan and is one of the  
13 following:  
14 a. An insurance company under Article 3 of Chapter 58 of the General  
15 Statutes.  
16 b. A service corporation under Article 65 of Chapter 58 of the General  
17 Statutes.  
18 c. A health maintenance organization under Article 67 of Chapter 58 of  
19 the General Statutes.  
20 d. A third-party administrator of one or more group health plans, as  
21 defined in section 607(1) of the Employee Retirement Income  
22 Security Act of 1974 (29 U.S.C. § 1167(1)).  
23 (4) Hospital. – A medical care facility licensed under Article 5 of this Chapter or  
24 under Article 2 of Chapter 122C of the General Statutes.  
25 (5) Public or private third party. – Includes the State, the federal government,  
26 employers, health insurers, third-party administrators, and managed care  
27 organizations.

28 (b) Beginning with the ~~quarter ending June 30, 2014, reporting period ending~~  
29 September 30, 2015, and quarterly annually thereafter, each hospital shall provide to the  
30 Department of Health and Human Services, utilizing electronic health records software, the  
31 following information about the 100 most frequently reported admissions by DRG for  
32 inpatients as established by the Department:

- 33 (1) The amount that will be charged to a patient for each DRG if all charges are  
34 paid in full without a public or private third party paying for any portion of  
35 the charges.  
36 (2) The average negotiated settlement on the amount that will be charged to a  
37 patient required to be provided in subdivision (1) of this subsection.  
38 (3) The amount of Medicaid reimbursement for each DRG, including claims and  
39 pro rata supplemental payments.  
40 (4) The amount of Medicare reimbursement for each DRG.  
41 (5) For each of the five largest health insurers providing payment to the hospital  
42 on behalf of insureds and teachers and State employees, the range and the  
43 average of the amount of payment made for each DRG. Prior to providing  
44 this information to the Department, each hospital shall redact the names of  
45 the health insurers and any other information that would otherwise identify  
46 the health insurers.

47 A hospital shall not be required to report the information required by this subsection for any  
48 of the 100 most frequently reported admissions where the reporting of that information  
49 reasonably could lead to the identification of the person or persons admitted to the hospital in  
50 violation of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA)  
51 or other federal law.

1 (c) The Commission shall adopt rules on or before ~~January 1, 2015,~~ March 1, 2016, to  
2 ensure that subsection (b) of this section is properly implemented and that hospitals report this  
3 information to the Department in a uniform manner. The rules shall include all of the  
4 following:

5 (1) The method by which the Department shall determine the 100 most  
6 frequently reported DRGs for inpatients for which hospitals must provide the  
7 data set out in subsection (b) of this section.

8 (2) Specific categories by which hospitals shall be grouped for the purpose of  
9 disclosing this information to the public on the Department's Internet Web  
10 site.

11 (d) Beginning with the ~~quarter ending September 30, 2014,~~ reporting period ending  
12 September 30, 2015, and ~~quarterly~~ annually thereafter, each hospital and ambulatory surgical  
13 facility shall provide to the Department, utilizing electronic health records software,  
14 information on the total costs for the 20 most common surgical procedures and the 20 most  
15 common imaging procedures, by volume, performed in hospital outpatient settings or in  
16 ambulatory surgical facilities, along with the related CPT and HCPCS codes. Hospitals and  
17 ambulatory surgical facilities shall report this information in the same manner as required by  
18 subdivisions (b)(1) through (5) of this section, provided that hospitals and ambulatory surgical  
19 facilities shall not be required to report the information required by this subsection where the  
20 reporting of that information reasonably could lead to the identification of the person or persons  
21 admitted to the hospital in violation of the federal Health Insurance Portability and  
22 Accountability Act of 1996 (HIPAA) or other federal law.

23 (e) The Commission shall adopt rules on or before ~~January 1, 2015,~~ March 1, 2016, to  
24 ensure that subsection (d) of this section is properly implemented and that hospitals and  
25 ambulatory surgical facilities report this information to the Department in a uniform manner.  
26 The rules shall include the method by which the Department shall determine the 20 most  
27 common surgical procedures and the 20 most common imaging procedures for which the  
28 hospitals and ambulatory surgical facilities must provide the data set out in subsection (d) of  
29 this section.

30 (e1) The Commission shall adopt rules to establish and define no fewer than 10 quality  
31 measures identical to those established by the Joint Commission for each of the following:  
32 licensed hospitals and licensed ambulatory surgical facilities.

33 a. ~~Primary cesarean section rate, uncomplicated (TJC PC-02)~~

34 b. ~~Early elective delivery rate (TJC PC-01)~~

35 c. ~~difficile infection SIR (NHSN)~~

36 d. ~~Multidrug resistant organisms (NHSN)~~

37 e. ~~Surgical site infection SRI for colon surgeries (NSHN)~~

38 f. ~~Post-op sepsis rate (PSH3)~~

39 g. ~~Thrombolytic therapy for acute ischemic stroke patients (STK-4)~~

40 h. ~~Stroke education (STK-8)~~

41 i. ~~Venous thrombolism prophylaxis (VTE-1)~~

42 j. ~~Venous thrombolism discharge instructions (VTE-5)~~

43 (f) Upon request of a patient for a particular DRG, imaging procedure, or surgery  
44 procedure reported in this section, a hospital or ambulatory surgical facility shall provide the  
45 information required by subsection (b) or subsection (d) of this section to the patient in writing,  
46 either electronically or by mail, within three business days after receiving the request.

47 (g) G.S. 150B-21.3 does not apply to rules adopted under subsections (c) and (e) of this  
48 section. A rule adopted under subsections (c) and (e) of this section becomes effective on the  
49 last day of the month following the month in which the rule is approved by the Rules Review  
50 Commission.

1        (h) A fine of five hundred dollars (\$500.00) shall be imposed on the licensed hospital or  
2 licensed ambulatory surgical facility for each instance of failure to report as required."  
3

## 4        **SUBPART XII-B. DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION**

### 5        **NC PRE-K PROGRAM/STANDARDS FOR FOUR- AND FIVE-STAR RATED** 6 **FACILITIES**

7        **SECTION 12B.1.(a) Eligibility.** – The Department of Health and Human Services,  
8 Division of Child Development and Early Education, shall continue implementing the  
9 prekindergarten program (NC Pre-K). The NC Pre-K program shall serve children who are four  
10 years of age on or before August 31 of the program year. In determining eligibility, the  
11 Division shall establish income eligibility requirements for the program not to exceed  
12 seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children  
13 enrolled may have family incomes in excess of seventy-five percent (75%) of median income if  
14 those children have other designated risk factors. Furthermore, any age-eligible child who is a  
15 child of either of the following shall be eligible for the program: (i) an active duty member of  
16 the Armed Forces of the United States, including the North Carolina National Guard, State  
17 military forces, or a reserve component of the Armed Forces who was ordered to active duty by  
18 the proper authority within the last 18 months or is expected to be ordered within the next 18  
19 months or (ii) a member of the Armed Forces of the United States, including the North  
20 Carolina National Guard, State military forces, or a reserve component of the Armed Forces  
21 who was injured or killed while serving on active duty. Eligibility determinations for  
22 prekindergarten participants may continue through local education agencies and local North  
23 Carolina Partnership for Children, Inc., partnerships.

24        Other than developmental disabilities or other chronic health issues, the Division  
25 shall not consider the health of a child as a factor in determining eligibility for participation in  
26 the NC Pre-K program.  
27

28        **SECTION 12B.1.(b) Multiyear Contracts.** – The Division of Child Development  
29 and Early Education shall require the NC Pre-K contractor to issue multiyear contracts for  
30 licensed private child care centers providing NC Pre-K classrooms.

31        **SECTION 12B.1.(c) Programmatic Standards.** – All entities operating  
32 prekindergarten classrooms shall adhere to all of the policies prescribed by the Division of  
33 Child Development and Early Education regarding programmatic standards and classroom  
34 requirements.

35        **SECTION 12B.1.(d) NC Pre-K Committees.** – Local NC Pre-K committees shall  
36 use the standard decision-making process developed by the Division of Child Development and  
37 Early Education in awarding prekindergarten classroom slots and student selection.

38        **SECTION 12B.1.(e) Reporting.** – The Division of Child Development and Early  
39 Education shall submit an annual report no later than March 15 of each year to the Joint  
40 Legislative Oversight Committee on Health and Human Services, the Office of State Budget  
41 and Management, and the Fiscal Research Division. The report shall include the following:

- 42        (1) The number of children participating in the NC Pre-K program by county.
- 43        (2) The number of children participating in the NC Pre-K program who have  
44        never been served in other early education programs such as child care,  
45        public or private preschool, Head Start, Early Head Start, or early  
46        intervention programs.
- 47        (3) The expected NC Pre-K expenditures for the programs and the source of the  
48        local contributions.
- 49        (4) The results of an annual evaluation of the NC Pre-K program.



1           **SECTION 12B.1.(f)** Audits. – The administration of the NC Pre-K program by  
 2 local partnerships shall be subject to the financial and compliance audits authorized under  
 3 G.S. 143B-168.14(b).

4  
 5 **CHILD CARE SUBSIDY RATES**

6           **SECTION 12B.2.(a)** The maximum gross annual income for initial eligibility,  
 7 adjusted biennially, for subsidized child care services shall be determined based on a  
 8 percentage of the federal poverty level as follows:

9 <b>AGE</b>	<b>INCOME PERCENTAGE LEVEL</b>
10           0 – 5	200%
11           6 – 12	133%

12           The eligibility for any child with special needs, including a child who is 13 years of  
 13 age or older, shall be two hundred percent (200%) of the federal poverty level.

14           **SECTION 12B.2.(b)** Effective July 1, 2015, the Department of Health and Human  
 15 Services, Division of Child Development and Early Education, shall revise its child care  
 16 subsidy policy to exclude from the policy's definition of "income unit" a nonparent relative  
 17 caretaker, and the caretaker's spouse and child, if applicable, when the parent of the child  
 18 receiving child care subsidy does not live in the home with the child.

19           **SECTION 12B.2.(c)** Fees for families who are required to share in the cost of care  
 20 are established based on ten percent (10%) of gross family income. Co-payments shall not be  
 21 prorated for part-time care.

22           **SECTION 12B.2.(d)** Payments for the purchase of child care services for  
 23 low-income children shall be in accordance with the following requirements:

- 24           (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106  
 25 and licensed child care centers and homes that meet the minimum licensing  
 26 standards that are participating in the subsidized child care program shall be  
 27 paid the one-star county market rate or the rate they charge privately paying  
 28 parents, whichever is lower, unless prohibited by subsection (g) of this  
 29 section.
- 30           (2) Licensed child care centers and homes with two or more stars shall receive  
 31 the market rate for that rated license level for that age group or the rate they  
 32 charge privately paying parents, whichever is lower, unless prohibited by  
 33 subsection (g) of this section.
- 34           (3) Nonlicensed homes shall receive fifty percent (50%) of the county market  
 35 rate or the rate they charge privately paying parents, whichever is lower.
- 36           (4) No payments shall be made for transportation services or registration fees  
 37 charged by child care facilities.
- 38           (5) Payments for subsidized child care services for postsecondary education  
 39 shall be limited to a maximum of 20 months of enrollment.
- 40           (6) The Department of Health and Human Services shall implement necessary  
 41 rule changes to restructure services, including, but not limited to, targeting  
 42 benefits to employment.

43           **SECTION 12B.2.(e)** Provisions of payment rates for child care providers in  
 44 counties that do not have at least 50 children in each age group for center-based and  
 45 home-based care are as follows:

- 46           (1) Except as applicable in subdivision (2) of this subsection, payment rates  
 47 shall be set at the statewide or regional market rate for licensed child care  
 48 centers and homes.
- 49           (2) If it can be demonstrated that the application of the statewide or regional  
 50 market rate to a county with fewer than 50 children in each age group is  
 51 lower than the county market rate and would inhibit the ability of the county

1 to purchase child care for low-income children, then the county market rate  
2 may be applied.

3 **SECTION 12B.2.(f)** A market rate shall be calculated for child care centers and  
4 homes at each rated license level for each county and for each age group or age category of  
5 enrollees and shall be representative of fees charged to parents for each age group of enrollees  
6 within the county. The Division of Child Development and Early Education shall also calculate  
7 a statewide rate and regional market rate for each rated license level for each age category.

8 **SECTION 12B.2.(g)** The Division of Child Development and Early Education  
9 shall continue implementing policies that improve the quality of child care for subsidized  
10 children, including a policy in which child care subsidies are paid, to the extent possible, for  
11 child care in the higher-quality centers and homes only. The Division shall define  
12 higher-quality, and subsidy funds shall not be paid for one- or two-star-rated facilities. For  
13 those counties with an inadequate number of four- and five-star-rated facilities, the Division  
14 shall continue a transition period that allows the facilities to continue to receive subsidy funds  
15 while the facilities work on the increased star ratings. The Division may allow exemptions in  
16 counties where there is an inadequate number of four- and five-star-rated facilities for  
17 non-star-rated programs, such as religious programs.

18 **SECTION 12B.2.(h)** Facilities licensed pursuant to Article 7 of Chapter 110 of the  
19 General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the  
20 program that provides for the purchase of care in child care facilities for minor children of  
21 needy families. Except as authorized by subsection (g) of this section, no separate licensing  
22 requirements shall be used to select facilities to participate. In addition, child care facilities  
23 shall be required to meet any additional applicable requirements of federal law or regulations.  
24 Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of  
25 the General Statutes shall meet the requirements established by other State law and by the  
26 Social Services Commission.

27 County departments of social services or other local contracting agencies shall not  
28 use a provider's failure to comply with requirements in addition to those specified in this  
29 subsection as a condition for reducing the provider's subsidized child care rate.

30 **SECTION 12B.2.(i)** Payment for subsidized child care services provided with  
31 Temporary Assistance for Needy Families Block Grant funds shall comply with all regulations  
32 and policies issued by the Division of Child Development and Early Education for the  
33 subsidized child care program.

34 **SECTION 12B.2.(j)** Noncitizen families who reside in this State legally shall be  
35 eligible for child care subsidies if all other conditions of eligibility are met. If all other  
36 conditions of eligibility are met, noncitizen families who reside in this State illegally shall be  
37 eligible for child care subsidies only if at least one of the following conditions is met:

- 38 (1) The child for whom a child care subsidy is sought is receiving child  
39 protective services or foster care services.
- 40 (2) The child for whom a child care subsidy is sought is developmentally  
41 delayed or at risk of being developmentally delayed.
- 42 (3) The child for whom a child care subsidy is sought is a citizen of the United  
43 States.

44 **SECTION 12B.2.(k)** The Department of Health and Human Services, Division of  
45 Child Development and Early Education, shall require all county departments of social services  
46 to include on any forms used to determine eligibility for child care subsidy whether the family  
47 waiting for subsidy is receiving assistance through the NC Pre-K Program or Head Start.

48  
49 **CHILD CARE SUBSIDY MARKET RATE INCREASES/CERTAIN AGE GROUPS**  
50 **AND COUNTIES**

1           **SECTION 12B.2A.** Beginning September 1, 2015, the Department of Health and  
2 Human Services, Division of Child Development and Early Education, shall increase the child  
3 care subsidy market rates to the rates recommended by the 2013 Child Care Market Rate Study  
4 from birth through two years of age in three-, four-, and five-star-rated child care centers and  
5 homes in tier one and tier two counties. For purposes of this section, tier one and tier two  
6 counties shall have the same designations as those established by the N.C. Department of  
7 Commerce.

8  
9           **CHILD CARE ALLOCATION FORMULA**

10           **SECTION 12B.3.(a)** The Department of Health and Human Services shall allocate  
11 child care subsidy voucher funds to pay the costs of necessary child care for minor children of  
12 needy families. The mandatory thirty-percent (30%) North Carolina Partnership for Children,  
13 Inc., subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each  
14 county's child care subsidy allocation. The Department of Health and Human Services shall use  
15 the following method when allocating federal and State child care funds, not including the  
16 aggregate mandatory thirty-percent (30%) North Carolina Partnership for Children, Inc.,  
17 subsidy allocation:

- 18           (1) Funds shall be allocated to a county based upon the projected cost of serving  
19 children under age 11 in families with all parents working who earn less than  
20 the applicable federal poverty level percentage set forth in Section 12B.2 of  
21 this act.  
22           (2) The Department of Health and Human Services shall allocate to counties all  
23 State funds appropriated for child care subsidy and shall not withhold funds  
24 during the 2015-2016 and 2016-2017 fiscal years.

25           **SECTION 12B.3.(b)** The Department of Health and Human Services may  
26 reallocate unused child care subsidy voucher funds in order to meet the child care needs of  
27 low-income families. Any reallocation of funds shall be based upon the expenditures of all  
28 child care subsidy voucher funding, including North Carolina Partnership for Children, Inc.,  
29 funds within a county.

30           **SECTION 12B.3.(c)** When implementing the formula under subsection (a) of this  
31 section, the Department of Health and Human Services, Division of Child Development and  
32 Early Education, shall include the market rate increase in the formula process, rather than  
33 calculating the increases outside of the formula process. Additionally, the Department shall do  
34 the following:

- 35           (1) For fiscal year 2015-2016, (i) continue implementing one-third of the change  
36 in a county's allocation based on the new Census data; (ii) implement an  
37 additional one-third of the change in a county's allocation beginning fiscal  
38 year 2016-2017; and (iii) the final one-third change in a county's allocation  
39 beginning fiscal year 2018-2019. However, beginning fiscal year 2015-2016,  
40 a county's initial allocation shall be the county's expenditure in the previous  
41 fiscal year. With the exception of market rate increases consistent with any  
42 increases approved by the General Assembly, a county whose spending  
43 coefficient is less than ninety-five percent (95%) in the previous fiscal year  
44 shall receive its prior year's expenditure as its allocation and shall not receive  
45 an increase in its allocation in the following year. A county whose spending  
46 coefficient is at least ninety-five percent (95%) in the previous fiscal year  
47 shall receive, at a minimum, the amount it expended in the previous fiscal  
48 year and may receive additional funding, if available. The Division may  
49 waive this requirement and allow an increase if the spending coefficient is  
50 below ninety-five percent (95%) due to extraordinary circumstances, such as  
51 a State or federal disaster declaration in the affected county. By October 1 of

1 each year, the Division shall report to the Joint Legislative Oversight  
2 Committee on Health and Human Services and the Fiscal Research Division  
3 the counties that received a waiver pursuant to this subdivision and the  
4 reasons for the waiver.

- 5 (2) Effective immediately following the next new Census data release,  
6 implement (i) one-third of the change in a county's allocation in the year  
7 following the data release; (ii) an additional one-third of the change in a  
8 county's allocation beginning two years after the initial change under this  
9 subdivision; and (iii) the final one-third change in a county's allocation  
10 beginning the following two years thereafter.

## 11 12 **CHILD CARE FUNDS MATCHING REQUIREMENTS**

13 **SECTION 12B.4.** No local matching funds may be required by the Department of  
14 Health and Human Services as a condition of any locality's receiving its initial allocation of  
15 child care funds appropriated by this act unless federal law requires a match. If the Department  
16 reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing  
17 agencies beyond their initial allocation, local purchasing agencies must provide a twenty  
18 percent (20%) local match to receive the reallocated funds. Matching requirements shall not  
19 apply when funds are allocated because of an emergency as defined in G.S. 166A-19.3(6).  
20

## 21 **CHILD CARE REVOLVING LOAN**

22 **SECTION 12B.5.** Notwithstanding any law to the contrary, funds budgeted for the  
23 Child Care Revolving Loan Fund may be transferred to and invested by the financial institution  
24 contracted to operate the Fund. The principal and any income to the Fund may be used to make  
25 loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's  
26 cost of operating the Fund, or pay the Department's cost of administering the program.  
27

## 28 **ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL 29 SERVICES/USE OF SUBSIDY FUNDS FOR FRAUD DETECTION**

30 **SECTION 12B.6.(a)** The Department of Health and Human Services, Division of  
31 Child Development and Early Education, shall fund the allowance that county departments of  
32 social services may use for administrative costs at four percent (4%) of the county's total child  
33 care subsidy funds allocated in the Child Care and Development Fund Block Grant plan or  
34 eighty thousand dollars (\$80,000), whichever is greater.

35 **SECTION 12B.6.(b)** Each county department of social services may use up to two  
36 percent (2%) of child care subsidy funds allocated to the county for fraud detection and  
37 investigation initiatives.

38 **SECTION 12B.6.(c)** The Division of Child Development and Early Education may  
39 adjust the allocations in the Child Care and Development Fund Block Grant under Section  
40 12I.1 of this act according to (i) the final allocations for local departments of social services  
41 under subsection (a) of this section and (ii) the funds allocated for fraud detection and  
42 investigation initiatives under subsection (b) of this section. The Division shall submit a report  
43 on the final adjustments to the allocations of the four percent (4%) administrative costs to the  
44 Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research  
45 Division no later than September 30 of each year.  
46

## 47 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES 48 ENHANCEMENTS**

49 **SECTION 12B.7.(a)** Policies. – The North Carolina Partnership for Children, Inc.,  
50 and its Board shall ensure policies focus on the North Carolina Partnership for Children, Inc.'s  
51 mission of improving child care quality in North Carolina for children from birth to five years

1 of age. North Carolina Partnership for Children, Inc.-funded activities shall include assisting  
2 child care facilities with (i) improving quality, including helping one-, two-, and  
3 three-star-rated facilities increase their star ratings and (ii) implementing prekindergarten  
4 programs. State funding for local partnerships shall also be used for evidence-based or  
5 evidence-informed programs for children from birth to five years of age that do the following:

- 6 (1) Increase children's literacy.
- 7 (2) Increase the parents' ability to raise healthy, successful children.
- 8 (3) Improve children's health.
- 9 (4) Assist four- and five-star-rated facilities in improving and maintaining  
10 quality.

11 **SECTION 12B.7.(b)** Administration. – Beginning fiscal year 2015-2016,  
12 administrative costs for central administration shall be equivalent to not more than three and  
13 twenty-five hundredths percent (3.25%). Administrative costs shall be equivalent to, on an  
14 average statewide basis for all local partnerships, not more than seven and seventy-five  
15 hundredths percent (7.75%) of the total statewide allocation to all local partnerships for the  
16 2015-2016 fiscal year and beginning fiscal year 2016-2017, equivalent to not more than seven  
17 and five-tenths percent (7.5%) of the total statewide allocation to all local partnerships. For  
18 purposes of this subsection, administrative costs shall include costs associated with partnership  
19 oversight, business and financial management, general accounting, human resources,  
20 budgeting, purchasing, contracting, and information systems management. The North Carolina  
21 Partnership for Children, Inc., shall continue using a single statewide contract management  
22 system that incorporates features of the required standard fiscal accountability plan described in  
23 G.S. 143B-168.12(a)(4). All local partnerships are required to participate in the contract  
24 management system and, directed by the North Carolina Partnership for Children, Inc., to  
25 collaborate, to the fullest extent possible, with other local partnerships to increase efficiency  
26 and effectiveness.

27 **SECTION 12B.7.(c)** Salaries. – The salary schedule developed and implemented  
28 by the North Carolina Partnership for Children, Inc., shall set the maximum amount of State  
29 funds that may be used for the salary of the Executive Director of the North Carolina  
30 Partnership for Children, Inc., and the directors of the local partnerships. The North Carolina  
31 Partnership for Children, Inc., shall base the schedule on the following criteria:

- 32 (1) The population of the area serviced by a local partnership.
- 33 (2) The amount of State funds administered.
- 34 (3) The amount of total funds administered.
- 35 (4) The professional experience of the individual to be compensated.
- 36 (5) Any other relevant factors pertaining to salary, as determined by the North  
37 Carolina Partnership for Children, Inc.

38 The salary schedule shall be used only to determine the maximum amount of State  
39 funds that may be used for compensation. Nothing in this subsection shall be construed to  
40 prohibit a local partnership from using non-State funds to supplement an individual's salary in  
41 excess of the amount set by the salary schedule established under this subsection.

42 **SECTION 12B.7.(d)** Match Requirements. – The North Carolina Partnership for  
43 Children, Inc., and all local partnerships shall, in the aggregate, be required to match one  
44 hundred percent (100%) of the total amount budgeted for the program in each fiscal year of the  
45 2015-2017 biennium. Of the funds the North Carolina Partnership for Children, Inc., and the  
46 local partnerships are required to match, contributions of cash shall be equal to at least twelve  
47 percent (12%) and in-kind donated resources shall be equal to no more than five percent (5%)  
48 for a total match requirement of seventeen percent (17%) for the 2015-2016 fiscal year; and  
49 contributions of cash shall be equal to at least thirteen percent (13%) and in-kind donated  
50 resources shall be equal to no more than six percent (6%) for a total match requirement of  
51 nineteen percent (19%) for the 2016-2017 fiscal year. The North Carolina Partnership for

1 Children, Inc., may carry forward any amount in excess of the required match for a fiscal year  
2 in order to meet the match requirement of the succeeding fiscal year. Only in-kind  
3 contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer  
4 services may be treated as an in-kind contribution for the purpose of the match requirement of  
5 this subsection. Volunteer services that qualify as professional services shall be valued at the  
6 fair market value of those services. All other volunteer service hours shall be valued at the  
7 statewide average wage rate as calculated from data compiled by the Division of Employment  
8 Security of the Department of Commerce in the Employment and Wages in North Carolina  
9 Annual Report for the most recent period for which data are available. Expenses, including  
10 both those paid by cash and in-kind contributions, incurred by other participating non-State  
11 entities contracting with the North Carolina Partnership for Children, Inc., or the local  
12 partnerships, also may be considered resources available to meet the required private match. In  
13 order to qualify to meet the required private match, the expenses shall:

- 14 (1) Be verifiable from the contractor's records.
- 15 (2) If in-kind, other than volunteer services, be quantifiable in accordance with  
16 generally accepted accounting principles for nonprofit organizations.
- 17 (3) Not include expenses funded by State funds.
- 18 (4) Be supplemental to and not supplant preexisting resources for related  
19 program activities.
- 20 (5) Be incurred as a direct result of the Early Childhood Initiatives Program and  
21 be necessary and reasonable for the proper and efficient accomplishment of  
22 the Program's objectives.
- 23 (6) Be otherwise allowable under federal or State law.
- 24 (7) Be required and described in the contractual agreements approved by the  
25 North Carolina Partnership for Children, Inc., or the local partnership.
- 26 (8) Be reported to the North Carolina Partnership for Children, Inc., or the local  
27 partnership by the contractor in the same manner as reimbursable expenses.

28 Failure to obtain a seventeen-percent (17%) match by June 30 of the 2015-2016  
29 fiscal year and a nineteen-percent (19%) match by June 30 of the 2016-2017 fiscal year shall  
30 result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent  
31 fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for  
32 compiling information on the private cash and in-kind contributions into a report that is  
33 submitted to the Joint Legislative Oversight Committee on Health and Human Services in a  
34 format that allows verification by the Department of Revenue. The same match requirements  
35 shall apply to any expansion funds appropriated by the General Assembly.

36 **SECTION 12B.7.(e) Bidding.** – The North Carolina Partnership for Children, Inc.,  
37 and all local partnerships shall use competitive bidding practices in contracting for goods and  
38 services on contract amounts as follows:

- 39 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures  
40 specified by a written policy as developed by the Board of Directors of the  
41 North Carolina Partnership for Children, Inc.
- 42 (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen  
43 thousand dollars (\$15,000), three written quotes.
- 44 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than  
45 forty thousand dollars (\$40,000), a request for proposal process.
- 46 (4) For amounts of forty thousand dollars (\$40,000) or more, a request for  
47 proposal process and advertising in a major newspaper.

48 **SECTION 12B.7.(f) Allocations.** – The North Carolina Partnership for Children,  
49 Inc., shall not reduce the allocation for counties with less than 35,000 in population below the  
50 2012-2013 funding level.

1           **SECTION 12B.7.(g)** Performance-Based Evaluation. – The Department of Health  
2 and Human Services shall continue to implement the performance-based evaluation system.

3           **SECTION 12B.7.(h)** Expenditure Restrictions. – The Department of Health and  
4 Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the  
5 allocation of funds for Early Childhood Education and Development Initiatives for the  
6 2015-2017 fiscal biennium shall be administered and distributed in the following manner:

7           (1) Capital expenditures are prohibited for the 2015-2017 fiscal biennium. For  
8 the purposes of this section, "capital expenditures" means expenditures for  
9 capital improvements as defined in G.S. 143C-1-1(d)(5).

10          (2) Expenditures of State funds for advertising and promotional activities are  
11 prohibited for the 2015-2017 fiscal biennium.

12 For the 2015-2017 fiscal biennium, local partnerships shall not spend any State funds on  
13 marketing campaigns, advertising, or any associated materials. Local partnerships may spend  
14 any private funds the local partnerships receive on those activities.

## 15 16 **PLAN FOR MERGER OF EARLY EDUCATION AND FAMILY SUPPORT** 17 **PROGRAMS**

18           **SECTION 12B.8.** The Joint Legislative Program Evaluation Oversight Committee  
19 shall include in the 2015-2017 Work Plan a directive for the Program Evaluation Division to  
20 plan a merger of the Child Care Subsidy, NC Prekindergarten (NC Pre-K), and Smart Start  
21 programs. The Director of the Program Evaluation Division shall recommend a firm for  
22 approval by the Legislative Services Commission to prepare the plan under the supervision of  
23 the Program Evaluation Division. The sum of three hundred thousand dollars (\$300,000) is  
24 hereby appropriated to the Legislative Services Commission from the General Fund for the  
25 2015-2016 fiscal year in nonrecurring funds to pay for the contract. The Program Evaluation  
26 Division shall submit the merger plan prepared by the contractor to the Joint Legislative  
27 Program Evaluation Oversight Committee, the Joint Legislative Oversight Committee on  
28 Health and Human Services, the Joint Legislative Education Oversight Committee, and the  
29 Fiscal Research Division no later than March 1, 2016.

## 30 31 **U.S. DEPARTMENT OF DEFENSE-CERTIFIED CHILD CARE FACILITIES** 32 **PARTICIPATION IN STATE-SUBSIDIZED CHILD CARE PROGRAM**

33           **SECTION 12B.9.(a)** Article 7 of Chapter 110 of the General Statutes is amended  
34 by adding a new section to read:

35 **"§ 110-106.2. Department of Defense-certified child care facilities.**

36           (a) As used in this section, the phrase "Department of Defense-certified child care  
37 facility" shall include child development centers, family child care homes, and school-aged  
38 child care facilities operated aboard a military installation under the authorization of the United  
39 States Department of Defense (Department of Defense) certified by the Department of Defense.

40           (b) Procedure Regarding Department of Defense-Certified Child Care Facilities. –

41           (1) Department of Defense-certified child care facilities shall file with the  
42 Department a notice of intent to operate a child care facility in a form  
43 determined by the Department of Defense.

44           (2) As part of its notice, each Department of Defense-certified child care facility  
45 shall file a report to the Department indicating that it meets the minimum  
46 standards for child care facilities as provided by the Department of Defense.

47           (3) Department of Defense-certified child care facilities that meet all the  
48 requirements of this section shall be exempt from all other requirements of  
49 this Article and shall not be subject to licensure.

1           (4) For purposes of the North Carolina Subsidized Child Care Program,  
2           Department of Defense-certified child care facilities shall be reimbursed as  
3           follows:

4           a. Department of Defense-certified child care facilities that are  
5           accredited by the National Association for the Education of Young  
6           Children (NAEYC) shall be reimbursed at the five-star-rated license  
7           rate.

8           b. All other Department of Defense-certified child care facilities shall  
9           be reimbursed at the four-star-rated license rate."

10           **SECTION 12B.9.(b)** G.S. 143B-168.15(g) reads as rewritten:

11           "(g) Not less than thirty percent (30%) of the funds spent in each year of each local  
12           partnership's direct services allocation shall be used to expand child care subsidies. To the  
13           extent practicable, these funds shall be used to enhance the affordability, availability, and  
14           quality of child care services as described in this section. The North Carolina Partnership may  
15           increase this percentage requirement up to a maximum of fifty percent (50%) when, based upon  
16           a significant local waiting list for subsidized child care, the North Carolina Partnership  
17           determines a higher percentage is justified. Local partnerships shall spend an amount for child  
18           care subsidies that provides at least fifty-two million dollars (\$52,000,000) for the Temporary  
19           Assistance to Needy Families (TANF) maintenance of effort requirement and the Child Care  
20           Development Fund and Block Grant match requirement. Funds allocated under this section  
21           shall supplement and not supplant any federal or State funds allocated to Department of  
22           Defense-certified child care facilities licensed under G.S. 110-106.2."

23           **SECTION 12B.9.(c)** Department of Defense-certified child care facilities licensed  
24           pursuant to G.S. 110-106.2, as enacted in subsection (a) of this section, may participate in the  
25           State-subsidized child care program that provides for the purchase of care in child care facilities  
26           for minor children in needy families; provided, that funds allocated from the State-subsidized  
27           child care program to Department of Defense-certified child care facilities shall supplement and  
28           not supplant funds allocated in accordance with G.S. 143B-168.15(g). Payment rates and fees  
29           for military families who choose Department of Defense-certified child care facilities and who  
30           are eligible to receive subsidized child care shall be as set forth in Section 12B.2 of this act.

31           **SECTION 12B.9.(d)** This section becomes effective January 1, 2016.

## 32           **SUBPART XII-C. DIVISION OF SOCIAL SERVICES**

### 33           **TANF BENEFIT IMPLEMENTATION**

34           **SECTION 12C.1.(a)** The General Assembly approves the plan titled "North  
35           Carolina Temporary Assistance for Needy Families State Plan FY 2013-2016," prepared by the  
36           Department of Health and Human Services and presented to the General Assembly. The North  
37           Carolina Temporary Assistance for Needy Families State Plan covers the period October 1,  
38           2013, through September 30, 2016. The Department shall submit the State Plan, as revised in  
39           accordance with subsection (b) of this section, to the United States Department of Health and  
40           Human Services.

41           **SECTION 12C.1.(b)** The counties approved as Electing Counties in the North  
42           Carolina Temporary Assistance for Needy Families State Plan FY 2013-2016, as approved by  
43           this section, are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

44           **SECTION 12C.1.(c)** Counties that submitted the letter of intent to remain as an  
45           Electing County or to be redesignated as an Electing County and the accompanying county plan  
46           for years 2013 through 2016, pursuant to G.S. 108A-27(e), shall operate under the Electing  
47           County budget requirements effective July 1, 2015. For programmatic purposes, all counties  
48           referred to in this subsection shall remain under their current county designation through  
49           September 30, 2016.  
50  
51



1           **SECTION 12C.1.(d)** For each year of the 2015-2017 fiscal biennium, Electing  
2 Counties shall be held harmless to their Work First Family Assistance allocations for the  
3 2014-2015 fiscal year, provided that remaining funds allocated for Work First Family  
4 Assistance and Work First Diversion Assistance are sufficient for payments made by the  
5 Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

6           **SECTION 12C.1.(e)** In the event that departmental projections of Work First  
7 Family Assistance and Work First Diversion Assistance for the 2015-2016 fiscal year or the  
8 2016-2017 fiscal year indicate that remaining funds are insufficient for Work First Family  
9 Assistance and Work First Diversion Assistance payments to be made on behalf of Standard  
10 Counties, the Department is authorized to deallocate funds, of those allocated to Electing  
11 Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11,  
12 up to the requisite amount for payments in Standard Counties. Prior to deallocation, the  
13 Department shall obtain approval by the Office of State Budget and Management. If the  
14 Department adjusts the allocation set forth in subsection (d) of this section, then a report shall  
15 be made to the Joint Legislative Oversight Committee on Health and Human Services and the  
16 Fiscal Research Division.

## 17 18           **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND** 19           **PERFORMANCE ENHANCEMENTS**

20           **SECTION 12C.2.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the  
21 Intensive Family Preservation Services (IFPS) Program shall provide intensive services to  
22 children and families in cases of abuse, neglect, and dependency where a child is at imminent  
23 risk of removal from the home and to children and families in cases of abuse where a child is  
24 not at imminent risk of removal. The Program shall be developed and implemented statewide  
25 on a regional basis. The IFPS shall ensure the application of standardized assessment criteria  
26 for determining imminent risk and clear criteria for determining out-of-home placement.

27           **SECTION 12C.2.(b)** The Department of Health and Human Services shall require  
28 that any program or entity that receives State, federal, or other funding for the purpose of IFPS  
29 shall provide information and data that allows for the following:

- 30           (1) An established follow-up system with a minimum of six months of  
31 follow-up services.
- 32           (2) Detailed information on the specific interventions applied, including  
33 utilization indicators and performance measurement.
- 34           (3) Cost-benefit data.
- 35           (4) Data on long-term benefits associated with IFPS. This data shall be obtained  
36 by tracking families through the intervention process.
- 37           (5) The number of families remaining intact and the associated interventions  
38 while in IFPS and 12 months thereafter.
- 39           (6) The number and percentage, by race, of children who received IFPS  
40 compared to the ratio of their distribution in the general population involved  
41 with Child Protective Services.

42           **SECTION 12C.2.(c)** The Department shall establish a performance-based funding  
43 protocol and shall only provide funding to those programs and entities providing the required  
44 information specified in subsection (b) of this section. The amount of funding shall be based on  
45 the individual performance of each program.

## 46 47           **CHILD CARING INSTITUTIONS**

48           **SECTION 12C.3.** Until the Social Services Commission adopts rules setting  
49 standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the  
50 maximum reimbursement for child caring institutions shall not exceed the rate established for  
51 the specific child caring institution by the Department of Health and Human Services, Office of

1 the Controller. In determining the maximum reimbursement, the State shall include county and  
2 IV-E reimbursements.

#### 3 4 **USE OF FOSTER CARE BUDGET FOR GUARDIANSHIP ASSISTANCE PROGRAM**

5 **SECTION 12C.4.** Of the funds available for the provision of foster care services,  
6 the Department of Health and Human Services, Division of Social Services, may provide for  
7 the financial support of children who are deemed to be (i) in a permanent family placement  
8 setting, (ii) eligible for legal guardianship, and (iii) otherwise unlikely to receive permanency.  
9 The Division of Social Services shall design the Guardianship Assistance Program (GAP) to  
10 include provisions for extending guardianship services for individuals who have attained the  
11 age of 18 years and opt to continue to receive guardianship services until reaching 21 years of  
12 age if the individual is (i) completing secondary education or a program leading to an  
13 equivalent credential, (ii) enrolled in an institution that provides postsecondary or vocational  
14 education, (iii) participating in a program or activity designed to promote, or remove barriers  
15 to, employment, (iv) employed for at least 80 hours per month, or (v) incapable of completing  
16 the educational or employment requirements of this section due to a medical condition or  
17 disability. The Guardianship Assistance Program rates shall reimburse the legal guardian for  
18 room and board and be set at the same rate as the foster care room and board rates in  
19 accordance with rates established under G.S. 108A-49.1. The Social Services Board shall adopt  
20 rules establishing a Guardianship Assistance Program to implement this section, including  
21 defining the phrase "legal guardian" as used in this section.

#### 22 23 **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM (NC REACH)**

24 **SECTION 12C.5.(a)** Funds appropriated from the General Fund to the Department  
25 of Health and Human Services for the child welfare postsecondary support program shall be  
26 used to continue providing assistance with the "cost of attendance" as that term is defined in 20  
27 U.S.C. § 108711 for the educational needs of foster youth aging out of the foster care system  
28 and special needs children adopted from foster care after age 12. These funds shall be allocated  
29 by the State Education Assistance Authority.

30 **SECTION 12C.5.(b)** Of the funds appropriated from the General Fund to the  
31 Department of Health and Human Services, the sum of fifty thousand dollars (\$50,000) for the  
32 2015-2016 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2016-2017 fiscal  
33 year shall be allocated to the North Carolina State Education Assistance Authority (SEAA).  
34 The SEAA shall use these funds only to perform administrative functions necessary to manage  
35 and distribute scholarship funds under the child welfare postsecondary support program.

36 **SECTION 12C.5.(c)** Of the funds appropriated from the General Fund to the  
37 Department of Health and Human Services, the sum of three hundred thirty-nine thousand four  
38 hundred ninety-three dollars (\$339,493) for the 2015-2016 fiscal year and the sum of three  
39 hundred thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the 2016-2017  
40 fiscal year shall be used to contract with an entity to administer the child welfare postsecondary  
41 support program described under subsection (a) of this section, which administration shall  
42 include the performance of case management services.

43 **SECTION 12C.5.(d)** Funds appropriated to the Department of Health and Human  
44 Services for the child welfare postsecondary support program shall be used only for students  
45 attending public institutions of higher education in this State.

#### 46 47 **FEDERAL CHILD SUPPORT INCENTIVE PAYMENTS**

48 **SECTION 12C.7.(a)** Centralized Services. – The North Carolina Child Support  
49 Services Section (NCCSS) of the Department of Health and Human Services, Division of  
50 Social Services, shall retain up to fifteen percent (15%) of the annual federal incentive

1 payments it receives from the federal government to enhance centralized child support services.

2 To accomplish this requirement, NCCSS shall do the following:

- 3 (1) In consultation with representatives from county child support services  
4 programs, identify how federal incentive funding could improve centralized  
5 services.
- 6 (2) Use federal incentive funds to improve the effectiveness of the State's  
7 centralized child support services by supplementing and not supplanting  
8 State expenditures for those services.
- 9 (3) Develop and implement rules that explain the State process for calculating  
10 and distributing federal incentive funding to county child support services  
11 programs.

12 **SECTION 12C.7.(b)** County Child Support Services Programs. – NCCSS shall  
13 allocate no less than eighty-five percent (85%) of the annual federal incentive payments it  
14 receives from the federal government to county child support services programs to improve  
15 effectiveness and efficiency using the federal performance measures. To that end, NCCSS shall  
16 do the following:

- 17 (1) In consultation with representatives from county child support services  
18 programs, examine the current methodology for distributing federal  
19 incentive funding to the county programs and determine whether an  
20 alternative formula would be appropriate. NCCSS shall use its current  
21 formula for distributing federal incentive funding until an alternative  
22 formula is adopted.
- 23 (2) Upon adopting an alternative formula, develop a process to phase-in the  
24 alternative formula for distributing federal incentive funding over a  
25 four-year period.

26 **SECTION 12C.7.(c)** Reporting by County Child Support Services Programs. –  
27 NCCSS shall establish guidelines that identify appropriate uses for federal incentive funding.  
28 To ensure those guidelines are properly followed, NCCSS shall require county child support  
29 services programs to comply with each of the following:

- 30 (1) Submit an annual plan describing how federal incentive funding would  
31 improve program effectiveness and efficiency as a condition of receiving  
32 federal incentive funding.
- 33 (2) Report annually on: (i) how federal incentive funding has improved program  
34 effectiveness and efficiency and been reinvested into their programs, (ii)  
35 provide documentation that the funds were spent according to their annual  
36 plans, and (iii) explain any deviations from their plans.

37 **SECTION 12C.7.(d)** Plan/Report by NCCSS. – The NCCSS shall develop a plan  
38 to implement the requirements of this section. Prior to implementing the plan, NCCSS shall  
39 submit a progress report on the plan to the Joint Legislative Oversight Committee on Health  
40 and Human Services and the Fiscal Research Division by November 1, 2015.

41 After implementing the plan, NCCSS shall submit a report on federal child support  
42 incentive funding to the Joint Legislative Oversight Committee on Health and Human Services  
43 and the Fiscal Research Division by November 1 of each year. The report shall describe how  
44 federal incentive funds enhanced centralized child support services to benefit county child  
45 support services programs and improved the effectiveness and efficiency of county child  
46 support services programs. The report shall further include any changes to the State process the  
47 NCCSS used in calculating and distributing federal incentive funding to county child support  
48 services programs and any recommendations for further changes.

49  
50 **CHILD PROTECTIVE SERVICES IMPROVEMENT INITIATIVE/REVISE**  
51 **STATEWIDE EVALUATION REPORT DATE**

1           **SECTION 12C.8.** The Department of Health and Human Services, Division of  
2 Social Services, shall report on the findings and recommendations from the comprehensive,  
3 statewide evaluation of the State's child protective services system required by Section 12C.1(f)  
4 of S.L. 2014-100 to the Joint Legislative Oversight Committee on Health and Human Services  
5 on or before March 1, 2016.

6  
7 **FOSTERING SUCCESS/EXTEND FOSTER CARE TO 21 YEARS OF AGE**

8           **SECTION 12C.9.(a)** G.S. 108A-48 reads as rewritten:

9 **"§ 108A-48. State Foster Care Benefits Program.**

10       (a) The Department is authorized to establish a State Foster Care Benefits Program with  
11 appropriations by the General Assembly for the purpose of providing assistance to children  
12 who are placed in foster care facilities by county departments of social services in accordance  
13 with the rules and regulations of the Social Services Commission. Such appropriations, together  
14 with county contributions for this purpose, shall be expended to provide for the costs of  
15 keeping children in foster care facilities.

16       ~~(b) No benefits provided by this section shall be granted to any individual who has  
17 passed his eighteenth birthday unless he is less than 21 years of age and is a full-time student or  
18 has been accepted for enrollment as a full-time student for the next school term pursuing a high  
19 school diploma or its equivalent; a course of study at the college level; or a course of vocational  
20 or technical training designed to fit him for gainful employment.~~

21       (c) The Department may continue to provide benefits pursuant to this section to an  
22 individual who has attained the age of 18 years and chosen to continue receiving foster care  
23 services until reaching 21 years of age if the individual is (i) completing secondary education or  
24 a program leading to an equivalent credential, (ii) enrolled in an institution that provides  
25 postsecondary or vocational education, (iii) participating in a program or activity designed to  
26 promote, or remove barriers to, employment, (iv) employed for at least 80 hours per month, or  
27 (v) incapable of completing the educational or employment requirements of this subsection due  
28 to a medical condition or disability.

29       (d) With monthly supervision and oversight by the director of the county department of  
30 social services or a supervising agency, an individual receiving benefits pursuant to subsection  
31 (c) of this section may reside outside a foster care facility in a college or university dormitory  
32 or other semi-supervised housing arrangement approved by the director of the county  
33 department of social services and continue to receive benefits pursuant to this section."

34           **SECTION 12C.9.(b)** G.S. 108A-49 is amended by adding a new subsection to  
35 read:

36       "(e) If all other eligibility criteria are met, adoption assistance payments may continue  
37 until the beneficiary reaches the age of 21 if the beneficiary was adopted after reaching the age  
38 of 16 but prior to reaching the age of 18."

39           **SECTION 12C.9.(c)** G.S. 108A-49.1 reads as rewritten:

40 **"§ 108A-49.1. Foster care and adoption assistance payment rates.**

41       (a) The maximum rates for State participation in the foster care assistance program are  
42 established on a graduated scale as follows:

- 43       (1) \$475.00 per child per month for children from birth through five years of  
44 age.  
45       (2) \$581.00 per child per month for children six through 12 years of age.  
46       (3) \$634.00 per child per month for children at least 13 through 18 but less than  
47 21 years of age.

48       (b) The maximum rates for the State adoption assistance program are established  
49 consistent with the foster care rates as follows:

- 50       (1) \$475.00 per child per month for children from birth through five years of  
51 age.

- 1 (2) \$581.00 per child per month for children six through 12 years of age.  
 2 (3) \$634.00 per child per month for children at least 13 through 18 but less than  
 3 21 years of age.  
 4 (c) The maximum rates for the State participation in human immunodeficiency virus  
 5 (HIV) foster care and adoption assistance are established on a graduated scale as follows:  
 6 (1) \$800.00 per child per month with indeterminate HIV status.  
 7 (2) \$1,000 per child per month with confirmed HIV infection, asymptomatic.  
 8 (3) \$1,200 per child per month with confirmed HIV infection, symptomatic.  
 9 (4) \$1,600 per child per month when the child is terminally ill with complex  
 10 care needs.

11 In addition to providing board payments to foster and adoptive families of HIV-infected  
 12 children, any additional funds remaining that are appropriated for purposes described in this  
 13 subsection shall be used to provide medical training in avoiding HIV transmission in the home.

14 (d) The State and a county participating in foster care and adoption assistance shall each  
 15 contribute fifty percent (50%) of the nonfederal share of the cost of care for a child placed by a  
 16 county department of social services or child-placing agency in a family foster home or  
 17 residential child care facility. A county shall be held harmless from contributing fifty percent  
 18 (50%) of the nonfederal share of the cost for a child placed in a family foster home or  
 19 residential child care facility under an agreement with that provider as of October 31, 2008,  
 20 until the child leaves foster care or experiences a placement change.

21 (e) A county shall be held harmless from contributing fifty percent (50%) of the  
 22 nonfederal share of the cost for an individual receiving benefits pursuant to G.S. 108A-48(c)."

23 **SECTION 12C.9.(d)** G.S. 131D-10.2 reads as rewritten:

24 "**§ 131D-10.2. Definitions.**

25 For purposes of this Article, unless the context clearly implies otherwise:

26 ...  
 27 (3) "Child" means an individual less than ~~18~~21 years of age, who has not been  
 28 emancipated under the provisions of Article 35 of Chapter 7B of the General  
 29 Statutes.

30 ...  
 31 (9a) "Foster Parent" means any individual who is ~~18~~21 years of age or older who  
 32 is licensed by the State to provide foster care.

33 ...."

34 **SECTION 12C.9.(e)** Part 1 of Article 1A of Chapter 131D of the General Statutes  
 35 is amended by adding a new section to read:

36 "**§ 131D-10.2A. Foster care until 21 years of age.**

37 (a) A child placed in foster care who has attained the age of 18 years may continue  
 38 receiving foster care services until reaching 21 years of age as provided by law. A child who  
 39 initially chooses to opt out of foster care upon attaining the age of 18 years may opt to receive  
 40 foster care services at a later date until reaching 21 years of age.

41 (b) A child who has attained the age of 18 years and chosen to continue receiving foster  
 42 care services until reaching 21 years of age may continue to receive benefits pursuant to Part 4  
 43 of Article 2 of Chapter 108A of the General Statutes upon meeting the requirements under  
 44 G.S. 108A-48(c)."

45 **SECTION 12C.9.(f)** G.S. 131D-10.5 reads as rewritten:

46 "**§ 131D-10.5. Powers and duties of the Commission.**

47 In addition to other powers and duties prescribed by law, the Commission shall exercise the  
 48 following powers and duties:

- 49 (1) Adopt, amend and repeal rules consistent with the laws of this State and the  
 50 laws and regulations of the federal government to implement the provisions  
 51 and purposes of this ~~Article~~Article.

- 1 (2) Issue declaratory rulings as may be needed to implement the provisions and  
2 purposes of this ~~Article;~~Article.
- 3 (3) Adopt rules governing procedures to appeal Department decisions pursuant  
4 to this Article granting, denying, suspending or revoking ~~licenses;~~licenses.
- 5 (4) Adopt criteria for waiver of licensing rules adopted pursuant to this  
6 ~~Article;~~Article.
- 7 (5) Adopt rules on documenting the use of physical restraint in residential  
8 child-care ~~facilities;~~facilities.
- 9 (6) Adopt rules establishing personnel and training requirements related to the  
10 use of physical restraints and time-out for staff employed in residential  
11 child-care ~~facilities;~~andfacilities.
- 12 (7) Adopt rules establishing educational requirements, minimum age, relevant  
13 experience, and criminal record status for executive directors and staff  
14 employed by child placing agencies and residential child care facilities.
- 15 (8) Adopt any rules necessary for the expansion of foster care for individuals  
16 who have attained the age of 18 years and chosen to continue receiving  
17 foster care services to 21 years of age in accordance with G.S. 131D-10.2A."

18 **SECTION 12C.9.(g)** Article 9 of Chapter 7B of the General Statutes is amended  
19 by adding a new section to read:

20 **"§ 7B-910.1. Review of voluntary foster care placements with young adults.**

21 (a) The court shall review the placement of a young adult in foster care authorized by  
22 G.S. 108A-48(c) when the director of social services and a young adult who was in foster care  
23 as a juvenile enter into a voluntary placement agreement. The review hearing shall be held not  
24 more than 90 days from the date the agreement was executed, and the court shall make findings  
25 from evidence presented at this review hearing with regard to all of the following:

- 26 (1) Whether the placement is in the best interest of the young adult in foster  
27 care.
- 28 (2) The services that have been or should be provided to the young adult in  
29 foster care to improve the placement.
- 30 (3) The services that have been or should be provided to the young adult in  
31 foster care to further the young adult's educational or vocational ambitions, if  
32 relevant.

33 (b) Upon written request of the young adult or the director of social services, the court  
34 may schedule additional hearings to monitor the placement and progress toward the young  
35 adult's educational or vocational ambitions.

36 (c) No guardian ad litem under G.S. 7B-601 will be appointed to represent the young  
37 adult in the initial or any subsequent hearing.

38 (d) The clerk shall give written notice of the initial and any subsequent review hearings  
39 to the young adult and foster care and the director of social services at least 15 days prior to the  
40 date of the hearing."

41 **SECTION 12C.9.(h)** G.S. 7B-401.1 is amended by adding a new subsection to  
42 read:

43 "(i) Young Adult in Foster Care. – In proceedings held pursuant to G.S. 7B-910.1, the  
44 young adult in foster care and the director of the department of social services are parties."

45 **SECTION 12C.9.(i)** The Department of Health and Human Services, Division of  
46 Social Services (Division), shall develop a plan for the expansion of foster care services for  
47 individuals who have attained the age of 18 years and opt to continue receiving foster care  
48 services until reaching 21 years of age. The Division shall report on the plan to the Joint  
49 Legislative Oversight Committee on Health and Human Services and the Fiscal Research  
50 Division by October 1, 2015. The Division shall report on the plan as implemented to the Joint

1 Legislative Oversight Committee on Health and Human Services and the Fiscal Research  
2 Division by November 1, 2016.

3 **SECTION 12C.9.(j)** No later than 60 days after the Department implements the  
4 plan for the expansion of foster care services as required under subsection (i) of this section, the  
5 Division shall submit a State plan amendment to the U.S. Department of Health and Human  
6 Services Administration for Children and Families to make federal payments for foster care and  
7 adoption assistance, as applicable, under Title IV-E, available to a person meeting the  
8 requirements of G.S. 108A-48(c), as enacted in subsection (a) of this section.

9 **SECTION 12C.9.(k)** Any agreement entered into pursuant to G.S. 108A-48(b)  
10 prior to the effective date of subsection (a) of this section shall remain in full force and effect,  
11 and no provision of this section shall be construed to affect or alter such an agreement.

12 **SECTION 12C.9.(l)** Subsection (a) of this section becomes effective August 1,  
13 2016, and applies to agreements entered into on or after that date. Subsections (i), (j), and (k) of  
14 this section are effective when they become law. The remainder of this section becomes  
15 effective August 1, 2016.

## 16 17 **REQUIRE TRANSFER OF CERTAIN SERVICES TO EASTERN BAND OF** 18 **CHEROKEE INDIANS**

19 **SECTION 12C.10.(a)** G.S. 108A-25 reads as rewritten:

20 "**§ 108A-25. Creation of programs; assumption by federally recognized tribe of**  
21 **programs.**

22 ...

23 (e) When any federally recognized Native American tribe within the State assumes  
24 responsibility for any social services, Medicaid and NC Health Choice healthcare benefit  
25 programs, and ancillary services, including Medicaid administrative and service functions, that  
26 are otherwise the responsibility of a county under State law, then, notwithstanding any other  
27 provision of law, the county shall be relieved of the legal responsibility related to the tribe's  
28 assumption of those services. With respect to a tribe's assumption of any responsibilities for  
29 administration of any aspects of the NC Medicaid program, NC Health Choice, and the  
30 Supplemental Nutrition Assistance Program (SNAP), the State and the tribe shall execute an  
31 agreement to set forth the general terms, definitions, and conditions by which the parties shall  
32 operate. Upon the execution of the agreement, to allow the tribe to assume certain duties and  
33 responsibilities for the administration of the NC Medicaid program, NC Health Choice, and  
34 SNAP, the agreement between the State and the tribe shall require the tribe to accept the  
35 oversight authority of the State and the Department of Health and Human Services  
36 (Department) in the administration and supervision of these programs. In addition to the other  
37 necessary terms and conditions, the agreement shall include the following conditions:

38 (1) All requirements as prescribed by federal law, as well as the tribe and State's  
39 responsibilities in complying with federal law, including, but not limited to,  
40 any specific provisions pertaining to accounting and auditing compliance,  
41 maintenance of liability insurance, confidentiality, reporting requirements,  
42 indemnity, waiver of immunity, or due process.

43 (2) As the Department is the federally recognized single State agency for the NC  
44 Medicaid program, NC Health Choice, and SNAP, provisions stating the  
45 Department retains ultimate administrative discretion in the administration  
46 and supervision of the program, including, but not limited to, issuance and  
47 interpretation of all applicable policies, rules, and regulations regarding  
48 application processing, eligibility determinations and redeterminations, and  
49 other functions related to the eligibility process.

50 (3) Provisions by the tribe to ensure that individuals who will be responsible for  
51 the tribe's duties and responsibilities under this agreement shall be employed

1 under standards equivalent to current standards for a Merit System of  
2 Personnel Administration or any standards later prescribed by the Office of  
3 Personnel Management under section 208 of the Intergovernmental  
4 Personnel Act of 1970, unless an exemption is obtained from the federal  
5 government. The tribe shall also provide the Department with information to  
6 verify the unemployment standards included under this condition.

- 7 (4) The Department shall, when possible and as allowed by the federal  
8 government, adopt funding flexibility for Indian Health Services when such  
9 flexibility furthers goals addressing health disparities among American  
10 Indians."

11 **SECTION 12C.10.(b)** G.S. 108A-87(c) reads as rewritten:

12 "(c) Notwithstanding subsections (a) and (b) of this section, when the Eastern Band of  
13 Cherokee Indians assumes responsibility for a program described under G.S. 108A-25(e), the  
14 following shall occur:

- 15 (1) Nonfederal matching funds designated to Jackson and Swain counties to  
16 serve the Eastern Band of Cherokee Indians for that program previously  
17 borne by the State shall be allocated directly to the Eastern Band of  
18 Cherokee Indians rather than to those ~~counties~~ counties and shall not exceed  
19 the amount expended by the State for fiscal year 2014-2015 for programs or  
20 services assumed by the Eastern Band of Cherokee Indians, as applicable,  
21 plus the growth rate equal to the growth in State-funded nonfederal share for  
22 all counties.  
23 (2) Any portion of nonfederal matching funds borne by counties for public  
24 assistance and social services programs and related administrative costs shall  
25 be borne by the Eastern Band of Cherokee Indians.  
26 (3) Nothing in this section shall be construed to prevent the Eastern Band of  
27 Cherokee Indians from providing further nonfederal matching funds to  
28 maximize their receipt of federal funds."

29 **SECTION 12C.10.(c)** Of the funds appropriated in this act from the General Fund  
30 to the Department of Health and Human Services, Division of Social Services, the sum of three  
31 hundred sixty thousand dollars (\$360,000) in recurring funds for fiscal year 2015-2016 and the  
32 sum of three million two hundred thousand dollars (\$3,200,000) in nonrecurring funds for  
33 fiscal year 2015-2016 shall be deposited in the Department's information technology budget  
34 code within 30 days of the effective date of this act to be used for ongoing operation and  
35 maintenance pursuant to implementing the provisions of this section.

36 **SECTION 12C.10.(d)** Approval for the tribe to administer the eligibility process  
37 for Medicaid and NC Health Choice is contingent upon federal approval of a state plan  
38 amendment and Medicaid waivers by the Centers for Medicare and Medicaid Services (CMS).  
39 The Department of Health and Human Services, Division of Medical Assistance, shall make  
40 any necessary amendments to its previous SPA 14-001, including amendment of its effective  
41 date, and shall submit the SPA and any responses to CMS requests for additional information to  
42 the Eastern Band of Cherokee Indians for review prior to submission to CMS. The new  
43 effective date shall be October 1, 2016. If CMS does not approve the SPA, the counties shall  
44 continue serving individuals living on the federal lands held in trust by the United States.

45 **SECTION 12C.10.(e)** Within 30 days of CMS approval of the amended SPA  
46 14-001, the Department of Health and Human Services shall submit an Advanced Planning  
47 Document Update (APDU) to CMS, the United States Department of Agriculture (USDA), and  
48 the Administration for Children and Families (ACF). If CMS, USDA, and ACF do not approve  
49 the APDU, the counties shall continue serving individuals living on the federal lands held in  
50 trust by the United States.



1           **SECTION 12C.10.(f)** As soon as practicable, but no later than approval by CMS,  
2 USDA, and ACF of the APDU, the Department of Health and Human Services (Department)  
3 shall begin functional and detailed design, development, testing, and training of NC FAST,  
4 NCTracks, and legacy systems to allow the Eastern Band of Cherokee Indians to assume  
5 certain administrative duties consistent with approval given by federal funding partners and any  
6 agreements between the Eastern Band of Cherokee Indians and the Department.

7           **SECTION 12C.10.(f1)** The Department, in collaboration with the Eastern Band of  
8 Cherokee Indians, shall draft a project plan to meet the October 1, 2016, effective date required  
9 by subsection (d) of this section. The Department shall report on the project plan to the Joint  
10 Legislative Oversight Committee on Health and Human Services on or before October 1, 2015.

11           **SECTION 12C.10.(g)** If federal law allows the Eastern Band of Cherokee Indians  
12 to assume responsibility for the NC Medicaid program, NC Health Choice, or SNAP, the  
13 Eastern Band of Cherokee Indians shall be allowed to assume responsibility for those programs  
14 if they choose to assume such responsibility.

### 15 16 **CHILD PROTECTIVE SERVICES PILOT PROJECT**

17           **SECTION 12C.11.(a)** Of the funds appropriated in this act to the Department of  
18 Health and Human Services, Division of Social Services, the sum of three hundred thousand  
19 dollars (\$300,000) shall be used for the continuation of the Child Protective Services Pilot  
20 Project established by Section 12C.1(e) of S.L. 2014-100. The Division shall continue to  
21 collaborate with the Government Data Analytics Center (GDAC) and shall utilize the funds to  
22 support and enhance the Pilot by doing the following:

- 23           (1) Developing a dashboard linking the family to the child.
- 24           (2) Integrating additional Department of Health and Human Services and other  
25 State department data sources to build a more comprehensive view of the  
26 child and family, including (i) matching the child to the caretaker; (ii)  
27 linking child, family, and address information; and (iii) integrating Criminal  
28 Justice Law Enforcement Automated Data Services (CJLEADS) data to  
29 determine if the caretaker or someone living in the house is a sex offender or  
30 has a criminal history.
- 31           (3) Developing a comprehensive profile of a child that includes demographic  
32 and caretaker information and indicators or flags of other services, including,  
33 but not limited to, prior assessments of the child, eligibility for food and  
34 nutrition programs, Medicaid, and subsidized child care.

35           **SECTION 12C.11.(b)** The Division of Social Services shall interface the work  
36 product from the Child Protective Services Pilot Program with the statewide child welfare case  
37 management system operated by the Department of Health and Human Services by utilizing  
38 resources and subject matter expertise available through existing public-private partnerships  
39 within the GDAC for the purposes of analyzing risk and improving outcomes for children. The  
40 Division of Social Services shall submit its findings and recommendations in a final report on  
41 the Child Protective Services Pilot Program to the Joint Legislative Oversight Committee on  
42 Health and Human Services no later than March 1, 2016.

### 43 44 **FOSTER CARE FAMILY ACT**

45           **SECTION 12C.12.(a)** This section shall be known and may be cited as the "Foster  
46 Care Family Act."

47           **SECTION 12C.12.(b)** Part 1 of Article 1A of Chapter 131D of the General  
48 Statutes is amended by adding a new section to read:

49 **"§ 131D-10.2A. Reasonable and prudent parenting standard.**

1        (a) The reasonable and prudent parenting standard is characterized by careful and  
2 sensible parental decisions that maintain a child's health, safety, and best interests while  
3 encouraging the child's emotional and developmental growth.

4        (b) Every child care institution shall designate an on-site official who is authorized to  
5 apply the reasonable and prudent parenting standard pursuant to this section.

6        (c) A caregiver, including the child's foster parent, whether the child is in a family  
7 foster home or a therapeutic foster home, the designated official at a child care institution  
8 where the child is placed, or the county department of social services, must use the reasonable  
9 and prudent parenting standard when determining whether to allow a child in foster care to  
10 participate in extracurricular, enrichment, and social activities.

11        (d) A caregiver, including the child's foster parent, whether the child is in a family  
12 foster home or a therapeutic foster home, the designated official at a child care institution  
13 where the child is placed, the county department of social services, or the Department of Health  
14 and Human Services with custody of or placement authority over a child in foster care shall not  
15 be held liable for an act or omission of the child if the caregiver or county department of social  
16 services is acting in accordance with the reasonable and prudent parenting standard under this  
17 section.

18        (e) Unless otherwise ordered by a court with jurisdiction pursuant to G.S. 7B-200, a  
19 caregiver, including the child's foster parent, whether the child is in a family foster home or a  
20 therapeutic foster home, exercising the reasonable and prudent parenting standard has the  
21 authority to provide or withhold permission, without prior approval of the court or a county  
22 department of social services, allowing a child in foster care, in the custody of a county  
23 department of social services, or under the placement authority of a county department of social  
24 services through a voluntary placement agreement, to participate in normal childhood activities.  
25 Normal childhood activities shall include, but are not limited to, extracurricular, enrichment,  
26 and social activities and may include overnight activities outside the direct supervision of the  
27 caregiver for periods of over 24 hours and up to 72 hours.

28        (f) The caregiver, including the child's foster parent, whether the child is in a family  
29 foster home or a therapeutic foster home, the designated official at a child care institution  
30 where the child is placed, the county department of social services, or the Department of Health  
31 and Human Services, shall not be liable for injuries to the child that occur as a result of the  
32 reasonable and prudent parenting standard. The burden of proof with respect to a breach of the  
33 reasonable and prudent parenting standard shall be by clear and convincing evidence.

34        (g) The caregiver, including the child's foster parent, whether the child is in a family  
35 foster home or a therapeutic foster home, the designated official at a child care institution  
36 where the child is placed, the county department of social services, or the Department of Health  
37 and Human Services, shall be liable for any action or inaction of gross negligence, willful and  
38 wanton conduct, or intentional wrongdoing that results in the injury to the child."

39        **SECTION 12C.12.(c)** G.S. 7B-505(b) reads as rewritten:

40        "(b) The court shall order the Department to make diligent efforts to notify relatives and  
41 any custodial parents of the juvenile's siblings that the juvenile is in nonsecure custody and of  
42 any hearings scheduled to occur pursuant to G.S. 7B-506, unless the court finds such  
43 notification would be contrary to the best interests of the juvenile. In placing a juvenile in  
44 nonsecure custody under this section, the court shall first consider whether a relative of the  
45 juvenile is willing and able to provide proper care and supervision of the juvenile in a safe  
46 home. If the court finds that the relative is willing and able to provide proper care and  
47 supervision in a safe home, then the court shall order placement of the juvenile with the relative  
48 unless the court finds that placement with the relative would be contrary to the best interests of  
49 the juvenile."

50        **SECTION 12C.12.(d)** G.S. 7B-800.1(a)(4) reads as rewritten:

51        "(a) Prior to the adjudicatory hearing, the court shall consider the following:

1 ...  
2 (4) Whether relatives or parents with custody of a sibling of the juvenile have  
3 been identified and notified as potential resources for placement or support."

4 **SECTION 12C.12.(e)** G.S. 7B-901 reads as rewritten:

5 **"§ 7B-901. Dispositional hearing.**

6 The dispositional hearing shall take place immediately following the adjudicatory hearing  
7 and shall be concluded within 30 days of the conclusion of the adjudicatory hearing. The  
8 dispositional hearing may be informal and the court may consider written reports or other  
9 evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian,  
10 or custodian shall have the right to present evidence, and they may advise the court concerning  
11 the disposition they believe to be in the best interests of the juvenile. The court may consider  
12 any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, including  
13 testimony or evidence from any person who is not a party, that the court finds to be relevant,  
14 reliable, and necessary to determine the needs of the juvenile and the most appropriate  
15 disposition. The court may exclude the public from the hearing unless the juvenile moves that  
16 the hearing be open, which motion shall be granted.

17 At the dispositional hearing, the court shall inquire as to the identity and location of any  
18 missing parent and whether paternity is at issue. The court shall include findings of the efforts  
19 undertaken to locate the missing parent and to serve that parent and efforts undertaken to  
20 establish paternity when paternity is an issue. The order may provide for specific efforts in  
21 determining the identity and location of any missing parent and specific efforts in establishing  
22 paternity. The court shall also inquire about efforts made to identify and notify ~~relatives~~  
23 relatives or parents with custody of a sibling of the juvenile, as potential resources for  
24 placement or support."

25 **SECTION 12C.12.(f)** Article 9 of Chapter 7B of the General Statutes is amended  
26 by adding the following new sections to read:

27 **"§ 7B-903.1. Juvenile placed in custody of a county department of social services.**

28 (a) To the extent authorized by federal law, a county department of social services with  
29 custody of a juvenile is authorized to make decisions about matters not addressed in this section  
30 that are generally made by a juvenile's custodian including, but not limited to, educational  
31 decisions and consenting to the sharing of the juvenile's information. The county department of  
32 social services may delegate any part of this authority to the juvenile's parent, foster parent, or  
33 another individual.

34 (b) When a juvenile is in the custody or placement responsibility of a county  
35 department of social services, the placement provider may, in accordance with  
36 G.S. 131D-10.2A, provide or withhold permission, without prior approval of the court or  
37 county department of social services, allowing a juvenile to participate in normal childhood  
38 activities. If such authorization is not in the juvenile's best interest, the court shall set forth  
39 alternative parameters for approving normal childhood activities.

40 **"§ 7B-912. Juveniles 14 years of age and older; Another Planned Permanent Living**  
41 **Arrangement.**

42 (a) In addition to the permanency planning requirements under G.S. 7B-906.1, at every  
43 permanency planning hearing for a juvenile in the custody of a county department of social  
44 services who has attained the age of 14 years, the court shall inquire and make written findings  
45 regarding each of the following:

46 (1) The services provided to assist the juvenile in making a transition to  
47 adulthood.

48 (2) The steps the county department of social services is taking to ensure that  
49 the foster family or other licensed placement provider follows the reasonable  
50 and prudent parenting standard as provided in G.S. 131D-10.2A.

1           (3)    Whether the juvenile has regular opportunities to engage in age-appropriate  
2               or developmentally appropriate activities.

3           (b)    At or before the last scheduled permanency planning hearing, but at least 90 days  
4 before a juvenile attains 18 years of age, the court shall (i) inquire as to whether the juvenile  
5 has a copy of the juvenile's birth certificate, Social Security card, health insurance information,  
6 drivers license or other identification card, and any educational or medical records the juvenile  
7 requests and (ii) determine the person or entity that should assist the juvenile in obtaining these  
8 documents before the juvenile attains the age of 18 years.

9           (c)    If the court finds each of the following conditions applies, the court shall approve  
10 Another Planned Permanent Living Arrangement (APPLA) as the juvenile's primary permanent  
11 plan:

12           (1)    The juvenile is 16 or 17 years old.

13           (2)    The county department of social services has made diligent efforts to place  
14 the juvenile permanently with a parent or relative or in a guardianship or  
15 adoptive placement.

16           (3)    Compelling reasons exist that it is not in the best interest of the juvenile to  
17 be placed permanently with a parent or relative or in a guardianship or  
18 adoptive placement.

19           (4)    APPLA is the best permanency plan for the juvenile.

20           (d)    If the court approves APPLA as the juvenile's permanent plan, the court shall, after  
21 questioning the juvenile, make written findings addressing the juvenile's desired permanency  
22 outcome."

23           **SECTION 12C.12.(g)** Article 36 of Chapter 58 of the General Statutes is amended  
24 by adding a new section to read:

25 **"§ 58-36-44. Development of policy form or endorsement for personal liability insurance**  
26 **for foster parents.**

27           (a)    The Rate Bureau shall develop an optional policy form or endorsement to be filed  
28 with the Commissioner for approval no later than May 1, 2016, that provides liability insurance  
29 for foster parents licensed under Article 1A of Chapter 131D of the General Statutes to provide  
30 foster care in a family foster home or therapeutic foster home. The policy form or endorsement  
31 shall provide coverage for acts or omissions of the foster parent while the parent is acting in his  
32 or her capacity as a foster parent in a licensed family foster home or therapeutic foster home  
33 licensed under Article 1A of Chapter 131D of the General Statutes.

34           (b)    Nothing in this section is intended to require that the liability insurance policy or  
35 endorsement required by this section cover an act or omission that results from any action or  
36 inaction of gross negligence, willful and wanton conduct, or intentional wrongdoing that results  
37 in injury to the child."

38           **SECTION 12C.12.(h)** Article 1 of Chapter 48A of the General Statutes is amended  
39 by adding a new section to read:

40 **"§ 48A-4. Certain minors competent to contract.**

41           A minor who is 16 years of age or older and who is in the legal custody of the county  
42 department of social services shall be qualified and competent to contract for the purchase of an  
43 automobile insurance policy with the consent of the court with continuing jurisdiction over the  
44 minor's placement under G.S. 7B-1000(b). The minor shall be responsible for paying the costs  
45 of the insurance premiums and shall be liable for damages caused by the minor's negligent  
46 operation of a motor vehicle. No State or local government agency, foster parent, or entity  
47 providing services to the minor under contract or at the direction of a State or local government  
48 agency shall be responsible for paying any insurance premiums or liable for damages of any  
49 kind as a result of the operation of a motor vehicle by the minor."

50           **SECTION 12C.12.(i)** G.S. 20-11(i) reads as rewritten:

1       "(i) Application. — An application for a permit or license authorized by this section  
2 must be signed by both the applicant and another person. That person must be:

- 3           (1) The applicant's parent or guardian;  
4           (2) A person approved by the applicant's parent or guardian; or  
5           (3) A person approved by the Division.  
6           (4) With respect to minors in the legal custody of the county department of  
7               social services, any of the following:

- 8               a. A guardian ad litem or attorney advocate appointed to advocate for  
9                 the minor.  
10              b. The director or his or her designee or other type of caseworker  
11                 assigned to work with the minor.  
12              c. If no person listed in sub-subdivision a. or b. of this subdivision is  
13                 available, the court with continuing jurisdiction over the minor's  
14                 placement under G.S. 7B-1000(b)."

15       **SECTION 12C.12.(j)** G.S. 20-309 is amended by adding a new subsection to read:

16       "(a2) Notwithstanding any other provision of this Chapter, an owner's policy of liability  
17 insurance issued to a foster parent or parents, which policy includes an endorsement excluding  
18 coverage for one or more foster children residing in the foster parent's or parents' household,  
19 may be certified as proof of financial responsibility, provided that each foster child for whom  
20 coverage is excluded is insured in an amount equal to or greater than the minimum limits  
21 required by G.S. 20-279.21 under some other owner's policy of liability insurance or a named  
22 nonowner's policy of liability insurance. The North Carolina Rate Bureau shall establish, with  
23 the approval of the Commissioner of Insurance, a named driver exclusion endorsement or  
24 endorsements for foster children as described herein."

25       **SECTION 12C.12.(k)** G.S. 20-279.21(b) reads as rewritten:

26       "(b) Such—Except as provided in G.S. 20-309(a2), such owner's policy of liability  
27 insurance:

28               ...."

29       **SECTION 12C.12.(l)** The Department of Health and Human Services, Division of  
30 Medical Assistance, shall design and draft, but not submit, a 1915(c) Medicaid waiver to serve  
31 children with Serious Emotional Disturbance (SED) in home and community-based settings.  
32 The Department may submit drafts of the waiver to the Centers for Medicare and Medicaid  
33 Services (CMS) to solicit feedback but shall not submit the waiver for CMS approval until  
34 authorized by the General Assembly.

35       **SECTION 12C.12.(m)** The Department shall report, on the draft waiver required  
36 by subsection (l) of this section, other findings and any other options or recommendations to  
37 best serve children with SED to the Joint Legislative Oversight Committee on Health and  
38 Human Services by December 1, 2015. Specifically, the report shall provide an in-depth  
39 analysis of the cost per slot, including an analysis of the estimated number of waiver recipients  
40 who would be transitioned from a facility to a home and community-based setting and the  
41 estimated number of waiver recipients who would avoid placement in a facility.

42       **SECTION 12C.12.(n)** Subsections (b) through (f) and (h) through (k) of this  
43 section become effective October 1, 2015. The remainder of this section is effective when this  
44 act becomes law.

## 46 **SUBPART XII-D. DIVISION OF AGING AND ADULT SERVICES**

### 48 **STATE-COUNTY SPECIAL ASSISTANCE RATES**

49       **SECTION 12D.1.(a)** For each year of the 2015-2017 fiscal biennium, the  
50 maximum monthly rate for residents in adult care home facilities shall be one thousand one  
51 hundred eighty-two dollars (\$1,182) per month per resident.

1           **SECTION 12D.1.(b)** For each year of the 2015-2017 fiscal biennium, the  
2 maximum monthly rate for residents in Alzheimer's/Dementia special care units shall be one  
3 thousand five hundred fifteen dollars (\$1,515) per month per resident.  
4

## 5 **SUBPART XII-E. DIVISION OF PUBLIC HEALTH**

### 6 **FUNDS FOR SCHOOL NURSES**

7           **SECTION 12E.1.(a)** Funds appropriated in this act for the School Nurse Funding  
8 Initiative shall be used to supplement and not supplant other State, local, or federal funds  
9 appropriated or allocated for this purpose. Communities shall maintain their current level of  
10 effort and funding for school nurses. These funds shall not be used to fund nurses for State  
11 agencies. These funds shall be distributed to local health departments according to a formula  
12 that includes all of the following:  
13

- 14           (1) School nurse-to-student ratio.
- 15           (2) Percentage of students eligible for free or reduced-price meals.
- 16           (3) Percentage of children in poverty.
- 17           (4) Per capita income.
- 18           (5) Eligibility as a low-wealth county.
- 19           (6) Mortality rates for children between one and 19 years of age.
- 20           (7) Percentage of students with chronic illnesses.
- 21           (8) Percentage of county population consisting of minority persons.

22           **SECTION 12E.1.(b)** The Division of Public Health shall ensure that school nurses  
23 funded with State funds (i) do not assist in any instructional or administrative duties associated  
24 with a school's curriculum and (ii) perform all of the following with respect to school health  
25 programs:

- 26           (1) Serve as the coordinator of the health services program and provide nursing  
27 care.
- 28           (2) Provide health education to students, staff, and parents.
- 29           (3) Identify health and safety concerns in the school environment and promote a  
30 nurturing school environment.
- 31           (4) Support healthy food services programs.
- 32           (5) Promote healthy physical education, sports policies, and practices.
- 33           (6) Provide health counseling, assess mental health needs, provide interventions,  
34 and refer students to appropriate school staff or community agencies.
- 35           (7) Promote community involvement in assuring a healthy school and serve as  
36 school liaison to a health advisory committee.
- 37           (8) Provide health education and counseling and promote healthy activities and  
38 a healthy environment for school staff.
- 39           (9) Be available to assist the county health department during a public health  
40 emergency.

### 41 **AIDS DRUG ASSISTANCE PROGRAM (ADAP)**

42           **SECTION 12E.2.** The Department of Health and Human Services shall work with  
43 the Department of Public Safety (DPS) to use DPS funds to purchase pharmaceuticals for the  
44 treatment of individuals in the custody of DPS who have been diagnosed with Human  
45 Immunodeficiency Virus or Acquired Immune Deficiency Syndrome (HIV/AIDS) in a manner  
46 that allows these funds to be accounted for as State matching funds in the Department of Health  
47 and Human Services drawdown of federal Ryan White funds earmarked for the AIDS Drug  
48 Assistance Program (ADAP).  
49  
50

1 **APPOINTMENT, MANDATORY TRAINING, AND REVOCATION OF**  
2 **APPOINTMENT OF COUNTY MEDICAL EXAMINERS**

3 **SECTION 12E.4.(a)** G.S. 130A-382 reads as rewritten:

4 "**§ 130A-382. County medical examiners; appointment; term of office;**  
5 **~~vacancies.vacancies; training requirements; revocation for cause.~~**

6 (a) The Chief Medical Examiner shall appoint ~~one~~ two or more county medical  
7 examiners for each county for a three-year term. In appointing medical examiners for each  
8 county, the Chief Medical Examiner shall give preference to physicians licensed to practice  
9 medicine in this State but may also appoint licensed physician assistants, nurse practitioners,  
10 nurses, ~~ecoroners,~~ or emergency medical technician paramedics. A medical examiner may serve  
11 more than one county. The Chief Medical Examiner may take jurisdiction in any case or  
12 appoint another medical examiner to do so.

13 (b) County medical examiners shall complete annual continuing education training as  
14 directed by the Office of the Chief Medical Examiner and based upon established and  
15 published guidelines for conducting death investigations. The continuing education training  
16 shall include training regarding sudden unexplained death in epilepsy. The Office of the Chief  
17 Medical Examiner shall annually update and publish these guidelines on its Internet Web site.  
18 Newly appointed county medical examiners shall complete mandatory orientation training as  
19 directed by the Office of the Chief Medical Examiner within 90 days of their appointment.

20 (c) The Chief Medical Examiner may revoke a county medical examiner's appointment  
21 for failure to adequately perform the duties of the office after providing the county medical  
22 examiner with written notice of the basis for the revocation and an opportunity to respond."

23 **SECTION 12E.4.(b)** This section becomes effective January 1, 2016.  
24

25 **INCREASE IN NORTH CAROLINA MEDICAL EXAMINER AUTOPSY FEE**

26 **SECTION 12E.5.(a)** G.S. 130A-389(a) reads as rewritten:

27 "(a) If, in the opinion of the medical examiner investigating the case or of the Chief  
28 Medical Examiner, it is advisable and in the public interest that an autopsy or other study be  
29 made; or, if an autopsy or other study is requested by the district attorney of the county or by  
30 any superior court judge, an autopsy or other study shall be made by the Chief Medical  
31 Examiner or by a competent pathologist designated by the Chief Medical Examiner. A  
32 complete autopsy report of findings and interpretations, prepared on forms designated for the  
33 purpose, shall be submitted promptly to the Chief Medical Examiner. Subject to the limitations  
34 of G.S. 130A-389.1 relating to photographs and video or audio recordings of an autopsy, a  
35 copy of the report shall be furnished to any person upon request. A fee for the autopsy or other  
36 study shall be paid by the State. However, if the deceased is a resident of the county in which  
37 the death or fatal injury occurred, that county shall pay the fee. The fee shall be ~~one thousand~~  
38 ~~two hundred fifty dollars (\$1,250).~~ two thousand eight hundred dollars (\$2,800)."

39 **SECTION 12E.5.(b)** Subsection (a) of this section applies to fees imposed for  
40 autopsies performed on or after July 1, 2015.

41 **SECTION 12E.5.(c)** Funds appropriated in this act to the Department of Health  
42 and Human Services, Division of Public Health, Office of the Chief Medical Examiner, shall  
43 not be used to provide a supplement to counties to offset any portion of the autopsy fee  
44 authorized in G.S. 130A-389(a), as amended by subsection (a) of this section.  
45

46 **INCREASE IN NORTH CAROLINA MEDICAL EXAMINER FEE**

47 **SECTION 12E.6.(a)** G.S. 130A-387 reads as rewritten:

48 "**§ 130A-387. Fees.**

49 For each investigation and prompt filing of the required report, the medical examiner shall  
50 receive a fee paid by the State. However, if the deceased is a resident of the county in which the

1 death or fatal injury occurred, that county shall pay the fee. The fee shall be ~~one hundred~~  
2 ~~dollars (\$100.00)~~ two hundred fifty dollars (\$250.00)."

3 **SECTION 12E.6.(b)** Subsection (a) of this section becomes effective July 1, 2015,  
4 and applies to fees imposed for investigations and reports filed on or after that date.  
5

#### 6 **INCREASE IN TRANSPORTATION RATE FOR DEATH INVESTIGATIONS AND** 7 **AUTOPSIES**

8 **SECTION 12E.7.** Of the funds appropriated in this act to the Department of Health  
9 and Human Services, Division of Public Health, Office of the Chief Medical Examiner, the  
10 sum of four hundred thousand dollars (\$400,000) for the 2015-2016 fiscal year and the sum of  
11 four hundred thousand dollars (\$400,000) for the 2016-2017 fiscal year shall be used to  
12 increase the current base contract rate paid by the Department to transport bodies for death  
13 investigations or autopsies to one hundred ninety dollars (\$190.00) for the first 40 miles and  
14 then one dollar (\$1.00) per mile after the first 40 miles.  
15

#### 16 **TRANSFER OF FUNCTIONS OF OFFICE OF MINORITY HEALTH**

17 **SECTION 12E.8.** The Office of Minority Health of the Department of Health and  
18 Human Services is hereby eliminated. The Department of Health and Human Services,  
19 Division of Central Management, shall assume responsibility for establishing and administering  
20 a competitive grants process in accordance with Section 12A.8(d) of this act for evidence-based  
21 programs that are scientifically proven to eliminate or reduce health disparities among minority  
22 populations in this State.  
23

#### 24 **TRANSFER OF FUNCTIONS OF PHYSICAL ACTIVITY AND NUTRITION** 25 **PROGRAM TO DIVISION OF CENTRAL MANAGEMENT AND SUPPORT**

26 **SECTION 12E.9.** The Physical Activity and Nutrition Program within the  
27 Department of Health and Human Services, Division of Public Health, Chronic Disease and  
28 Injury Section, is hereby eliminated. The Department of Health and Human Services, Central  
29 Management and Support Division, shall assume responsibility for establishing and  
30 administering a competitive grants process in accordance with Section 12A.8(c) of this act for  
31 evidence-based programs that are scientifically proven to improve physical health and nutrition  
32 across the State.  
33

#### 34 **RENAMING AND TRANSFER OF OFFICE OF RURAL HEALTH AND** 35 **COMMUNITY CARE TO DIVISION OF PUBLIC HEALTH**

36 **SECTION 12E.10.(a)** The Office of Rural Health and Community Care is hereby  
37 transferred from the Department of Health and Human Services, Division of Central  
38 Management and Support, to the Department of Health and Human Services, Division of  
39 Public Health, by a Type I transfer, as defined in G.S. 143A-6, and renamed the Rural Health  
40 Section.

41 **SECTION 12E.10.(b)** Consistent with subsection (a) of this section, the Revisor of  
42 Statutes may conform names and titles changed by this section, and may correct statutory  
43 references as required by this section, throughout the General Statutes. In making the changes  
44 authorized by this section, the Revisor may also adjust subject and verb agreement and the  
45 placement of conjunctions.  
46

#### 47 **SUBPART XII-F. DIVISION OF MH/DD/SAS AND STATE OPERATED** 48 **HEALTHCARE FACILITIES**

#### 49 **FUNDS FOR LOCAL INPATIENT PSYCHIATRIC BEDS OR BED DAYS** 50



1           **SECTION 12F.1.(a)** Use of Funds. – Of the funds appropriated in Section 2.1 of  
2 this act to the Department of Health and Human Services, Division of Mental Health,  
3 Developmental Disabilities and Substance Abuse Services, for crisis services, the sum of  
4 forty-three million forty-nine thousand one hundred forty-four dollars (\$43,049,144) for the  
5 2015-2016 fiscal year and the sum of forty-three million forty-nine thousand one hundred  
6 forty-four dollars (\$43,049,144) for the 2016-2017 fiscal year shall be used to purchase  
7 additional local inpatient psychiatric beds or bed days not currently funded by or through  
8 LME/MCOs. The Department shall continue to implement a two-tiered system of payment for  
9 purchasing these local inpatient psychiatric beds or bed days based on acuity level with an  
10 enhanced rate of payment for inpatient psychiatric beds or bed days for individuals with higher  
11 acuity levels, as defined by the Department. The enhanced rate of payment for inpatient  
12 psychiatric beds or bed days for individuals with higher acuity levels shall not exceed the  
13 lowest average cost per patient bed day among the State psychiatric hospitals. In addition, at  
14 the discretion of the Secretary of Health and Human Services, existing funds allocated to  
15 LME/MCOs for community-based mental health, developmental disabilities, and substance  
16 abuse services may be used to purchase additional local inpatient psychiatric beds or bed days.  
17 Funds designated in this subsection for the purchase of local inpatient psychiatric beds or bed  
18 days shall not be used to supplant other funds appropriated or otherwise available to the  
19 Department for the purchase of inpatient psychiatric services through contracts with local  
20 hospitals.

21           **SECTION 12F.1.(b)** Distribution and Management of Beds or Bed Days. – The  
22 Department shall work to ensure that any local inpatient psychiatric beds or bed days purchased  
23 in accordance with this section are utilized solely for individuals who are medically indigent,  
24 defined as uninsured persons who (i) are financially unable to obtain private insurance  
25 coverage as determined by the Department and (ii) are not eligible for government-funded  
26 health coverage such as Medicare or Medicaid; and distributed across the State in LME/MCO  
27 catchment areas and according to need as determined by the Department. The Department shall  
28 ensure that beds or bed days for individuals with higher acuity levels are distributed across the  
29 State in LME catchment areas, including any catchment areas served by managed care  
30 organizations, and according to greatest need based on hospital bed utilization data. The  
31 Department shall enter into contracts with LME/MCOs and local hospitals for the management  
32 of these beds or bed days. The Department shall work to ensure that these contracts are  
33 awarded equitably around all regions of the State. LME/MCOs shall manage and control these  
34 local inpatient psychiatric beds or bed days, including the determination of the specific local  
35 hospital or State psychiatric hospital to which an individual should be admitted pursuant to an  
36 involuntary commitment order.

37           **SECTION 12F.1.(c)** Funds to Be Held in Statewide Reserve. – Funds appropriated  
38 to the Department for the purchase of local inpatient psychiatric beds or bed days shall not be  
39 allocated to LME/MCOs but shall be held in a statewide reserve at the Division of Mental  
40 Health, Developmental Disabilities and Substance Abuse Services, to pay for services  
41 authorized by the LME/MCOs and billed by the hospitals through the LME/MCOs.  
42 LME/MCOs shall remit claims for payment to the Department within 15 working days after  
43 receipt of a clean claim from the hospital and shall pay the hospital within 30 working days  
44 after receipt of payment from the Department.

45           **SECTION 12F.1.(d)** Ineffective LME/MCO Management of Beds or Bed Days. –  
46 If the Department determines that (i) an LME/MCO is not effectively managing the beds or bed  
47 days for which it has responsibility, as evidenced by beds or bed days in the local hospital not  
48 being utilized while demand for services at the State psychiatric hospitals has not reduced, or  
49 (ii) the LME/MCO has failed to comply with the prompt payment provisions of subsection (c)  
50 of this section, the Department may contract with another LME/MCO to manage the beds or

1 bed days or, notwithstanding any other provision of law to the contrary, may pay the hospital  
2 directly.

3 **SECTION 12F.1.(e)** Reporting by LME/MCOs. – The Department shall establish  
4 reporting requirements for LME/MCOs regarding the utilization of these beds or bed days.

5 **SECTION 12F.1.(f)** Reporting by Department. – By no later than December 1,  
6 2016, and by no later than December 1, 2017, the Department shall report to the Joint  
7 Legislative Oversight Committee on Health and Human Services and the Fiscal Research  
8 Division on all of the following:

- 9 (1) A uniform system for beds or bed days purchased during the preceding fiscal  
10 year from (i) funds appropriated in this act that are designated for this  
11 purpose in subsection (a) of this section, (ii) existing State appropriations,  
12 and (iii) local funds.
- 13 (2) Other Department initiatives funded by State appropriations to reduce State  
14 psychiatric hospital use.

### 15 16 **SINGLE STREAM FUNDING FOR MH/DD/SAS COMMUNITY SERVICES**

17 **SECTION 12F.2.(a)** For the purpose of mitigating cash flow problems that many  
18 LME/MCOs experience at the beginning of each fiscal year relative to single stream funding,  
19 the Department of Health and Human Services, Division of Mental Health, Developmental  
20 Disabilities, and Substance Abuse Services (Division), shall distribute not less than one-twelfth  
21 of each LME/MCO's continuation allocation at the beginning of the fiscal year and subtract the  
22 amount of that distribution from the LME/MCO's total reimbursements for the fiscal year.

23 **SECTION 12F.2.(b)** The Division is directed to reduce its allocation for single  
24 stream funding by one hundred eighty-five million six hundred four thousand six hundred  
25 fifty-three dollars (\$185,604,653) in nonrecurring funds for the 2015-2016 fiscal year and by  
26 one hundred eighty-five million six hundred four thousand six hundred fifty-three dollars  
27 (\$185,604,653) for the 2016-2017 fiscal year. The Division is directed to allocate this reduction  
28 among the LME/MCOs based on the percentage of the total single stream funding allocated to  
29 each LME/MCO for the 2014-2015 fiscal year. During each year of the 2015-2017 fiscal  
30 biennium, each LME/MCO shall use its cash reserves to provide at least the same level of  
31 services paid for by single stream funding during the 2014-2015 fiscal year.

### 32 33 **FUNDS FOR THE NORTH CAROLINA CHILD TREATMENT PROGRAM**

34 **SECTION 12F.3.(a)** Recurring funds appropriated in this act to the Department of  
35 Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
36 Substance Abuse Services, for the 2015-2017 fiscal biennium for the North Carolina Child  
37 Treatment Program (NC CTP) shall be used for the following purposes:

- 38 (1) To continue to provide clinical training and coaching to licensed clinicians  
39 on an array of evidence-based treatments and to provide a statewide platform  
40 to assure accountability and outcomes.
- 41 (2) To maintain and manage a public roster of program graduates, linking  
42 high-quality clinicians with children, families, and professionals.
- 43 (3) To partner with State, LME/MCO, and private sector leadership to bring  
44 effective mental health treatment to children in juvenile justice and mental  
45 health facilities.

46 **SECTION 12F.3.(b)** All data, including any entered or stored in the State-funded  
47 secure database developed for the NC CTP to track individual-level and aggregate-level data  
48 with interface capability to work with existing networks within State agencies, is and remains  
49 the sole property of the State.

### 50 51 **TRAUMATIC BRAIN INJURY FUNDING**

1           **SECTION 12F.6.** Of the funds appropriated in this act to the Department of Health  
2 and Human Services, Division of Mental Health, Developmental Disabilities, and Substance  
3 Abuse Services, for the 2015-2016 fiscal year, the sum of two million three hundred  
4 seventy-three thousand eighty-six dollars (\$2,373,086) shall be used exclusively to support  
5 traumatic brain injury (TBI) services as follows:

- 6           (1) The sum of three hundred fifty-nine thousand two hundred eighteen dollars  
7           (\$359,218) shall be used to fund contracts with the Brain Injury Association  
8           of North Carolina, Carolinas Rehabilitation, or other appropriate service  
9           providers.
- 10          (2) The sum of seven hundred ninety-six thousand nine hundred thirty-four  
11          dollars (\$796,934) shall be used to support residential programs across the  
12          State that are specifically designed to serve individuals with TBI.
- 13          (3) The sum of one million two hundred sixteen thousand nine hundred  
14          thirty-four dollars (\$1,216,934) shall be used to support requests submitted  
15          by individual consumers for assistance with residential support services,  
16          home modifications, transportation, and other requests deemed necessary by  
17          the consumer's local management entity and primary care physician.

18  
19           **CREATION OF SEPARATE DOROTHEA DIX HOSPITAL PROPERTY FUND**  
20           **WITHIN THE MENTAL HEALTH TRUST FUND**

21           **SECTION 12F.6A.(a)** G.S. 143C-9-2 is amended by adding a new subsection to  
22 read:

23           "(b1) The Dorothea Dix Hospital Property Fund is established as a separate fund within  
24 the Trust Fund. The fund is established to receive the net proceeds from the sale of the  
25 Dorothea Dix Hospital property. Moneys in the Dorothea Dix Hospital Property Fund shall be  
26 allocated or expended only upon an act of appropriation by the General Assembly and shall not  
27 be subject to the limitations of the moneys in the Trust Fund for Mental Health, Developmental  
28 Disabilities, and Substance Abuse Services and Bridge Funding Needs as described in  
29 subsection (b) of this section."

30           **SECTION 12F.6A.(b)** Notwithstanding G.S. 146-30 or any other provision of law,  
31 the net proceeds of the sale of the Dorothea Dix Hospital property shall be deposited into the  
32 Dorothea Dix Hospital Property Fund established in G.S. 143C-9-2(b1), as enacted by  
33 subsection (a) of this section.

34  
35           **JOINT STUDY OF JUSTICE AND PUBLIC SAFETY AND BEHAVIORAL HEALTH**

36           **SECTION 12F.10.** The Joint Legislative Oversight Committee on Health and  
37 Human Services and the Joint Legislative Oversight Committee on Justice and Public Safety  
38 shall each appoint a subcommittee to study the intersection of Justice and Public Safety and  
39 behavioral health and report their findings and recommendations to their respective  
40 Committees. The subcommittees shall meet jointly to study and report on the following issues:

- 41          (1) The impact of the Justice Reinvestment Act on the State's behavioral health  
42          system, including the following:
- 43           a. The impact of the Justice Reinvestment Act on the demand for  
44           community-based behavioral health services available through local  
45           management entities/managed care organizations (LME/MCOs).
- 46           b. The change in the number of criminal offenders referred to the  
47           Treatment Accountability for Safer Communities (TASC) program  
48           since 2010 and other demands on the TASC program that have arisen  
49           since that time.
- 50           c. The sources and amounts of funding available to serve this  
51           population, as well as any other support or resources that are

- 1 provided by the Department of Public Safety to the Department of  
2 Health and Human Services or the LME/MCOs.
- 3 d. An analysis of the supply and demand for behavioral health providers  
4 who serve this population.
- 5 (2) The impact of mental illness and substance abuse on county law  
6 enforcement agencies, including the following:
- 7 a. The number of people with mental illness and substance abuse issues  
8 held in county jails.
- 9 b. The impact on local law enforcement agencies, particularly with  
10 respect to their budgets and personnel.
- 11 (3) The impact of judicial decisions on the State's behavioral health and social  
12 services system, including the following:
- 13 a. The role and impact of family court decisions on the demand for and  
14 delivery of county social services.
- 15 b. The role and impact of decisions by drug treatment courts, veterans'  
16 mental health courts, and driving while impaired courts.
- 17 c. The impact of judicial decisions on the availability of beds in  
18 State-operated psychiatric facilities as a result of involuntary  
19 commitment orders and incapacity to proceed decisions.
- 20 (4) Any other relevant issues the subcommittees jointly deem appropriate.  
21

## 22 LME/MCO USE OF FUNDS TO PURCHASE INPATIENT ALCOHOL AND 23 SUBSTANCE ABUSE TREATMENT SERVICES

24 **SECTION 12F.12.(a)** It is the intent of the General Assembly to terminate all  
25 direct State appropriations for State-operated alcohol and drug abuse treatment centers  
26 (ADATCs) beginning with the 2015-2016 fiscal year and instead appropriate funds to the  
27 Department of Health and Human Services, Division of Mental Health, Developmental  
28 Disabilities and Substance Abuse Services, for community services in order to allow local  
29 management entities/managed care organizations (LME/MCOs) to assume responsibility for  
30 managing the full array of publicly funded substance abuse services, including inpatient  
31 services delivered through the ADATCs. To this end and notwithstanding any other provision  
32 of law, on the effective date of this section all direct State appropriations for ADATCs are  
33 terminated and the ADATCs shall be one hundred percent receipt-supported.

34 **SECTION 12F.12.(b)** From funds appropriated in this act to the Department of  
35 Health and Human Services, Division of Mental Health, Developmental Disabilities and  
36 Substance Abuse Services, to be allocated to LME/MCOs for the purchase of inpatient alcohol  
37 and substance abuse treatment services, the LME/MCOs shall use their respective fund  
38 allocations for individuals within their respective catchment areas as follows:

- 39 (1) During the 2015-2016 fiscal year, a minimum of one hundred percent  
40 (100%) of the allocation shall be used exclusively to purchase inpatient  
41 alcohol and substance abuse treatment services from the ADATCs.
- 42 (2) During the 2016-2017 fiscal year, a minimum of ninety percent (90%) of the  
43 allocation shall be used exclusively to purchase inpatient alcohol and  
44 substance abuse treatment services from the ADATCs. The LME/MCOs  
45 shall use the remaining ten percent (10%) of their respective allocations to  
46 purchase inpatient alcohol and substance abuse treatment services from any  
47 qualified provider.

48 **SECTION 12F.12.(c)** By March 1, 2016, the Department of Health and Human  
49 Services shall develop and report to the Joint Legislative Oversight Committee on Health and  
50 Human Services and the Fiscal Research Division a plan to allow the ADATCs to remain one  
51 hundred percent (100%) receipt-supported. The report shall include an evaluation of (i) other

1 community-based and residential services that could be provided by the ADATCs and (ii)  
2 potential funding sources other than payments from the LME/MCOs, including funding  
3 available from estimated receipts from Medicare, Medicaid, insurance, and self-pay.  
4

#### 5 **CLOSURE OF WRIGHT SCHOOL**

6 **SECTION 12F.13.(a)** The Department of Health and Human Services shall not  
7 allow any new admissions or readmissions to the Wright School after June 30, 2015. The  
8 Department shall, in consultation with local management entities/managed care organizations,  
9 develop a plan to transition all students enrolled at the Wright School to other appropriate  
10 educational and treatment settings.

11 **SECTION 12F.13.(b)** By September 30, 2015, the Department shall permanently  
12 cease operations at the Wright School.

13 **SECTION 12F.13.(c)** G.S. 122C-181(a)(5)b. is repealed effective October 1, 2015.  
14

#### 15 **REPORT ON MULTIPLICATIVE AUDITING AND MONITORING OF CERTAIN** 16 **SERVICE PROVIDERS**

17 **SECTION 12F.14.** No later than December 1, 2015, the Department of Health and  
18 Human Services shall report to the Joint Legislative Oversight Committee on Health and  
19 Human Services and the Fiscal Research Division on the status of multiplicative auditing and  
20 monitoring of all provider agencies under the Division of Mental Health, Developmental  
21 Disabilities and Substance Abuse Services, that have been nationally accredited through a  
22 recognized national accrediting body. The report shall include (i) all group home facilities  
23 licensed under Chapter 122C of the General Statutes, (ii) a complete list of all auditing and  
24 monitoring activities to which these service providers are subject, and (iii) recommendations on  
25 the removal of all unnecessary regulatory duplication to enhance efficiency.  
26

#### 27 **FUNDS FOR DRUG OVERDOSE MEDICATIONS**

28 **SECTION 12F.15.** Funds appropriated in this act to the Department of Health and  
29 Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse  
30 Services, for the 2015-2016 fiscal year for the purchase of opioid antagonists as defined in  
31 G.S. 90-106.2, shall be used as follows:

- 32 (1) Twenty-five thousand dollars (\$25,000) shall be used to purchase opioid  
33 antagonists to be distributed at no charge to the North Carolina Harm  
34 Reduction Coalition to serve individuals at risk of experiencing an  
35 opioid-related drug overdose or to the friends and family members of an  
36 at-risk individual.
- 37 (2) Twenty-five thousand dollars (\$25,000) shall be used to purchase opioid  
38 antagonists to be distributed at no charge to North Carolina law enforcement  
39 agencies.  
40

#### 41 **STRENGTHENING OF CONTROLLED SUBSTANCES MONITORING**

#### 42 **STATEWIDE OPIOID PRESCRIBING GUIDELINES**

43 **SECTION 12F.16.(a)** By July 1, 2016, the following State health officials and  
44 health care provider licensing boards shall adopt the North Carolina Medical Board's Policy for  
45 the Use of Opiates for the Treatment of Pain:  
46

- 47 (1) The Director of the Division of Public Health of the Department of Health  
48 and Human Services (DHHS).
- 49 (2) The Director of the Division of Medical Assistance, DHHS.
- 50 (3) The Director of the Division of Mental Health, Developmental Disabilities,  
51 and Substance Abuse Services, DHHS.

- 1 (4) The directors of medical, dental, and mental health services within the
- 2 Department of Public Safety.
- 3 (5) North Carolina State Board of Dental Examiners.
- 4 (6) North Carolina Board of Nursing.
- 5 (7) North Carolina Board of Podiatry Examiners.
- 6

## 7 CONTINUING EDUCATION REQUIREMENTS

8 **SECTION 12F.16.(b)** The following health care provider occupational licensing  
9 boards shall require continuing education on the abuse of controlled substances as a condition  
10 of license renewal for health care providers who prescribe controlled substances:

- 11 (1) North Carolina Board of Dental Examiners.
- 12 (2) North Carolina Board of Nursing.
- 13 (3) North Carolina Board of Podiatry Examiners.
- 14 (4) North Carolina Medical Board.

15 **SECTION 12F.16.(c)** In establishing the continuing education standards, the  
16 boards listed in subsection (b) of this section shall require that at least one hour of the total  
17 required continuing education hours consists of a course designed specifically to address  
18 prescribing practices. The course shall include, but not be limited to, instruction on controlled  
19 substance prescribing practices and controlled substance prescribing for chronic pain  
20 management.

## 22 IMPROVE CONTROLLED SUBSTANCES REPORTING SYSTEM ACCESS AND 23 UTILIZATION

24 **SECTION 12F.16.(d)** G.S. 90-113.74 reads as rewritten:

### 25 "§ 90-113.74. Confidentiality.

26 (a) Prescription information submitted to the Department is privileged and confidential,  
27 is not a public record pursuant to G.S. 132-1, is not subject to subpoena or discovery or any  
28 other use in civil proceedings, and except as otherwise provided below may only be used (i) for  
29 investigative or evidentiary purposes related to violations of State or federal ~~law and law~~, (ii)  
30 for regulatory activities, activities, or (iii) to inform medical records or clinical care. Except as  
31 otherwise provided by this section, prescription information shall not be disclosed or  
32 disseminated to any person or entity by any person or entity authorized to review prescription  
33 information.

34 ...

35 (c) The Department shall release data in the controlled substances reporting system to  
36 the following persons only:

37 ...

- 38 (8) Any county medical examiner appointed by the Chief Medical Examiner  
39 pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose  
40 of investigating the death of an individual.
- 41 (9) The federal Drug Enforcement Administration's Office of Diversion Control.
- 42 (10) The North Carolina Health Information Exchange Authority (NC HIE  
43 Authority), established under Article 29A of this Chapter, through  
44 Web-service calls.

45 ...."

46 **SECTION 12F.16.(e)** The Department of Health and Human Services shall adopt  
47 appropriate policies and procedures documenting and supporting the additional functionality  
48 and expanded access added by subsection (d) of this section for the Controlled Substances  
49 Reporting System (CSRS) for the entities added to G.S. 90-113.74(c) by subsection (d) of this  
50 section and shall amend its contract with the vendor that operates the CSRS to support the  
51 additional functionality and expanded access to the CSRS.

**IMPROVE CONTROLLED SUBSTANCES REPORTING SYSTEM CONTRACT**

**SECTION 12F.16.(f)** The Department of Health and Human Services (DHHS) shall modify the contract for the Controlled Substances Reporting System (CSRS) to improve performance, establish user access controls, establish data security protocols, and ensure availability of data for advanced analytics. Specifically, the contract shall be modified to include the following:

- (1) A connection to the North Carolina Health Information Exchange Authority (NC HIE Authority).
- (2) The establishment of interstate connectivity.
- (3) Data security protocols that meet or exceed the Federal Information Processing Standards (FIPS) established by the National Institute of Standards and Technology (NIST).

**SECTION 12F.16.(g)** DHHS shall complete the contract modifications required by subsection (f) of this section by December 31, 2015. DHHS shall report by November 15, 2015, to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Oversight Committee on Health and Human Services regarding the progress to modify the contract.

**SECTION 12F.16.(h)** DHHS shall apply for grant funding from the National Association of Boards of Pharmacy to establish the connection to PMP InterConnect. The Department shall request forty thousand thirty-five dollars (\$40,035) to establish the initial interface for PMP InterConnect and thirty thousand dollars (\$30,000) for two years of ongoing service, maintenance, and support for PMP InterConnect in order to create interstate connectivity for the drug monitoring program as required by subdivision (2) of subsection (f) of this section.

**SECTION 12F.16.(i)** Funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the CSRS shall be used as follows:

- (1) For the 2015-2016 fiscal year, the sum of forty thousand thirty-five dollars (\$40,035) shall be used to connect the CSRS and the NC HIE Authority, as required by subdivision (1) of subsection (f) of this section.
- (2) For the 2015-2016 fiscal year and for the 2016-2017 fiscal year, the sum of fifteen thousand dollars (\$15,000) shall be used to maintain a connection between the CSRS and the NC HIE Authority, as required by subdivision (1) of subsection (f) of this section.
- (3) For the 2015-2016 fiscal year, the sum of forty thousand thirty-five dollars (\$40,035) shall be used to establish the initial interface for PMP InterConnect, as required by subdivision (2) of subsection (f) of this section. This amount shall be adjusted or eliminated if DHHS is successful in obtaining grant awards or identifying other allowable receipts for this purpose. If receipts are used for this purpose, this nonrecurring appropriation shall revert to the General Fund.
- (4) For the 2015-2016 fiscal year, the sum of fifteen thousand dollars (\$15,000) shall be used for the cost of annual service fees for the interstate connection for the drug monitoring program, as required by subdivision (2) of subsection (f) of this section. This amount shall be adjusted or eliminated if DHHS is successful in obtaining grant awards or identifying other allowable receipts for this purpose. If receipts are used for this purpose, this nonrecurring appropriation shall revert to the General Fund.

**EXPAND MONITORING CAPACITY**

1           **SECTION 12F.16.(j)** The North Carolina Controlled Substances Reporting System  
2 shall expand its monitoring capacity by establishing data use agreements with the Prescription  
3 Behavior Surveillance System. In order to participate, the CSRS shall establish a data use  
4 agreement with the Center of Excellence at Brandeis University no later than January 1, 2016.

5           **SECTION 12F.16.(k)** Beginning September 1, 2016, and every two years  
6 thereafter, the Division of Mental Health, Developmental Disabilities, and Substance Abuse  
7 Services of the Department of Health and Human Services shall report on its participation with  
8 the Prescription Behavior Surveillance System to the Joint Legislative Oversight Committee on  
9 Health and Human Services and the Joint Legislative Oversight Committee on Justice and  
10 Public Safety.

## 11 12 **MEDICAID LOCK-IN PROGRAM**

13           **SECTION 12F.16.(l)** The Division of Medical Assistance of the Department of  
14 Health and Human Services (DMA) shall take the following steps to improve the effectiveness  
15 and efficiency of the Medicaid lock-in program:

- 16           (1) Establish written procedures for the operation of the lock-in program,  
17 including specifying the responsibilities of DMA and the program  
18 contractor.
- 19           (2) Establish procedures for the sharing of bulk data with the Controlled  
20 Substances Regulatory Branch.
- 21           (3) In consultation with the Physicians Advisory Group, extend lock-in duration  
22 to two years and revise program eligibility criteria to align the program with  
23 the statewide strategic goals for preventing prescription drug abuse. DMA  
24 shall report an estimate of the cost-savings from the revisions to the  
25 eligibility criteria to the Joint Legislative Program Evaluation Oversight  
26 Committee and the Joint Legislative Oversight Committee on Health and  
27 Human Services within one year of the lock-in program again becoming  
28 operational.
- 29           (4) Develop a Web site and communication materials to inform lock-in  
30 enrollees, prescribers, pharmacists, and emergency room health care  
31 providers about the program.
- 32           (5) Increase program capacity to ensure that all individuals who meet program  
33 criteria are locked in.
- 34           (6) Conduct an audit of the lock-in program within six months after the effective  
35 date of this act in order to evaluate the effectiveness of program restrictions  
36 in preventing overutilization of controlled substances, identify any program  
37 vulnerabilities, and address whether there is evidence of any fraud or abuse  
38 within the program.

39 DMA shall report to the Joint Legislative Program Evaluation Oversight Committee by  
40 September 30, 2015, on its progress toward implementing all items included in this section.

## 41 42 **STATEWIDE STRATEGIC PLAN**

43           **SECTION 12F.16.(m)** There is hereby created the Prescription Drug Abuse  
44 Advisory Committee, to be housed in and staffed by the Department of Health and Human  
45 Services (DHHS). The Committee shall develop and, through its members, implement a  
46 statewide strategic plan to combat the problem of prescription drug abuse. The Committee shall  
47 include representatives from the following, as well as any other persons designated by the  
48 Secretary of Health and Human Services:

- 49           (1) The Division of Medical Assistance, DHHS.
- 50           (2) The Division of Mental Health, Developmental Disabilities, and Substance  
51 Abuse Services, DHHS.



- 1 (3) The Division of Public Health, DHHS.
- 2 (4) The Rural Health Section of the Division of Public Health, DHHS.
- 3 (5) The State Bureau of Investigation.
- 4 (6) The Attorney General's Office.
- 5 (7) The following health care regulatory boards with oversight of prescribers
- 6 and dispensers of prescription drugs:
- 7 a. North Carolina Board of Dental Examiners.
- 8 b. North Carolina Board of Nursing.
- 9 c. North Carolina Board of Podiatry Examiners.
- 10 d. North Carolina Medical Board.
- 11 e. North Carolina Board of Pharmacy.
- 12 (8) The UNC Injury Prevention Research Center.
- 13 (9) The substance abuse treatment community.
- 14 (10) Governor's Institute on Substance Abuse, Inc.
- 15 (11) The Department of Insurance's drug take-back program.

16 After developing the strategic plan, the Committee shall be the State's steering committee to  
17 monitor achievement of strategic objectives and receive regular reports on progress made  
18 toward reducing prescription drug abuse in North Carolina.

19 (b) In developing the statewide strategic plan to combat the problem of  
20 prescription drug abuse, the Prescription Drug Abuse Advisory Committee shall, at a  
21 minimum, complete the following steps:

- 22 (1) Identify a mission and vision for North Carolina's system to reduce and
- 23 prevent prescription drug abuse.
- 24 (2) Scan the internal and external environment for the system's strengths,
- 25 weaknesses, opportunities, and challenges (a SWOC analysis).
- 26 (3) Compare threats and opportunities to the system's ability to meet challenges
- 27 and seize opportunities (a GAP analysis).
- 28 (4) Identify strategic issues based on SWOC and GAP analyses.
- 29 (5) Formulate strategies and resources for addressing these issues.

30 (c) The strategic plan for reducing prescription drug abuse shall include three to  
31 five strategic goals that are outcome-oriented and measureable. Each goal must be connected  
32 with objectives supported by the following five mechanisms of the system:

- 33 (1) Oversight and regulation of prescribers and dispensers by State health care
- 34 regulatory boards.
- 35 (2) Operation of the Controlled Substances Reporting System.
- 36 (3) Operation of the Medicaid lock-in program to review behavior of patients
- 37 with high use of prescribed controlled substances.
- 38 (4) Enforcement of State laws for the misuse and diversion of controlled
- 39 substances.
- 40 (5) Any other appropriate mechanism identified by the Committee.

41 (d) DHHS, in consultation with the Prescription Drug Abuse Advisory  
42 Committee, shall develop and implement a formalized performance management system that  
43 connects the goals and objectives identified in the statewide strategic plan to operations of the  
44 Controlled Substances Reporting System and Medicaid lock-in program, law enforcement  
45 activities, and oversight of prescribers and dispensers. The performance management system  
46 must be designed to monitor progress toward achieving goals and objectives and must  
47 recommend actions to be taken when performance falls short.

48 (e) Beginning on December 1, 2016, and annually thereafter, DHHS shall  
49 submit an annual report on the performance of North Carolina's system for monitoring  
50 prescription drug abuse to the Joint Legislative Oversight Committee on Health and Human  
51 Services and the Joint Legislative Oversight Committee on Justice and Public Safety.

**EFFECTIVE DATE**

**SECTION 12F.16.(n)** Subdivision (f)(1) of this section becomes effective upon the establishment of the North Carolina Health Information Exchange Authority pursuant to Section 12A.5 of this act. The remainder of this section is effective when it becomes law.

**ELIMINATE PUBLICATION/ACCESS NORTH CAROLINA TRAVEL GUIDE**

**SECTION 12F.17.** G.S. 168-2 is repealed.

**BROUGHTON HOSPITAL FACILITIES STUDY**

**SECTION 12F.18.** Of the funds appropriated in this act for the 2015-2016 fiscal year for technology infrastructure, furniture, and equipment for the Broughton Hospital replacement facility, the sum of two hundred thousand dollars (\$200,000) shall be used to conduct the study of potential uses for vacated Broughton Hospital facilities authorized in S.L. 2014-100.

**SUBPART XII-G. DIVISION OF HEALTH SERVICE REGULATION****MORATORIUM ON SPECIAL CARE UNIT LICENSES**

**SECTION 12G.2.(a)** Section 12G.1(a) of S.L. 2013-360, as amended by Section 12G.5 of S.L. 2014-100, reads as rewritten:

"**SECTION 12G.1.(a)** For the period beginning July 31, 2013, and ending ~~June 30, 2016~~, June 30, 2017, the Department of Health and Human Services, Division of Health Service Regulation (Department), shall not issue any licenses for special care units as defined in G.S. 131D-4.6 and G.S. 131E-114. This prohibition shall not restrict the Department from doing any of the following:

- (1) Issuing a license to a facility that is acquiring an existing special care unit.
- (2) Issuing a license for a special care unit in any area of the State upon a determination by the Secretary of the Department of Health and Human Services that increased access to this type of care is necessary in that area during the moratorium imposed by this section.
- (3) Processing all completed applications for special care unit licenses received by the Division of Health Service Regulation along with the applicable license fee prior to June 1, 2013.
- (4) Issuing a license to a facility that was in possession of a certificate of need as of July 31, 2013, that included authorization to operate special care unit beds."

**SECTION 12G.2.(a1)** The Department shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services by March 1, 2016, containing at least the following information:

- (1) The number of licensed special care units in the State.
- (2) The capacity of the currently licensed special care units to serve people in need of their services.
- (3) The anticipated growth in the number of people who will need the services of a licensed special care unit.
- (4) The number of applications received from special care units seeking licensure as permitted by this section, and the number of those applications that were not approved.

**SECTION 12G.2.(b)** This section is effective when this act becomes law.

**PHASED CERTIFICATE OF NEED REPEAL**

1           **SECTION 12G.5.(a)** It is the intent of the General Assembly to repeal the  
2 certificate of need laws set forth in Article 9 of Chapter 131E of the General Statutes in three  
3 phases as set forth in subsections (b) and (c) of this section.

4           **SECTION 12G.5.(b)** Phase 1. – Effective January 1, 2016, the certificate of need  
5 laws will not apply to the following health service facilities and activities:

- 6           (1) The establishment of beds or a change in bed capacity at any of the  
7 following health service facilities:
  - 8           a. Acute care hospitals.
  - 9           b. Inpatient psychiatric hospitals.
  - 10           c. Inpatient rehabilitation hospitals.
  - 11           d. Kidney disease treatment centers.
  - 12           e. ICFMRs.
  - 13           f. Chemical dependency treatment facilities.
- 14           (2) The offering of any of the following services:
  - 15           a. Bone marrow transplantation.
  - 16           b. Burn intensive care services.
  - 17           c. Open heart surgery services.
  - 18           d. Solid organ transplantation.
- 19           (3) The acquisition of any of the following equipment:
  - 20           a. Gamma knife equipment.
  - 21           b. Heart-lung bypass machine.
  - 22           c. Lithotripter.
- 23           (4) The construction, development, establishment, increase in the number, or  
24 relocation of an operating room or gastrointestinal endoscopy room in a  
25 licensed health service facility.

26           **SECTION 12G.5.(c)** Phase 2. – Effective August 1, 2017, the certificate of need  
27 laws will not apply to the establishment of beds or a change in bed capacity at any of the  
28 following health service facilities:

- 29           (1) Diagnostic centers.
- 30           (2) Ambulatory surgical facilities.

31           **SECTION 12G.5.(d)** Phase 3. – Effective January 1, 2019, the certificate of need  
32 laws will not apply to the following health service facilities and activities:

- 33           (1) Nursing homes.
- 34           (2) Hospice programs.
- 35           (3) Hospice inpatient facilities.
- 36           (4) Hospice residential care facilities.
- 37           (5) Long-term care hospitals.
- 38           (6) The offering of cardiac catheterization services.
- 39           (7) The acquisition of any of the following equipment:
  - 40           a. Cardiac catheterization equipment.
  - 41           b. Linear accelerator.
  - 42           c. Magnetic resonance imaging scanner.
  - 43           d. Positron emission tomography scanner.
  - 44           e. Simulator.

#### 45 **REPEAL CERTIFICATE OF PUBLIC ADVANTAGE LAWS**

46           **SECTION 12G.6.(a)** Article 1E of Chapter 90 and Article 9A of Chapter 131E of  
47 the General Statutes are repealed.

48           **SECTION 12G.6.(b)** All existing certificates of public advantage (COPAs)  
49 granted pursuant to Article 1E of Chapter 90 and Article 9A of Chapter 131E of the General  
50 Statutes, as defined in these Articles, are cancelled effective January 1, 2016. By delaying the  
51

1 effective date of the cancellation of COPAs to January 1, 2016, it is the intent of the General  
 2 Assembly to provide parties to existing cooperative agreements, as defined in G.S. 90-21.25  
 3 and G.S. 131E-192.2, with sufficient time to review their cooperative agreements for  
 4 compliance with State and federal laws and to take whatever action the parties deem necessary.

5 **SECTION 12G.6.(c)** This section is effective when it becomes law.

6  
 7 **SUBPART XII-H. DIVISION OF MEDICAL ASSISTANCE (MEDICAID)**

8  
 9 **MEDICAID ELIGIBILITY**

10 **SECTION 12H.2.(a)** Families and children who are categorically and medically  
 11 needy are eligible for Medicaid, subject to the following annual income levels:

	<b>Categorically Needy</b>	<b>Medically Needy</b>
<b>Family Size</b>	<b>Income Level</b>	<b>Income Level</b>
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

12  
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 22  
 23 The Department of Health and Human Services shall provide Medicaid coverage to 19- and  
 24 20-year-olds under this subsection in accordance with federal rules and regulations. Medicaid  
 25 enrollment of categorically needy families with children shall be continuous for one year  
 26 without regard to changes in income or assets.

27 **SECTION 12H.2.(b)** For the following Medicaid eligibility classifications for  
 28 which the federal poverty guidelines are used as income limits for eligibility determinations,  
 29 the income limits will be updated each April 1 immediately following publication of federal  
 30 poverty guidelines. The Department of Health and Human Services, Division of Medical  
 31 Assistance, shall provide Medicaid coverage to the following:

- 32 (1) All elderly, blind, and disabled people who have incomes equal to or less  
 33 than one hundred percent (100%) of the federal poverty guidelines.
- 34 (2) Pregnant women with incomes equal to or less than one hundred ninety-six  
 35 percent (196%) of the federal poverty guidelines and without regard to  
 36 resources. Services to pregnant women eligible under this subsection  
 37 continue throughout the pregnancy but include only those related to  
 38 pregnancy and to those other conditions determined by the Department as  
 39 conditions that may complicate pregnancy.
- 40 (3) Infants under the age of one with family incomes equal to or less than two  
 41 hundred ten percent (210%) of the federal poverty guidelines and without  
 42 regard to resources.
- 43 (4) Children aged one through five with family incomes equal to or less than  
 44 two hundred ten percent (210%) of the federal poverty guidelines and  
 45 without regard to resources.
- 46 (5) Children aged six through 18 with family incomes equal to or less than one  
 47 hundred thirty-three percent (133%) of the federal poverty guidelines and  
 48 without regard to resources.
- 49 (6) Workers with disabilities described in G.S. 108A-66A with unearned income  
 50 equal to or less than one hundred fifty percent (150%) of the federal poverty  
 51 guidelines.

1 The Department of Health and Human Services, Division of Medical Assistance, shall also  
2 provide family planning services to men and women of childbearing age with family incomes  
3 equal to or less than one hundred ninety-five percent (195%) of the federal poverty guidelines  
4 and without regard to resources.

5 **SECTION 12H.2.(c)** The Department of Health and Human Services, Division of  
6 Medical Assistance, shall provide Medicaid coverage to adoptive children with special or  
7 rehabilitative needs, regardless of the adoptive family's income.

8 **SECTION 12H.2.(d)** The Department of Health and Human Services, Division of  
9 Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents,"  
10 ages 18, 19, and 20, as defined in section 1905(w)(1) of the Social Security Act (42 U.S.C. §  
11 1396d(w)(1)), without regard to the adolescent's assets, resources, or income levels.

12 **SECTION 12H.2.(e)** The Department of Health and Human Services, Division of  
13 Medical Assistance, shall provide Medicaid coverage to women who need treatment for breast  
14 or cervical cancer and who are defined in 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVIII).

15 **SECTION 12H.2.(f)** G.S. 108A-70.21 reads as rewritten:

16 "**§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing;  
17 coverage from private plans; purchase of extended coverage.**

18 (a) Eligibility. – The Department may enroll eligible children based on availability of  
19 funds. Following are eligibility and other requirements for participation in the Program:

20 (1) Children must:

- 21 a. Be between the ages of 6 through 18;
- 22 b. Be ineligible for Medicaid, Medicare, or other federal  
23 government-sponsored health insurance;
- 24 c. Be uninsured;
- 25 d. Be in a family whose family income is above one hundred  
26 thirty-three percent (133%) ~~through and less than or equal to two~~  
27 hundred eleven percent (200%)(211%) of the federal poverty level;
- 28 e. Be a resident of this State and eligible under federal law; and
- 29 f. Have paid the Program enrollment fee required under this Part.

30 ...

31 (b) Benefits. – All health benefits changes of the Program shall meet the coverage  
32 requirements set forth in this subsection. Except as otherwise provided for eligibility, fees,  
33 deductibles, copayments, and other cost sharing charges, health benefits coverage provided to  
34 children eligible under the Program shall be equivalent to coverage provided for dependents  
35 under North Carolina Medicaid Program except for the following:

- 36 (1) No services for long-term care.
- 37 (2) No nonemergency medical transportation.
- 38 (3) No EPSDT.
- 39 (4) Dental services shall be provided on a restricted basis in accordance with  
40 criteria adopted by the Department to implement this subsection.

41 In addition to the benefits provided under the North Carolina Medicaid Program, the  
42 following services and supplies are covered under the Health Insurance Program for Children  
43 established under this Part:

- 44 (1), (1a) Repealed by Session Laws 2011-145, s. 10.41(b), effective July 1, 2011.
- 45 (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass  
46 lenses or contact lenses once every 12 months, routine replacement of  
47 eyeglass frames once every 24 months, and optical supplies and solutions  
48 when needed. NCHC recipients must obtain optical services, supplies, and  
49 solutions from NCHC enrolled, licensed or certified ophthalmologists,  
50 optometrists, or opticians. In accordance with G.S. 148-134, NCHC  
51 providers must order complete eyeglasses, eyeglass lenses, and ophthalmic

1 frames through Nash Optical Plant. Eyeglass lenses are limited to  
2 NCHC-approved single vision, bifocal, trifocal, or other complex lenses  
3 necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses  
4 and frames, designer frames, photosensitive lenses, tinted contact lenses,  
5 blended lenses, progressive multifocal lenses, coated lenses, and laminated  
6 lenses is limited to the coverage for single vision, bifocal, trifocal, or other  
7 complex lenses provided by this subsection. Eyeglass frames are limited to  
8 NCHC-approved frames made of zylonite, metal, or a combination of  
9 zylonite and metal. All visual aids covered by this subsection require prior  
10 approval. Requests for medically necessary complete eyeglasses, eyeglass  
11 lenses, and ophthalmic frames outside of the NCHC-approved selection  
12 require prior approval. Requests for medically necessary fabrication of  
13 complete eyeglasses or eyeglass lenses outside of Nash Optical Plant require  
14 prior approval. Upon prior approval refractions may be covered more often  
15 than once every 12 months.

- 16 (3) Under the North Carolina Health Choice Program for Children, the  
17 co-payment for nonemergency visits to the emergency room for children  
18 whose family income is ~~at or below~~ less than or equal to one hundred  
19 ~~fifty~~ fifty-nine percent ~~(150%)(159%)~~ of the federal poverty level is ten  
20 dollars (\$10.00). The co-payment for children whose family income is  
21 ~~between~~ above one hundred fifty one ~~fifty-nine~~ percent ~~(151%)(159%)~~ and  
22 less than or equal to two hundred eleven percent ~~(200%)(211%)~~ of the  
23 federal poverty level is twenty-five dollars (\$25.00).

24 ...

25 (c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage  
26 for enrollees whose family income is ~~at or below~~ less than or equal to one hundred ~~fifty~~  
27 fifty-nine percent ~~(150%)(159%)~~ of the federal poverty level. The enrollment fee for Program  
28 coverage for enrollees whose family income is above one hundred ~~fifty~~ fifty-nine percent  
29 ~~(150%)(159%)~~ through and less than or equal to two hundred eleven percent ~~(200%)(211%)~~  
30 of the federal poverty level shall be fifty dollars (\$50.00) per year per child with a maximum  
31 annual enrollment fee of one hundred dollars (\$100.00) for two or more children. The  
32 enrollment fee shall be collected by the county department of social services and retained to  
33 cover the cost of determining eligibility for services under the Program. County departments of  
34 social services shall establish procedures for the collection of enrollment fees.

35 (d) Cost-Sharing. – There shall be no deductibles, copayments, or other cost-sharing  
36 charges for families covered under the Program whose family income is ~~at or below~~ less than or  
37 equal to one hundred ~~fifty~~ fifty-nine percent ~~(150%)(159%)~~ of the federal poverty level, except  
38 that fees for outpatient prescription drugs are applicable and shall be one dollar (\$1.00) for each  
39 outpatient generic prescription drug, for each outpatient brand-name prescription drug for  
40 which there is no generic substitution available, and for each covered over-the-counter  
41 medication. The fee for each outpatient brand-name prescription drug for which there is a  
42 generic substitution available is three dollars (\$3.00). Families covered under the Program  
43 whose family income is above one hundred ~~fifty~~ fifty-nine percent ~~(150%)(159%)~~ of the  
44 federal poverty level shall be responsible for copayments to providers as follows:

- 45 (1) Five dollars (\$5.00) per child for each visit to a provider, except that there  
46 shall be no copayment required for well-baby, well-child, or age-appropriate  
47 immunization services;
- 48 (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- 49 (3) A one dollar (\$1.00) fee for each outpatient generic prescription drug, for  
50 each outpatient brand-name prescription drug for which there is no generic  
51 substitution available, and for each covered over-the-counter medication.

1 The fee for each outpatient brand-name prescription drug for which there is a  
2 generic substitution available is ten dollars (\$10.00).

3 (4) Twenty dollars (\$20.00) for each emergency room visit unless:

4 a. The child is admitted to the hospital, or

5 b. No other reasonable care was available as determined by the  
6 Department.

7 ..."

## 9 LME/MCO OUT-OF-NETWORK AGREEMENTS

10 **SECTION 12H.3.(a)** The Department of Health and Human Services (Department)  
11 shall ensure that local management entities/managed care organizations (LME/MCOs) utilize  
12 an out-of-network agreement that contains standardized elements developed in consultation  
13 with LME/MCOs. The out-of-network agreement shall be a streamlined agreement between a  
14 single provider of behavioral health or intellectual/developmental disability (IDD) services and  
15 an LME/MCO to ensure access to care in accordance with 42 C.F.R. 438.206(b)(4), reduce  
16 administrative burden on the provider, and comply with all requirements of State and federal  
17 laws and regulations. Beginning July 1, 2015, LME/MCOs shall use the out-of-network  
18 agreement in lieu of a comprehensive provider contract when all of the following conditions are  
19 met:

20 (1) The services requested are medically necessary and cannot be provided by  
21 an in-network provider.

22 (2) The behavioral health or IDD provider's site of service delivery is located  
23 outside of the geographical catchment area of the LME/MCO, and the  
24 LME/MCO is not accepting applications or the provider does not wish to  
25 apply for membership in the LME/MCO closed network.

26 (3) The behavioral health or IDD provider is not excluded from participation in  
27 the Medicaid program, the NC Health Choice program or other State or  
28 federal health care program.

29 (4) The behavioral health or IDD provider is serving no more than two enrollees  
30 of the LME/MCO, unless the agreement is for inpatient hospitalization, in  
31 which case the LME/MCO may, but shall not be required to, enter into more  
32 than five such out-of-network agreements with a single hospital or health  
33 system in any 12-month period.

34 **SECTION 12H.3.(b)** Medicaid providers providing services pursuant to an  
35 out-of-network agreement shall be considered a network provider for purposes of Chapter  
36 108D of the General Statutes only as it relates to enrollee grievances and appeals.

## 38 PROVIDER APPLICATION AND RECREDENTIALING FEE

39 **SECTION 12H.4.** The Department of Health and Human Services, Division of  
40 Medical Assistance, shall charge an application fee of one hundred dollars (\$100.00), and the  
41 amount federally required, to each provider enrolling in the Medicaid Program for the first  
42 time. The fee shall be charged to all providers at recredentialing every three years.

## 44 REIMBURSEMENT FOR IMMUNIZING PHARMACIST SERVICES

45 **SECTION 12H.5.(a)** Effective January 1, 2016, the Department of Health and  
46 Human Services, Division of Medical Assistance (Department), shall provide Medicaid and NC  
47 Health Choice reimbursement for the administration of covered vaccinations or immunizations  
48 provided by immunizing pharmacists in accordance with G.S. 90-85.15B.

49 **SECTION 12H.5.(b)** In order to implement the requirements of subsection (a) of  
50 this section, the Department shall enroll immunizing pharmacists as providers.

1           **SECTION 12H.5.(c)** The Department shall submit any State plan amendments  
2 necessary to accomplish the requirements of this section.

#### 3 4 **TRAUMATIC BRAIN INJURY MEDICAID WAIVER**

5           **SECTION 12H.6.(a)** The Department of Health and Human Services, Division of  
6 Medical Assistance and Division of Mental Health, Developmental Disabilities, and Substance  
7 Abuse Services (Department), shall submit to the Centers for Medicare and Medicaid Services  
8 a request for approval of the 1915(c) waiver for individuals with traumatic brain injury (TBI)  
9 that the Department designed pursuant to Section 12H.6 of S.L. 2014-100, which the Joint  
10 Legislative Oversight Committee on Health and Human Services recommended as part of its  
11 December 2014 report to the General Assembly, and which is further described in the  
12 Department's February 1, 2015, report to the General Assembly.

13           **SECTION 12H.6.(b)** The Department shall report to the Joint Legislative  
14 Oversight Committee on Health and Human Services on the status of the Medicaid TBI waiver  
15 request and the plan for implementation no later than December 1, 2015. The Department shall  
16 submit an updated report by March 1, 2016. Each report shall include the following:

- 17           (1) The number of individuals who are being served under the waiver and the  
18 total number of individuals expected to be served.  
19           (2) The expenditures to date and a forecast of future expenditures.  
20           (3) Any recommendations regarding expansion of the waiver.

21           **SECTION 12H.6.(c)** Of the funds appropriated to the Department of Health and  
22 Human Services, Division of Medical Assistance, two million dollars (\$2,000,000) for fiscal  
23 year 2015-2016 and two million dollars (\$2,000,000) for fiscal year 2016-2017 shall be used to  
24 fund the Medicaid TBI waiver.

#### 25 26 **STUDY MEDICAID COVERAGE FOR VISUAL AIDS**

27           **SECTION 12H.6A.** The Department of Health and Human Services, Division of  
28 Medical Assistance, in consultation with the Department of Public Safety, shall submit a report  
29 to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal  
30 Research Division by November 1, 2015, containing an analysis of the fiscal impact to the  
31 State of reinstating Medicaid coverage for visual aids for adults utilizing a contract with the  
32 Department of Public Safety for fabrication of the eyeglasses at Nash Optical Plant Optical  
33 Laboratory. The report shall also analyze the cost of reinstating Medicaid coverage for routine  
34 eye examinations for adults in addition to the coverage for visual aids.

#### 35 36 **ASSESSMENTS**

37           **SECTION 12H.7.** G.S. 108A-122(b) reads as rewritten:

38           "(b) Allowable Cost. – An assessment paid under this Article may be included as  
39 allowable costs of a hospital for purposes of any applicable Medicaid reimbursement ~~formula-~~  
40 formula; assessments paid under this Article shall be excluded from cost settlement. An  
41 assessment imposed under this Article may not be added as a surtax or assessment on a patient's  
42 bill."

#### 43 44 **LME/MCO TRANSFER OF FUNDS TO RISK RESERVE**

45           **SECTION 12H.8.(a)** After the local management entities/managed care  
46 organizations (LME/MCOs) have allocated funds to cover the reduction in single stream  
47 funding required by Section 12F.2 of this act, the Department of Health and Human Services,  
48 Division of Medical Assistance, shall require LME/MCOs to transfer funds from their  
49 operating cash reserves to their contractually-required risk reserve account in an amount  
50 sufficient so that the funds in the risk reserve account equal fifteen percent (15%) of annual  
51 premiums. The Department shall not require LME/MCOs to transfer from their operating cash



1 reserves the amount needed to make up the difference between the current month's claims  
2 payments and the capitation payment received for the month.

3 **SECTION 12H.8.(b)** The Department shall discontinue paying the two percent  
4 (2%) added to the administrative payment of an LME/MCO when the amount in the  
5 LME/MCO's risk reserve account reaches fifteen percent (15%) of annual premiums.

6 **SECTION 12H.8.(c)** The Department shall work with LME/MCOs to consolidate  
7 their multiple existing reserve accounts so that each LME/MCO has only one reserve account.

#### 8 9 **ADMINISTRATIVE HEARINGS FUNDING**

10 **SECTION 12H.9.** Of the funds appropriated to the Department of Health and  
11 Human Services, Division of Medical Assistance, for administrative contracts and interagency  
12 transfers, the Department of Health and Human Services (Department) shall transfer the sum of  
13 one million dollars (\$1,000,000) for the 2015-2016 fiscal year and the sum of one million  
14 dollars (\$1,000,000) for the 2016-2017 fiscal year to the Office of Administrative Hearings  
15 (OAH). These funds shall be allocated by the OAH for mediation services provided for  
16 Medicaid applicant and recipient appeals and to contract for other services necessary to conduct  
17 the appeals process. OAH shall continue the Memorandum of Agreement (MOA) with the  
18 Department for mediation services provided for Medicaid recipient appeals and contracted  
19 services necessary to conduct the appeals process. The MOA will facilitate the Department's  
20 ability to draw down federal Medicaid funds to support this administrative function. Upon  
21 receipt of invoices from OAH for covered services rendered in accordance with the MOA, the  
22 Department shall transfer the federal share of Medicaid funds drawn down for this purpose.

#### 23 24 **ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

25 **SECTION 12H.10.(a)** Receivables reserved at the end of the 2015-2016 and  
26 2016-2017 fiscal years shall, when received, be accounted for as nontax revenue for each of  
27 those fiscal years.

28 **SECTION 12H.10.(b)** For the 2015-2016 fiscal year, the Department of Health  
29 and Human Services shall deposit from its revenues one hundred thirty-nine million dollars  
30 (\$139,000,000) with the Department of State Treasurer to be accounted for as nontax revenue.  
31 For the 2016-2017 fiscal year, the Department of Health and Human Services shall deposit  
32 from its revenues one hundred thirty-nine million dollars (\$139,000,000) with the Department  
33 of State Treasurer to be accounted for as nontax revenue. These deposits shall represent the  
34 return of General Fund appropriations, nonfederal revenue, fund balances, or other resources  
35 from State-owned and State-operated hospitals which are used to provide indigent and  
36 nonindigent care services. The return from State-owned and State-operated hospitals to DHHS  
37 will be made from nonfederal resources in an amount equal to the amount of the payments from  
38 the Division of Medical Assistance for uncompensated care. The treatment of any revenue  
39 derived from federal programs shall be in accordance with the requirements specified in the  
40 Code of Federal Regulations, Title 2, Part 225.

#### 41 42 **MEDICAID SPECIAL FUND TRANSFER**

43 **SECTION 12H.11.** Of the funds transferred to the Department of Health and  
44 Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from  
45 the Medicaid Special Fund to the Department of Health and Human Services the sum of  
46 forty-three million dollars (\$43,000,000) for the 2015-2016 fiscal year and the sum of  
47 forty-three million dollars (\$43,000,000) for the 2016-2017 fiscal year. These funds shall be  
48 allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the  
49 prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding,  
50 these funds shall replace the reduction in general revenue funding effected in this act.

**MISCELLANEOUS MEDICAID PROVISIONS**

**SECTION 12H.12.(a)** Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

**SECTION 12H.12.(b)** Cost Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

**SECTION 12H.12.(c)** Medicaid Identification Cards. – The Department shall issue Medicaid identification cards to recipients on an annual basis with updates as needed.

**MISCELLANEOUS HEALTH CHOICE PROVISIONS**

**SECTION 12H.14.(a)** G.S. 108A-70.18(4a) is repealed.

**SECTION 12H.14.(b)** G.S. 108A-70.20 reads as rewritten:

**"§ 108A-70.20. Program established.**

The Health Insurance Program for Children is established. The Program shall be known as North Carolina Health Choice for Children, and it shall be administered by the Department of Health and Human Services in accordance with this Part and as required under Title XXI and related federal rules and regulations. Administration of ~~Program benefits and claims processing shall be as provided under Part 5 of Article 3 of Chapter 135 of the General Statutes described in 42 C.F.R. § 447.45(d)(1).~~"

**SECTION 12H.14.(c)** Subsections (g) and (h) of G.S. 108A-70.21 are repealed.

**SECTION 12H.14.(d)** G.S. 108A-70.21(i) reads as rewritten:

"(i) ~~No Lifetime Maximum Benefit Limit.~~—Benefits provided to an enrollee in the Program ~~shall not be subject to a maximum lifetime limit,~~ may be subject to lifetime maximum limits set forth in Medicaid and NC Health Choice medical coverage policies adopted pursuant to G.S. 108A-54.2."

**SECTION 12H.14.(e)** G.S. 108A-70.27(c) is repealed.

**REINSTATE COST SETTLEMENT PURSUANT TO 1993 STATE AGREEMENT**

**SECTION 12H.17.** Effective July 1, 2015, the cost settlement for outpatient Medicaid services performed by Vidant Medical Center, which was previously known as Pitt County Memorial Hospital, shall be at one hundred percent (100%) of allowable costs.

**COVERED SERVICES AND PAYMENT FOR SERVICES**

**SECTION 12H.18.** Except as otherwise specifically provided in this act or another act passed during the 2015 Regular Session, the authorized State plan services, co-pays, reimbursement rates, and fees shall remain the same as those authorized as of June 30, 2015.

**DRUG REIMBURSEMENT USING AVERAGE ACQUISITION COST**

**SECTION 12H.19.(a)** The Department of Health and Human Services, Division of Medical Assistance, (Department) shall adopt an average acquisition cost methodology for brand and generic drug ingredient pricing to be effective beginning on January 1, 2016. The drug ingredient pricing methodology shall be consistent with new federal requirements or, if the new federal requirements have not yet been finalized by July 1, 2015, consistent with the most recent draft federal requirements. In adopting a new drug ingredient pricing methodology, the Department shall also do all of the following:

- (1) Raise the average dispensing fee to a weighted average amount that does not exceed twelve dollars (\$12.00).

1 (2) Set actual dispensing fees that maintain a higher dispensing fee for preferred  
2 and generic drugs and a lower dispensing fee for brand and nonpreferred  
3 drugs.

4 (3) Ensure that ingredient prices are updated at least monthly.

5 **SECTION 12H.19.(b)** In addition to the requirements in subsection (a) of this  
6 section, the Department may also set tiered dispensing fees that establish a higher dispensing  
7 fee for providers who dispense a lower volume of prescriptions and a lower dispensing fee for  
8 providers who dispense a higher volume of prescriptions, as long as the weighted average  
9 amount of all the tiered dispensing fees does not exceed twelve dollars (\$12.00).

10 **SECTION 12H.19.(c)** In order to implement this section, the Department shall  
11 either amend the State plan amendment request submitted to the Centers for Medicare and  
12 Medicaid Services (CMS) pursuant to Section 12H.8 of S.L. 2014-100 so that it conforms with  
13 the requirements of this section or shall withdraw that State plan amendment and submit a new  
14 State plan amendment request to CMS that conforms with the requirements of this section, in  
15 accordance with the procedures set forth in G.S. 108A-54.1A.

#### 16 17 **MEDICAID DENTAL SERVICE COST SETTLEMENT**

18 **SECTION 12H.20.** The Department of Health and Human Services, Division of  
19 Medical Assistance, shall submit a State Plan Amendment request to the Centers for Medicare  
20 and Medicaid Services to assure that all State-operated dental schools receive the same  
21 reimbursement for dental services provided to North Carolina Medicaid beneficiaries.

#### 22 23 **MOBILE DENTAL PROVIDER ENROLLMENT**

24 **SECTION 12H.21.** For mobile dental providers seeking enrollment as a Medicaid  
25 provider, and upon reenrollment of current Medicaid mobile dental providers, the Department  
26 of Health and Human Services, Division of Medicaid Assistance, shall require as a condition of  
27 enrollment or reenrollment that the mobile dental provider show proof of a contractual  
28 affiliation with dental practice that is not mobile, and the Department shall require the mobile  
29 dental provider to use the National Provider Identifier (NPI) of the non-mobile dental practice  
30 for purposes of filing claims.

#### 31 32 **INCREASE RATES FOR PRIVATE DUTY NURSING**

33 **SECTION 12H.22.** Effective January 1, 2016, the Department of Health and  
34 Human Services, Division of Medical Assistance, shall increase by ten percent (10%) the rate  
35 paid for private duty nursing services provided pursuant to Clinical Coverage Policy 3G.

#### 36 37 **RESTRICTING GRADUATE MEDICAL PAYMENTS**

38 **SECTION 12H.23.(a)** The Department of Health and Human Services shall submit  
39 a State Plan Amendment to modify Section 4.19-A of the Medicaid State Plan, such that,  
40 effective October 1, 2015, no Medicaid provider may receive reimbursement for Graduate  
41 Medical Education (GME) in addition to their DRG Unit Value (Base) rate under the  
42 methodology as defined in the current Medicaid State Plan.

43 **SECTION 12H.23.(b)** This modification shall be implemented upon approval by  
44 the Centers for Medicare and Medicaid Services (CMS).

45 **SECTION 12H.23.(c)** The Department of Health and Human Services, Division of  
46 Medical Assistance, shall be exempt from the 90-day prior submission requirement in  
47 G.S. 108A-54.1A in order to submit the State Plan amendment required to implement this  
48 section.

#### 49 50 **MEDICAID TRANSFORMATION AND REORGANIZATION**

1           **SECTION 12H.24.(a)** Intent and Goals. – It is the intent of the General Assembly  
2 to transform the State's current Medicaid program to a program that provides budget  
3 predictability for the taxpayers of this State while ensuring quality care to those in need. The  
4 new Medicaid program shall be designed to achieve the following goals:

- 5           (1) Ensure budget predictability through shared risk and accountability.
- 6           (2) Ensure balanced quality, patient satisfaction, and financial measures.
- 7           (3) Ensure efficient and cost-effective administrative systems and structures.
- 8           (4) Ensure a sustainable delivery system.

9           **SECTION 12H.24.(b)** Structure of Delivery System. – The transformed Medicaid  
10 program described in subsection (a) of this section shall be organized according to the  
11 following principles and parameters:

- 12           (1) The Health Benefits Authority (Authority), created in subsection (h1) of this  
13 section, shall have full budget and regulatory authority to manage the State's  
14 Medicaid and NC Health Choice programs, except the General Assembly  
15 shall determine eligibility categories and income thresholds.
- 16           (2) Among its initial tasks, the Authority shall:
  - 17           a. Determine the structural and financial qualifications required for  
18 managed care organizations (MCOs) and provider-led entities  
19 (PLEs). The majority of the members of a PLE's governing board  
20 shall be composed of providers as defined in G.S. 108C-2 or entities  
21 composed of providers.
  - 22           b. Designate six regions within the State. Regions must be composed of  
23 whole counties. Regions do not have to be contiguous, and it is not  
24 the intent of the General Assembly to require that every county be  
25 included in at least one of the six regions.
- 26           (3) The Authority shall enter into contractual relationships with MCOs and  
27 PLEs for the delivery of all Medicaid health care items and services. All  
28 contracts shall be the result of a request for proposals (RFP) issued by the  
29 Authority and the submission of competitive bids by MCOs and PLEs. The  
30 governing principles and minimum terms and conditions of the RFPs, bids,  
31 and contracts are described in subsection (d) of this section.
- 32           (4) The number and nature of the contracts required under subdivision (3) of this  
33 subsection shall be as follows:
  - 34           a. Three contracts between the Authority and any combination of  
35 individual MCOs and individual PLEs. Each of these contracts shall  
36 provide statewide coverage for all Medicaid health care items and  
37 services (statewide contracts).
  - 38           b. Up to 12 contracts between the Authority and individual PLEs for  
39 coverage of specified regions (regional contracts). Regional contracts  
40 shall be in addition to the three statewide contracts required under  
41 sub-subdivision a. of this subdivision. Each regional contract shall  
42 provide coverage throughout the entire region for all Medicaid health  
43 care items and services. A PLE may bid on more than one region.  
44 The Authority shall have full discretion to enter into one, two, or no  
45 regional contracts in any region.
- 46           (5) As a result of the contracts entered into by the Authority under subdivision  
47 (3) of this subsection, a recipient shall have at least three, but no more than  
48 five enrollment choices for the provision of all Medicaid health care items  
49 and services. The Authority shall provide for annual open enrollment periods  
50 and shall determine the process for assigning recipients who do not select a  
51 MCO or PLE during the enrollment period.

1           **SECTION 12H.24.(c)** Time Line. – The following milestones for Medicaid  
2 transformation shall occur no later than the following dates:

- 3           (1) When this act becomes law. -  
4               a. The Health Benefits Authority is created pursuant to subsection (h1)  
5 of this section and appointments to the Authority's Board shall be  
6 made pursuant to G.S. 143B-1405.  
7               b. The Joint Legislative Oversight Committee on the Health Benefits  
8 Authority (LOC-HBA) is created pursuant to subsection (l) of this  
9 section to oversee the Medicaid and NC Health Choice programs.  
10          (2) September 1, 2015. – The Department of Health and Human Services  
11 (Department) shall establish the Medicaid stabilization team pursuant to  
12 subsection (g) of this section.  
13          (3) October 1, 2015. -  
14               a. The Authority is designated as the single state agency for the  
15 administration of Medicaid and NC Health Choice.  
16               b. The Department and the Authority shall enter into agreements  
17 necessary for the Authority to supervise the Department's  
18 administration of the Medicaid and NC Health Choice programs.  
19          (4) February 1, 2016. – The Authority shall submit requests for waivers and  
20 State Plan amendments to the Centers for Medicare and Medicaid Services  
21 necessary to implement Medicaid transformation.  
22          (5) March 1, 2016. – The Authority shall report recommended statutory changes  
23 to the North Carolina General Statutes to the LOC-HBA.  
24          (6) April 1, 2017. – The initial recipient enrollment period begins.  
25          (7) August 1, 2017. – Capitated full-risk contracts begin.

26           **SECTION 12H.24.(d)** Requests for Proposals; Bids; Terms & Conditions of  
27 Contracts. – The following shall be components of the initial RFPs, responsive bids to the  
28 initial RFPs, and the initial contracts that are required under subsection (b) of this section.

- 29          (1) An RFP may solicit bids for a statewide contract, a regional contract, or  
30 both, and may propose variable contract durations.  
31          (2) RFPs must require at least all of the following:  
32               a. Full-risk capitation for all Medicaid health care items and services.  
33               b. Coverage for all program aid categories except the dual eligible  
34 categories for which Medicaid only pays Medicare premiums.  
35               c. All bidders meet solvency requirements established by the  
36 Department of Insurance pursuant to subsection (k1) of this section.  
37               d. All bidders meet the same standards and metrics for risk, outcomes,  
38 and quality.  
39               e. All bidders establish appropriate networks or providers to deliver  
40 services.  
41               f. All bidders subcontract with existing LME/MCOs for behavioral  
42 health services for up to three years at a capitation rate that is no less  
43 than the most recently negotiated rate for the then current scope of  
44 benefits paid to LME/MCOs.  
45               g. All bidders agree not to limit providers' ability to contract with other  
46 MCOs and PLEs.  
47               h. All bidders must connect to the Health Information Exchange  
48 Network or any successor information technology entity or  
49 architecture specified by the Authority in order to ensure effective  
50 systems and connectivity to support clinical coordination of care,  
51 exchange of information, and the availability of data to the Authority

- 1 to manage the Medicaid and NC Health Choice program for the  
2 State.
- 3 i. All bidders ensure that their contracts with providers include  
4 value-based payment systems that support the achievement of overall  
5 performance, quality, and outcome measures.
- 6 (3) All bids must respond to the requirements of subdivision (2) of this  
7 subsection and must also include at least all of the following:
- 8 a. For statewide contracts, a description of how the MCO or PLE will  
9 ensure access to appropriate care throughout the State.
- 10 b. For regional contracts, a description of how the PLE will ensure  
11 access to appropriate care throughout the region.
- 12 c. Proposed competitive medical loss ratios.
- 13 d. Proposed full-risk capitated rates based on Centers for Medicare and  
14 Medicaid Services (CMS) actuarial soundness and industry standards  
15 as well as risk adjusted rate ranges using claims data from fiscal year  
16 2014-2015. Actuarial calculations must include utilization  
17 assumptions consistent with industry and local standards.
- 18 e. Methods to ensure program integrity against provider fraud, waste,  
19 and abuse at all levels.
- 20 (4) In addition to the requirements of subdivisions (1) through (3) of this  
21 subsection, each contract must provide for all of the following:
- 22 a. Negotiated full-risk capitated rates, including a portion that is at risk  
23 for achievement of quality and outcome measures.
- 24 b. Negotiated competitive medical loss ratios.
- 25 c. Compliance by the MCO or PLE with all CMS requirements for the  
26 Medicaid and NC Health Choice programs.
- 27 d. Defined measures and goals for risk adjusted health outcomes,  
28 quality of care, patient satisfaction, and cost. Each component must  
29 be measured and monitored continually and reported at set intervals  
30 as determined by the Authority. Each component shall be subject to  
31 specific accountability measures, including penalties. The Authority  
32 may use organizations such as National Committee for Quality  
33 Assurance (NCQA), Physician Consortium for Performance  
34 Improvement (PCPI), Healthcare Effectiveness Data and Information  
35 Set (HEDIS), or any others necessary to develop effective measures  
36 for outcomes and quality.
- 37 e. Acceptance of full responsibility by the MCO or PLE for all  
38 grievance and appeals.
- 39 f. Ability of the MCO or PLE to exclude providers from networks  
40 based on economic or quality standards.
- 41 g. Ability of the MCO or PLE to terminate the capitation rate required  
42 under sub-subdivision f. of subdivision (2) of this subsection if  
43 termination of the rate is mutually agreed to by the LME/MCO.
- 44 h. Agreement that covered benefits will not be reduced from the  
45 covered services in effect on the date the contract is awarded except  
46 in instances where the Authority reduces a covered service for all  
47 recipients and for all contracts.

48 **SECTION 12H.24.(e)** Monthly Progress Report. – Beginning November 1, 2015,  
49 and monthly thereafter until October 1, 2018, the Health Benefits Authority shall report to the  
50 LOC-HBA and the Fiscal Research Division on the State's progress toward completing

1 Medicaid transformation. The March 1, 2016, report shall contain proposed changes to the  
2 North Carolina General Statutes that are necessary to implement Medicaid transformation.

3 **SECTION 12H.24.(f) Maintain Funding Mechanisms.** – In developing the waivers  
4 and State Plan amendments necessary to implement this section, the Authority shall work with  
5 the Centers for Medicare & Medicaid Services (CMS) to attempt to preserve existing levels of  
6 funding generated from Medicaid-specific funding streams, such as assessments, to the extent  
7 that the levels of funding may be preserved. If such Medicaid-specific funding cannot be  
8 maintained as currently implemented, then the Authority shall advise the LOC-HBA created in  
9 subsection (h1) of this section of any modifications necessary to maintain as much revenue as  
10 possible within the context of Medicaid transformation. If such Medicaid-specific funding  
11 streams cannot be preserved through the transformation process or if revenue would decrease, it  
12 is the intent of the General Assembly to modify such funding streams so that any supplemental  
13 payments to providers are more closely aligned to improving health outcomes and achieving  
14 overall Medicaid goals.

15 **SECTION 12H.24.(g) DHHS Role in Medicaid Transformation.** – During  
16 Medicaid transformation, the Department of Health and Human Services, Division of Medical  
17 Assistance (Division), shall cooperate with the Authority to ensure a smooth transition of the  
18 Medicaid and NC Health Choice programs and shall perform all of the following functions:

- 19 (1) The Department and the Authority shall enter into agreements necessary for  
20 the Authority to supervise the Department's administration of the Medicaid  
21 and NC Health Choice programs until the transformed Medicaid program is  
22 completed.
- 23 (2) The Department of Health and Human Services, Office of the Secretary,  
24 (Office of the Secretary) shall organize a Medicaid stabilization team to do  
25 the following:
  - 26 a. Maintain the Medicaid and NC Health Choice programs until  
27 Medicaid transformation has been completed.
  - 28 b. Work with the Authority during the transition.
  - 29 c. Develop strategies to successfully complete the requirements of  
30 sub-subdivisions a. and b. of this subdivision.
  - 31 d. Make recommendations to the LOC-HBA on any additional  
32 authorization or funding necessary to successfully complete the  
33 requirements of sub-subdivisions a. and b. of this subdivision.
  - 34 e. With assistance from the Office of State Human Resources, conduct  
35 interviews and meetings with designated essential employees of the  
36 Division to explain the transition process, including options for the  
37 employees and the bonus payment system established under this  
38 subsection.
  - 39 f. No later than September 1, 2015, report to the LOC-HBA on the plan  
40 to communicate to employees, as required by sub-subdivision e. of  
41 this subdivision.
- 42 (3) The Office of the Secretary shall identify the key managers, leaders, and  
43 decision makers to be part of the stabilization team and, no later than  
44 September 1, 2015, shall submit a list of these people and their roles to the  
45 Authority and the LOC-HBA.
- 46 (4) No later than September 1, 2015, the Secretary of Health and Human  
47 Services (Secretary) shall identify and designate "essential positions"  
48 throughout the Department without which the Medicaid and NC Health  
49 Choice programs could not operate on a day-to-day basis. Such positions  
50 designated by the Secretary may include any position, whether subject to or  
51 exempt from the State Personnel Act or whether supervisory or

1 nonsupervisory, as long as the position is essential to the operation of  
2 Medicaid or NC Health Choice. Because the designation is based on the  
3 functions to be performed and because of the nature of the bonuses provided  
4 under this subsection, the designation of a position as essential may not be  
5 revoked, and the Secretary may designate both open and filled positions.

6 (5) In order to encourage employees to remain in their positions working on  
7 Medicaid and NC Health Choice within the Department, employees serving  
8 in positions designated as essential positions under this subsection shall be  
9 eligible for the following benefits:

10 a. Effective August 1, 2015, any employee working in a designated  
11 essential position within the Division shall receive a bonus at each  
12 pay period that is equal to five percent (5%) of the employee's  
13 earnings for that period.

14 b. Effective August 1, 2015, any employee working in a designated  
15 essential position within the Department, but outside of the Division,  
16 whose salary is paid with federal Medicaid funds shall also receive a  
17 five percent (5%) bonus, paid in the same manner as bonuses are  
18 paid under sub-subdivision a. of this subdivision. If such an  
19 employee working outside of the Division does not work full-time on  
20 Medicaid issues, then the amount of the bonus shall be calculated by  
21 first multiplying the employee's earnings for that period by the  
22 percentage of the employee's time spent on Medicaid issues and then  
23 multiplying that product by five percent (5%).

24 c. Any employee who received bonus payments under sub-subdivisions  
25 a. or b. of this subdivision who is still employed within the Division  
26 or within the Department as of July 31, 2017, or who is employed  
27 within the Authority, shall receive a final bonus payment equal to the  
28 sum of all the bonus payments that the employee had received since  
29 July 1, 2015, under sub-subdivision a. of this subdivision. No  
30 employee departing before July 31, 2017, shall be eligible to receive  
31 any portion of such a final bonus payment, and no property right is  
32 created by this subsection for employees that depart before July 31,  
33 2017.

34 d. The bonus payments paid under this subsection are made  
35 notwithstanding G.S. 126-4(2) or any other provision of law.  
36 Notwithstanding G.S. 135-1(7a), bonus payments paid under this  
37 subsection shall not count as "compensation" for purposes of the  
38 Retirement System for Teachers and State Employees, nor shall the  
39 Department of Health and Human Services be required to make  
40 payments to the Retirement System based on the amounts paid as  
41 bonuses. Additionally, bonus payments paid under this subsection  
42 shall not count as "compensation" or "salary" for calculating  
43 severance payments under G.S. 126-8.5 or calculating unemployment  
44 benefits.

45 (6) The Department shall not enter into any new contracts, or renew or extend  
46 any contracts that existed prior to the effective date of this subsection,  
47 related to the Medicaid or NC Health Choice programs without the express  
48 prior approval of the Board of the Authority. The Department and the  
49 Division shall ensure that any Medicaid-related or NC Health Choice-related  
50 State contract entered into after the effective date of this act contains a  
51 clause that allows the Department or the Division to terminate the contract



1 without cause upon 30 days' notice. Any contract signed by the Department  
2 or the Division after the effective date of this act that lacks such a  
3 termination clause shall, nonetheless, be deemed to include such a clause  
4 and shall be cancellable without cause upon 30 days' notice.

5 **SECTION 12H.24.(h1)** Creation of Health Benefits Authority. – Effective when  
6 this act becomes law, the Health Benefits Authority as established in this section shall be a  
7 single, unified cabinet-level department. In accordance with the time line set out in subsection  
8 (c) of this section, the Health Benefits Authority shall administer and operate all functions,  
9 powers, duties, obligations, and services related to the Medicaid and NC Health Choice  
10 programs. In accordance with the time line set out in subsection (c) of this section, all  
11 functions, powers, duties, obligations, and services vested in the Department of Health and  
12 Human Services, Division of Medical Assistance, are vested in the Health Benefits Authority.

13 **SECTION 12H.24.(h2)** G.S. 143B-6 reads as rewritten:

14 **"§ 143B-6. Principal departments.**

15 In addition to the principal departments enumerated in the Executive Organization Act of  
16 1971, all executive and administrative powers, duties, and functions not including those of the  
17 General Assembly and its agencies, the General Court of Justice and the administrative  
18 agencies created pursuant to Article IV of the Constitution of North Carolina, and higher  
19 education previously vested by law in the several State agencies, are vested in the following  
20 principal departments:

21 ...

22 (12) Health Benefits Authority."

23 **SECTION 12H.24.(h3)** Chapter 143B of the General Statutes is amended by  
24 adding a new Article to read:

25 "Article 14.

26 "Health Benefits Authority.

27 **"§ 143B-1400. Creation and organization.**

28 There is hereby established the Health Benefits Authority (Authority) to administer and  
29 operate the Medicaid and NC Health Choice programs. The Authority shall be governed by a  
30 board, which shall be responsible for ensuring quality health outcomes to eligible recipients at a  
31 predictable cost to the taxpayers of this State. The Authority shall be the designated single State  
32 agency for the administration and operation of the Medicaid and NC Health Choice programs.

33 **"§ 143B-1405. Board of the Health Benefits Authority.**

34 (a) The Board of the Health Benefits Authority shall consist of the following:

35 (1) Three members appointed by the Governor.

36 (2) Two members appointed by the General Assembly, on the recommendation  
37 of the President Pro Tempore of the Senate.

38 (3) Two members appointed by the General Assembly, on the recommendation  
39 of the Speaker of the House of Representatives.

40 (4) The Secretary of Health and Human Services or the Secretary's designee,  
41 who shall serve as an ex officio nonvoting member of the Board.

42 (b) Each appointed member of the board shall have expertise from at least one of the  
43 following areas:

44 (1) The administration of large health delivery systems.

45 (2) Health insurance.

46 (3) Health actuarial science.

47 (4) Health economics.

48 (5) Health law and policy.

49 In making appointments to the Board under this section, each appointing authority shall consult  
50 with the other appointing authorities to ensure adequate representation from all of the areas of  
51 expertise listed in this subsection.

1       (c)    The following individuals may not serve on the Board:

2           (1)    An individual who receives or has received Medicaid payments during the  
3               six months prior to serving on the Board for providing health care or  
4               services to enrollees of the North Carolina Medicaid or NC Health Choice  
5               programs.

6           (2)    An individual who is or has been during the six months prior to serving on  
7               the Board a registered lobbyist for a provider, or association of providers,  
8               receiving payments from the North Carolina Medicaid or NC Health Choice  
9               programs, or an employee of such a lobbyist.

10          (3)    An individual who has, within six months of appointment, been an officer or  
11               employee of the State.

12   As used in this subsection, the term "provider" includes any parent, subsidiary, or affiliated  
13   legal entity, and the term "provider" has the same meaning as defined under G.S. 108C-2.

14          (d)    Board members appointed under subdivision (1) through (3) of subsection (a) of this  
15   section shall serve for a term of four years. The Governor shall have the power to remove any  
16   member of the Board from office for misfeasance, malfeasance, or nonfeasance in accordance  
17   with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973. Appointing  
18   authorities shall fill any vacancies that arise to complete the term of the vacating Board  
19   member.

20          (e)    In making the initial appointments, the appointing authorities shall, in order to  
21   stagger terms, designate one person appointed under subdivision (1) of subsection (a) of this  
22   section, one person appointed under subdivision (2) of subsection (a) of this section, and one  
23   person appointed under subdivision (3) of subsection (a) of this section to serve until June 30,  
24   2017. The remaining four appointees shall serve until June 30, 2019. Future appointees shall  
25   serve terms of four years, with staggered terms based on this section. Board members may  
26   serve up to two consecutive terms, not including the abbreviated two-year terms that establish  
27   staggered terms or terms of less than two years that result from the filling of a vacancy.

28          (f)    The Governor shall designate a chair of the Board from among the appointed voting  
29   members of the Board. The Board member designated as the chair shall serve as a chair at the  
30   pleasure of the Governor. The chair shall serve on the Governor's Cabinet. If the Governor does  
31   not appoint a chair, the Board may select a chair from among its voting members. The  
32   Board-selected chair shall serve in that capacity until such time as the Governor appoints a  
33   chair.

34          (g)    The Board shall meet at least monthly until August 1, 2017, and at least quarterly  
35   thereafter. The Board may also meet at the call of the chair or at the request of a majority of the  
36   voting Board members. A majority of the voting Board members constitutes a quorum for  
37   conducting business.

38          (h)    The voting members of the Board are State officers and not State employees. No  
39   voting member may serve on the Board while employed as a State employee.

40          (i)    The voting members of the Board shall be compensated in an amount sufficient to  
41   obtain quality professionals with experience managing large businesses, insurance programs,  
42   and health systems. The initial compensation for voting Board members shall be established by  
43   the Office of State Human Resources no later than October 1, 2015. Thereafter, the  
44   compensation of voting Board members shall be set by the Board under G.S. 143B-1410(3) and  
45   shall be comparable to compensation paid to the members of boards operating large health  
46   insurance plans but shall not exceed the highest compensation paid to a member of the Council  
47   of State. When adjusting members' compensation, the Board shall provide a justification to the  
48   Office of State Human Resources based upon a survey of comparable health insurance plans.

49    **§ 143B-1410. Powers and duties of the Board of the Health Benefits Authority.**

50          (a)    The Board of the Health Benefits Authority shall have the following powers and  
51   duties:

- 1           (1)   Administer and operate the Medicaid and NC Health Choice programs.  
2           None of the powers and duties enumerated in the other subdivisions of this  
3           subsection shall be construed to limit the broad grant of authority to  
4           administer and operate the Medicaid and NC Health Choice programs.
- 5           (2)   Employ the Medicaid Director, who shall be responsible for the daily  
6           operation of the Authority, and other staff, including legal staff. In hiring  
7           staff, the Board may offer employment contracts for a term.
- 8           (3)   Set compensation for the employees, including performance-based bonuses  
9           based on meeting budget or other targets, and for the voting Board members.
- 10          (4)   Procure office space for the Authority.
- 11          (5)   Notwithstanding G.S. 143-64.20, enter into contracts for the administration  
12          of the Medicaid and NC Health Choice programs, as well as manage such  
13          contracts, including contracts of a consulting or advisory nature.
- 14          (6)   Employ or contract for independent internal auditing staff that report directly  
15          to the Board rather than to the Medicaid Director. Notwithstanding  
16          subsection (b) of this section, this function may not be delegated.
- 17          (7)   Pursuant to G.S. 108A-1, supervise the county departments of social services  
18          in their administration of eligibility determinations. Pursuant to subdivision  
19          (5) of this subsection, the Board may contract with the Department of Health  
20          and Human Services or any other appropriate party to perform this task or a  
21          portion of this task.
- 22          (8)   Define and approve the following for the Authority and the programs  
23          managed by the Authority:
  - 24           a.   Business policy.
  - 25           b.   Strategic plans, including desired health outcomes for the covered  
26           populations, which shall do the following:
    - 27               1.   Be developed at a frequency of no less than every five years  
28               with the input of stakeholders.
    - 29               2.   Identify key opportunities and challenges facing the  
30               organization.
    - 31               3.   Identify the Authority's strengths and weaknesses to address  
32               these opportunities and challenges.
    - 33               4.   Identify key goals for the Authority for this time period,  
34               consistent with the reform goals identified by the General  
35               Assembly.
    - 36               5.   Identify output and outcome performance measures to  
37               quantify the Authority's progress toward these goals.
    - 38               6.   Identify strategies to reach these goals.
    - 39               7.   Be used as a guide for units within the Authority to establish  
40               unit-specific operational plans at the same frequency.
  - 41           c.   Performance management system, including quantitative indicators  
42           for goals and objectives, which shall do the following:
    - 43               1.   Be developed and implemented within the first year of the  
44               creation of the Authority, and updated no less than annually  
45               thereafter with available data.
    - 46               2.   Establish quantitative performance measures focusing on the  
47               quality and efficiency of service delivery and administration,  
48               using a nationally recognized quality improvement effort  
49               allowing comparison of North Carolina to other states as  
50               those developed by, but not limited to, the federal Medicaid

- 1 Quality Measurement Program and the Baldrige Quality  
2 Program.
- 3 3. Establish measurable objectives for each goal identified in the  
4 strategic plan, and performance updated annually.
- 5 4. Establish, for each objective, benchmark activities, including  
6 an estimated date of completion, the area for which efforts are  
7 attempting a change, a quantitative indicator of success for  
8 the area, and quarterly milestones allowing Authority  
9 managers and employees to monitor progress throughout the  
10 year.
- 11 5. Establish mechanisms for obtaining data necessary for the  
12 collection and public distribution of performance information.
- 13 d. Program and policy changes.
- 14 e. Operational budget and assumptions.
- 15 (9) Establish and adjust all program components, except for eligibility, of the  
16 Medicaid and NC Health Choice programs within the appropriated and  
17 allocated budget.
- 18 (10) Adopt rules related to the Medicaid and NC Health Choice programs.
- 19 (11) Develop midyear budget correction plans and strategies and then take  
20 midyear budget corrective actions necessary to keep the Medicaid and NC  
21 Health Choice programs within budget.
- 22 (12) Approve or disapprove and oversee all expenditures to be charged to or  
23 allocated to the Medicaid and NC Health Choice programs by other State  
24 departments or agencies.
- 25 (13) Develop and present to the Joint Legislative Oversight Committee on the  
26 Health Benefits Authority and the Office of State Budget and Management  
27 by January 1 of each year, beginning in 2016, the following information for  
28 the Medicaid and NC Health Choice programs:
- 29 a. A detailed four-year forecast of expected changes to enrollment  
30 growth and enrollment mix.
- 31 b. What program changes will be made by the Authority in order to stay  
32 within the existing budget for the programs based on the next fiscal  
33 year's forecasted enrollment growth and enrollment mix.
- 34 c. The cost to maintain the current level of services based on the next  
35 fiscal year's forecasted enrollment growth and enrollment mix.
- 36 (14) Secure and pay for the services of the State Auditor's Office to conduct  
37 annual audits of the financial accounts of the Authority.
- 38 (15) Publish the Annual Medicaid Report, which shall contain, at a minimum, the  
39 following:
- 40 a. Details on the Authority's performance over the prior four years on  
41 the following:
- 42 1. The identified quantitative measures from its strategic plan  
43 and performance management system.
- 44 2. A comparison of the identified quantitative measures from its  
45 strategic plan and performance management system and other  
46 states participating in the quality improvement effort.
- 47 b. Annual audited financial statements.
- 48 (16) Publish in an electronic format, and update on at least a monthly basis, at  
49 least the following information about the Medicaid and NC Health Choice  
50 programs:
- 51 a. Enrollment by program aid category by county.

- b. Per member per month spending by category of service.
- c. Spending and receipts by fund along with a detailed variance analysis.
- d. A comparison of the above figures to the amounts forecasted and budgeted for the corresponding time period.

(b) The Board may delegate any of its powers and duties to the Medicaid Director and other staff of the Authority and, upon adoption of an annual budget, shall delegate to the Medicaid Director its powers and duties pursuant to sub-subdivisions d. and e. of subdivision (8) of subsection (a) of this section. In delegating powers or duties, however, the Board maintains the responsibility for the performance of those powers or duties.

(c) Pursuant to G.S. 108E-2-1, the General Assembly retains the authority to determine the eligibility categories and income thresholds for the Medicaid and NC Health Choice programs.

**"§ 143B-1415. Variations from certain State laws.**

Although generally subject to the laws of this State, the following exemptions, limitations, and modifications apply to the Health Benefits Authority, notwithstanding any other provision of law:

- (1) Employees of the Authority shall not be subject to the North Carolina Human Resources Act, except as provided in G.S. 126-5(c1)(31).
- (2) The Authority may retain private legal counsel and is not subject to G.S. 114-2.3 or G.S. 147-17(a) through (c).
- (3) The Authority's employment contracts offered pursuant to G.S. 143B-1410(a)(2) are not subject to review and approval by the Office of State Human Resources. The Authority's employment of supplementary staff for temporary work is not subject to review and approval by the Office of State Human Resources including the requirements of G.S. 126-6.3.
- (4) If the Authority establishes alternative procedures for the review and approval of contracts, then the Authority is exempt from State contract review and approval requirements, but may still choose to utilize the State contract review and approval procedures for particular contracts.
- (5) The Board of the Authority may move into a closed session for any of the reasons listed in G.S. 143-318.11, as well as for discussions on the 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.**

1        (a) Ineligible Vendors. – The Board shall not contract for goods or services with a  
2 vendor that employs or contracts with a person who is a former State Medicaid or NC Health  
3 Choice employee and uses that person in the administration of a contract with the Authority.

4        (b) Vendor Certification. – The Medicaid Director shall require each vendor submitting  
5 a bid or contract to certify that the vendor will not use a former Medicaid or NC Health Choice  
6 employee in the administration of a contract with the Authority in violation of the provisions of  
7 subsection (a) of this section. Any person who submits a certification required by this  
8 subsection knowing the certification to be false shall be guilty of a Class I felony.

9        (c) A violation of the provisions of this section shall void the contract.

10       (d) Definitions. – As used in this section, the following terms mean:

11        (1) Administration of a contract. – Oversight of the performance of a contract,  
12 authority to make decisions regarding a contract, interpretation of a contract,  
13 or participation in the development of specifications or terms of a contract or  
14 in the preparation or award of a contract.

15        (2) Former Medicaid or NC Health Choice employee. – A person who, for any  
16 period within the preceding six months, was employed as an employee or  
17 contract employee of the Authority, who in the six months immediately  
18 preceding termination of State employment, participated personally in either  
19 the award or management of an Authority contract with the vendor, or made  
20 regulatory or licensing decisions that directly applied to the vendor.

21 **"§ 143B-216.1425. Medicaid Reserve Account.**

22        (a) The Medicaid Reserve Account is established as a nonreverting reserve in the  
23 General Fund. The purpose of the Medicaid Reserve Account is to provide for unexpected  
24 budgetary shortfalls within the Medicaid and NC Health Choice programs that result from  
25 program expenditures in excess of the amount appropriated for the Medicaid and NC Health  
26 Choice programs by the General Assembly and which continue to exist after the Health  
27 Benefits Authority makes its best efforts to control costs through midyear budget corrections  
28 under G.S. 143B-1410(a)(12).

29        (b) The Medicaid Reserve Account shall have the following minimum and maximum  
30 target balances:

31        (1) Minimum target. – Five percent (5%) of a given fiscal year's General Fund  
32 appropriations for capitation payments for both the Medicaid and NC Health  
33 Choice programs.

34        (2) Maximum target. – Twelve percent (12%) of a given fiscal year's General  
35 Fund appropriations for capitation payments for both the Medicaid and NC  
36 Health Choice programs.

37        (c) Notwithstanding G.S. 143C-1-2(b), any funds appropriated to the Health Benefits  
38 Authority for the Medicaid or NC Health Choice programs and that remain unencumbered at  
39 the end of a fiscal year shall, rather than revert to the General Fund, be credited to the Medicaid  
40 Reserve Account. Any funds to be deposited in the Medicaid Reserve Account that would  
41 cause the fund balance to exceed the maximum target balance for the Medicaid Reserve  
42 Account shall instead be credited to the General Fund.

43        (d) Medicaid Reserve Account funds may be disbursed by the Health Benefits  
44 Authority to manage budgetary shortfalls in the Medicaid and NC Health Choice programs  
45 only after all of the following occur:

46        (1) The Board of the Health Benefits Authority certifies that there is a projected  
47 Medicaid shortfall in the current fiscal year.

48        (2) The Health Benefits Authority has already made midyear budget corrections  
49 under G.S. 143B-1410(a)(12), but those midyear budget corrections have not  
50 achieved the projected budget savings.

1           (3)    The Health Benefits Authority reports to the Joint Legislative Commission  
2           on Governmental Operations on its intent to disburse Medicaid Reserve  
3           Account funds. The report shall include a detailed analysis of receipts,  
4           payments, claims, and transfers, including an identification of and  
5           explanation of the recurring and nonrecurring components of the shortfall.  
6    Medicaid Reserve Account funds may be disbursed in accordance with this subsection even if it  
7    results in the fund balance falling below the minimum target balance for the Medicaid Reserve  
8    Account."

9           **SECTION 12H.24.(i)** Board Start-Up. – The following activities shall facilitate the  
10   timely commencement of the Health Benefits Authority:

- 11           (1)    The Board of the Health Benefits Authority may meet prior to October 1,  
12           2015, in order to begin organizing and preparing to govern the Medicaid and  
13           NC Health Choice programs. The Board may begin meeting as soon as a  
14           majority of the appointments have been made and upon the call of the chair;  
15           however, the initial meeting shall be no later than September 1, 2015. The  
16           Division of Medical Assistance shall provide administrative support and  
17           meeting space to the Board prior to November 1, 2015.
- 18           (2)    If the Governor does not make initial appointments to the Board by  
19           September 1, 2015, the Board members who have been appointed may select  
20           a chair from among the appointed members and may conduct the business of  
21           the Authority. Actions taken by the Board under this subdivision shall be  
22           official actions of the Board, provided a majority of the appointed Board  
23           members are present and approve the action.
- 24           (3)    In order to set the initial compensation for the voting Board members, the  
25           Office of State Human Resources shall survey the compensation paid to the  
26           members of comparable large health insurance plans. The Office shall  
27           complete the survey no later than September 1, 2015, and set the initial  
28           compensation for voting Board members no later than October 1, 2015. A  
29           voting Board member shall be eligible to receive compensation beginning on  
30           the first business day following the effective date of the member's  
31           appointment.

32           **SECTION 12H.24.(j)** Transfer of Rules. – Effective October 1, 2015, all rules and  
33   policies exempted from rule making related to the Medicaid and NC Health Choice programs  
34   shall transfer to the Health Benefits Authority. In its March 1, 2016, report to the Joint  
35   Legislative Oversight Committee on the Health Benefits Authority, the Health Benefits  
36   Authority shall include recommendations for additional exemptions from the rule-making  
37   requirements and contested case provisions in Chapter 150B of the General Statutes.

38           **SECTION 12H.24.(k)** Legal Actions. – For any legal action involving the  
39   Medicaid or NC Health Choice programs in which the Division of Medical Assistance or the  
40   Department of Health and Human Services is named as a party, the Health Benefits Authority  
41   may be joined as a party by reason of transfer of interest upon motion of any party pursuant to  
42   Rule 25(d) of the North Carolina Rules of Civil Procedure. This subsection shall not be  
43   construed to limit any other opportunities for joinder or intervention that are otherwise allowed  
44   under the North Carolina Rules of Civil Procedure or elsewhere under law.

45           **SECTION 12H.24.(k1)** The Commissioner of Insurance shall establish solvency  
46   requirements for MCOs and PLEs that contract with the Health Benefits Authority pursuant to  
47   this section. The same requirements shall apply to and may be based on existing requirements  
48   for similarly situated regulated entities. The Commissioner shall consult with the Authority in  
49   developing the requirements. The Commissioner shall make recommendations, including any  
50   statutory changes, to the Joint Legislative Oversight Committee on the Health Benefits  
51   Authority by March 1, 2016.

1           **SECTION 12H.24.(I)** Legislative Oversight of Medicaid. – Chapter 120 of the  
2 General Statutes is amended by adding the following new Article:

3   "Article 23B.

4   "Joint Legislative Oversight Committee on the Health Benefits Authority.

5           "§ 120-209. Creation and membership of Joint Legislative Oversight Committee on the  
6           Health Benefits Authority.

7           (a)   The Joint Legislative Oversight Committee on the Health Benefits Authority is  
8           established. The Committee consists of 14 members as follows:

9                   (1)   Seven members of the Senate appointed by the President Pro Tempore of the  
10                  Senate, at least two of whom are members of the minority party.

11                  (2)   Seven members of the House of Representatives appointed by the Speaker of  
12                  the House of Representatives, at least two of whom are members of the  
13                  minority party.

14           (b)   Terms on the Committee are for two years and begin on the convening of the  
15           General Assembly in each odd-numbered year except initial appointments begin on the date of  
16           appointment. Members may complete a term of service on the Committee even if they do not  
17           seek reelection or are not reelected to the General Assembly, but resignation or removal from  
18           service in the General Assembly constitutes resignation or removal from service on the  
19           Committee.

20           (c)   A member continues to serve until a successor is appointed. A vacancy shall be  
21           filled within 30 days by the officer who made the original appointment.

22           "§ 120-209.1. Purpose and powers of Committee.

23           (a)   The Joint Legislative Oversight Committee on the Health Benefits Authority shall  
24           examine budgeting, financing, administrative, and operational issues related to the Medicaid  
25           and NC Health Choice programs and to the Health Benefits Authority.

26           (b)   The Committee may make periodic reports to the General Assembly on matters for  
27           which it may report to a regular session of the General Assembly.

28           "§ 120-209.2. Organization of Committee.

29           (a)   The President Pro Tempore of the Senate and the Speaker of the House of  
30           Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on  
31           the Health Benefits Authority. The Committee shall meet upon the joint call of the cochairs.

32           (b)   A quorum of the Committee is eight members. No action may be taken except by a  
33           majority vote at a meeting at which a quorum is present.

34           (c)   Members of the Committee receive subsistence and travel expenses, as provided in  
35           G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance  
36           with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services  
37           Officer, shall assign professional staff to assist the Committee in its work. Upon the direction  
38           of the Legislative Services Commission, the Directors of Legislative Assistants of the Senate  
39           and of the House of Representatives shall assign clerical staff to the Committee. The expenses  
40           for clerical employees shall be borne by the Committee.

41           (d)   The Committee cochairs may establish subcommittees for the purpose of examining  
42           issues relating to its Committee charge.

43           "§ 120-209.3. Additional powers.

44           The Joint Legislative Oversight Committee on the Health Benefits Authority, while in  
45           discharge of official duties, shall have access to any paper or document, and may compel the  
46           attendance of any State official or employee before the Committee or secure any evidence  
47           under G.S. 120-19. In addition, G.S. 120-19.1 through G.S. 120-19.4 shall apply to the  
48           proceedings of the Committee as if it were a joint committee of the General Assembly.

49           "§ 120-209.4. Reports to Committee.

50           Whenever the Health Benefits Authority is required by law to report to the General  
51           Assembly or to any of its permanent, study, or oversight committees or subcommittees, the



1 Health Benefits Authority shall transmit a copy of the report to the cochairs of the Joint  
2 Legislative Oversight Committee on the Health Benefits Authority."

3 **SECTION 12H.24.(m)** G.S. 120-208.1(a)(2)b. is repealed.

4 **SECTION 12H.24.(n)** Recodification; Technical and Conforming Changes. – The  
5 Revisor of Statutes shall recodify existing law related to Medicaid and NC Health Choice,  
6 including Parts 6, 6A, 7, and 8 of Article 2, Article 5, and Article 7 of Chapter 108A of the  
7 General Statutes, as well as Chapters 108C and 108D of the General Statutes, into a new  
8 Chapter 108E of the General Statutes to be entitled "Medicaid and NC Health Choice Health  
9 Benefit Programs" and to have the following structure:

10 Article 1. Administration of the Medicaid and NC Health Choice Programs

11 Part 1. Establishment of the Medicaid Program

12 Part 2. Establishment of the NC Health Choice Program

13 Part 3. Administration by County Departments of Social Services

14 Article 2. Medicaid and NC Health Choice Eligibility

15 Part 1. In General

16 Part 2. Eligibility for Medicaid

17 Part 3. Eligibility for NC Health Choice

18 Article 3. Medicaid and NC Health Choice Benefits and Cost-Sharing

19 Part 1. In General

20 Part 2. Medicaid Benefits and Cost-Sharing

21 Part 3. NC Health Choice Benefits and Cost-Sharing

22 Article 4. Medicaid and NC Health Choice Provider Requirements

23 Part 1. Provider Enrollment

24 Part 2. Provider Reimbursement and Recovery

25 Part 3. Hospital Assessment Act

26 Part 4. Other

27 Article 5. Third-Party Liability

28 Part 1. In General

29 Part 2. Subrogation

30 Part 3. Insurance

31 Part 4. Estate Recovery

32 Article 6. Fraud and Criminal Activity

33 Article 7. Appeals

34 Part 1. Eligibility Appeals for Medicaid and NC Health Choice

35 Part 2. Benefit Appeals for Medicaid

36 Subpart 1. Generally

37 Subpart 2. Medicaid Managed Care for Behavioral Health Services  
38 Appeals

39 Part 3. Benefit Reviews for NC Health Choice

40 Part 4. Provider Appeals

41 When recodifying, the Revisor is authorized to change all references to the North Carolina  
42 Department of Health and Human Services or to the Division of Medical Assistance to instead  
43 be references to the Health Benefits Authority. The Revisor may separate subsections of  
44 existing statutory sections into new sections and, when necessary to organize relevant law into  
45 its proper place in the above structure, may rearrange sentences that currently appear within  
46 subsections. The Revisor may modify statutory citations throughout the General Statutes, as  
47 appropriate, and may modify any references to statutory Divisions, such as "Chapter,"  
48 "Article," "Part," "section," or "subsection." Within Articles 4 and 5 of Chapter 108A of the  
49 General Statutes, the Revisor of Statutes shall append to each reference to the North Carolina  
50 Department of Health and Human Services or to the Secretary of the Department the language  
51 "and, with respect to Medicaid and NC Health Choice, the Health Benefits Authority." The

1 Revisor of Statutes may conform names and titles changed by this subsection, and may correct  
2 statutory references as required by this subsection, throughout the General Statutes. In making  
3 the changes authorized by this subsection, the Revisor may also adjust subject and verb  
4 agreement and the placement of conjunctions. The Revisor shall consult with the Department of  
5 Health and Human Services and the new Health Benefits Authority on this recodification.

6 **SECTION 12H.24.(o)** G.S. 108A-1 reads as rewritten:

7 **"§ 108A-1. Creation.**

8 Every county shall have a board of social services or a consolidated human services board  
9 created pursuant to G.S. 153A-77(b) which shall establish county policies for the programs  
10 established by this Chapter in conformity with the rules and regulations of the Social Services  
11 Commission and under the supervision of the Department of Health and Human Services.  
12 Provided, however, county policies for the program of medical assistance shall be established  
13 in conformity with the rules and regulations of the ~~Department of Health and Human Services~~  
14 Health Benefits Authority."

15 **SECTION 12H.24.(p)** G.S. 108A-54.1A reads as rewritten:

16 **"§ 108A-54.1A. Amendments to Medicaid State Plan and Medicaid Waivers.**

17 (a) ~~No provision in the Medicaid State Plan or in a Medicaid Waiver may expand or~~  
18 ~~otherwise alter the scope or purpose of the Medicaid program from that authorized by law~~  
19 ~~enacted by the General Assembly. For purposes of this section, the term "amendments to the~~  
20 ~~State Plan" includes State Plan amendments, Waivers, and Waiver amendments.~~The Authority  
21 is expressly authorized and required to take any and all necessary action to amend the State  
22 Plan and waivers in order to keep the program within the certified budget.

23 (b) ~~The Department may submit amendments to the State Plan only as required under~~  
24 ~~any of the following circumstances:~~

- 25 (1) ~~A law enacted by the General Assembly directs the Department to submit an~~  
26 ~~amendment to the State Plan.~~
- 27 (2) ~~A law enacted by the General Assembly makes a change to the Medicaid~~  
28 ~~Program that requires approval by the federal government.~~
- 29 (3) ~~A change in federal law, including regulatory law, or a change in the~~  
30 ~~interpretation of federal law by the federal government requires an~~  
31 ~~amendment to the State Plan.~~
- 32 (4) ~~A change made by the Department to the Medicaid Program requires an~~  
33 ~~amendment to the State Plan, if the change was within the authority granted~~  
34 ~~to the Department by State law.~~
- 35 (5) ~~An amendment to the State Plan is required in response to an order of a court~~  
36 ~~of competent jurisdiction.~~
- 37 (6) ~~An amendment to the State Plan is required to ensure continued federal~~  
38 ~~financial participation.~~

39 (c) ~~Amendments to the State Plan submitted to the federal government for approval~~  
40 ~~shall contain only those changes that are allowed by the authority for submitting an amendment~~  
41 ~~to the State Plan in subsection (b) of this section.~~

42 (d) No fewer than 10 days prior to submitting an amendment to the State Plan to the  
43 federal government, the Department shall post the amendment on its Web site and notify the  
44 members of the Joint Legislative Oversight Committee on the Health Benefits Authority and  
45 the Fiscal Research Division that the amendment has been posted. This requirement shall not  
46 apply to draft or proposed amendments submitted to the federal government for comments but  
47 not submitted for approval. ~~The amendment shall remain posted on the Department's Web site~~  
48 ~~at least until the plan has been approved, rejected, or withdrawn. If the authority for submitting~~  
49 ~~the amendment to the State Plan is pursuant to subdivision (3), (4), (5), or (6) of subsection (b)~~  
50 ~~of this section, then, prior to submitting an amendment to the federal government, the~~  
51 ~~Department shall submit to the General Assembly members receiving notice under this~~

1 subsection and to the Fiscal Research Division an explanation of the amendment, the need for  
2 the amendment, and the federal time limits required for implementation of the amendment.

3 (e) ~~The Department shall submit an amendment to the State Plan to the federal~~  
4 ~~government by a date sufficient to provide the federal government adequate time to review and~~  
5 ~~approve the amendment so the amendment may be effective by the date required by the~~  
6 ~~directing authority in subsection (b) of this section. Additionally, if a change is made to the~~  
7 ~~Medicaid program by the General Assembly and that change requires an amendment to the~~  
8 ~~State Plan, then the amendment shall be submitted at least 90 days prior to the effective date of~~  
9 ~~the change as provided in the legislation.~~

10 (f) Any public notice required under 42 C.F.R. 447.205 shall, in addition to any other  
11 posting requirements under federal law, be posted on the Department's Web site. Upon posting  
12 such a public notice, the Department shall notify the members of the Joint Legislative  
13 Oversight Committee on the Health Benefits Authority and the Fiscal Research Division that  
14 the public notice has been posted. Public notices shall remain posted on the Department's Web  
15 site."

16 **SECTION 12H.24.(q)** G.S. 108A-54.2(d) is repealed.

17 **SECTION 12H.24.(r)** Part 1 of Article 2 of Chapter 108E of the General Statutes,  
18 created by the recodification process described in subsection (n) of this section, shall include  
19 the following two new sections:

20 **"§ 108E-2-1. General Assembly sets eligibility categories.**

21 Eligibility categories and income thresholds are set by the General Assembly, and the  
22 Authority shall not alter the eligibility categories and income thresholds from those authorized  
23 by the General Assembly. The Authority is expressly authorized to adopt temporary and  
24 permanent rules regarding eligibility requirements and determinations, to the extent that they  
25 do not conflict with parameters set by the General Assembly.

26 **"§ 108E-2-2. Counties determine eligibility.**

27 Counties determine eligibility in accordance with Chapter 108A of the General Statutes."

28 **SECTION 12H.24.(s)** G.S. 126-5 is amended by adding a new subdivision to read:

29 **"§ 126-5. Employees subject to Chapter; exemptions.**

30 ...

31 (c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this  
32 Chapter shall not apply to:

33 ...

34 (31) Employees of the Health Benefits Authority."

35 **SECTION 12H.24.(t)** G.S. 143B-153 reads as rewritten:

36 **"§ 143B-153. Social Services Commission – creation, powers and duties.**

37 There is hereby created the Social Services Commission of the Department of Health and  
38 Human Services with the power and duty to adopt rules and regulations to be followed in the  
39 conduct of the State's social service programs with the power and duty to adopt, amend, and  
40 rescind rules and regulations under and not inconsistent with the laws of the State necessary to  
41 carry out the provisions and purposes of this Article. Provided, however, the ~~Department of~~  
42 ~~Health and Human Services~~Health Benefits Authority shall have the power and duty to adopt  
43 rules and regulations to be followed in the conduct of the State's medical assistance program.

44 ...."

45 **SECTION 12H.24.(u)** G.S. 150B-1 reads as rewritten:

46 **"§ 150B-1. Policy and scope.**

47 ...

48 (d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the  
49 following:

50 ...

(9) The ~~Department of Health and Human Services~~ Health Benefits Authority in adopting new or amending existing medical coverage policies for the State Medicaid and NC Health Choice programs pursuant to G.S. 108A-54.2.

(20) The ~~Department of Health and Human Services~~ Health Benefits Authority in implementing, operating, or overseeing new 1915(b)/(c) Medicaid Waiver programs or amendments to existing 1915(b)/(c) Medicaid Waiver programs.

(22) The ~~Department of Health and Human Services~~ Health Benefits Authority with respect to the content of State Plans, State Plan Amendments, and Waivers approved by the Centers for Medicare and Medicaid Services (CMS) for the North Carolina Medicaid Program and the NC Health Choice program.

(e) Exemptions From Contested Case Provisions. – The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

(17) The ~~Department of Health and Human Services~~ Health Benefits Authority with respect to the review of North Carolina Health Choice Program determinations regarding delay, denial, reduction, suspension, or termination of health services, in whole or in part, including a determination about the type or level of services.

...."

**SECTION 12H.24.(v)** Appropriation. – Of the funds appropriated from the General Fund to the Department of Health and Human Services, Division of Medical Assistance, the sum of five million dollars (\$5,000,000) in recurring funds for the 2015-2016 and the 2016-2017 fiscal years shall be used to accomplish the Medicaid transformation required by this section. These funds shall provide a State match for an estimated five million dollars (\$5,000,000) in federal funds beginning in the 2015-2016 fiscal year. Upon request of the Board, but no later than October 1, 2015, the Department shall transfer these funds to the Health Benefits Authority to be used for Medicaid transformation.

**SECTION 12H.24.(w)** Medicaid Transformation Reserve Fund. – The Medicaid Transformation Reserve Fund is established in the Office of State Budget and Management as a nonreverting reserve in the General Fund. The purpose of the Medicaid Transformation Reserve Fund is to provide funds for converting from a fee-for-services payment system to a capitated payment system. Funds reserved in the Medicaid Transformation Reserve Fund shall be available only upon an appropriation by act of the General Assembly and do not constitute an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution. The sum of one hundred eighty-five million six hundred four thousand six hundred fifty-three dollars (\$185,604,653) in nonrecurring funds for fiscal year 2015-2016 and the sum of one hundred eighty-five million six hundred four thousand six hundred fifty-three dollars (\$185,604,653) in nonrecurring funds for fiscal year 2016-2017 are hereby reserved in the Medicaid Transformation Reserve Fund.

**SECTION 12H.24.(x)** Effective Date. – Subsections (n) through (u) of this section become effective October 1, 2015. The remainder of this section is effective when this act becomes law.

**INCREASE RATES TO PRIMARY CARE PHYSICIANS AND DISCONTINUE PRIMARY CARE CASE MANAGEMENT**

1           **SECTION 12H.25.(a)** Effective January 1, 2016, the current Medicaid and Health  
2 Choice primary care case management (PCCM) program is discontinued. The Department of  
3 Health and Human Services shall not renew or extend the contract for PCCM services with  
4 North Carolina Community Care Networks, Inc. (NCCCN), beyond December 31, 2015.

5           **SECTION 12H.25.(b)** The Department of Health and Human Services shall take  
6 all actions necessary to discontinue the current Medicaid and Health Choice PCCM program as  
7 implemented by NCCCN. As soon as reasonably possible, but no later than October 1, 2015,  
8 the Department shall submit to the Centers for Medicare and Medicaid Services (CMS) a  
9 Medicaid State plan amendment eliminating the PCCM program. If CMS has not approved the  
10 State plan amendment by January 1, 2016, the Department of Health and Human Services  
11 nevertheless shall discontinue all payments related to the PCCM program beginning January 1,  
12 2016, unless and until CMS denies the State plan amendment.

13           **SECTION 12H.25.(c)** This section shall not be construed to prohibit the  
14 Department of Health and Human Services from developing or utilizing contracts for managed  
15 care other than PCCM after January 1, 2016.

16           **SECTION 12H.25.(d)** Effective January 1, 2016, G.S. 108A-70.21(b) reads as  
17 rewritten:

18           "(b) Benefits. – All health benefits changes of the Program shall meet the coverage  
19 requirements set forth in this subsection. Except as otherwise provided for eligibility, fees,  
20 deductibles, copayments, and other cost sharing charges, health benefits coverage provided to  
21 children eligible under the Program shall be equivalent to coverage provided for dependents  
22 under North Carolina Medicaid Program except for the following:

23           ...

24           No benefits are to be provided for services and materials under this subsection that do not  
25 meet the standards accepted by the American Dental Association.

26           ~~The Department shall provide services to children enrolled in the NC Health Choice~~  
27 ~~Program through Community Care of North Carolina (CCNC) and shall pay Community Care~~  
28 ~~of North Carolina providers the per member, per month fees as allowed under Medicaid."~~

29           **SECTION 12H.25.(e)** Effective January 1, 2016, the rates paid to primary care  
30 physicians shall be one hundred percent (100%) of Medicare rates. For purposes of this section,  
31 the term primary care physicians refers to those physicians for whom the Affordable Care Act  
32 required payment at one hundred percent (100%) of the Medicare rate until January 1, 2015,  
33 and all OB/GYN physicians.

34           **SECTION 12H.25.(f)** Upon the discontinuation of the PCCM program, of the  
35 funds previously used for the NCCCN contract, the Department shall use six million four  
36 hundred seventy-five thousand dollars (\$6,475,000) in fiscal year 2015-2016 and twelve  
37 million nine hundred fifty thousand dollars (\$12,950,000) in fiscal year 2016-2017 to directly  
38 fund local health departments' continued services related to the Care Coordination for Children  
39 (CC4C) program, which was previously funded through the contract with NCCCN.

#### 40 41 **NC HEALTH CHOICE COST SETTLEMENT**

42           **SECTION 12H.26.** Effective July 1, 2015, hospital outpatient services covered by  
43 NC Health Choice shall be cost settled at seventy percent (70%) of allowable costs, using the  
44 same methodology that is used for Medicaid.

#### 45 46 **BLOOD GLUCOSE TESTING EQUIPMENT AND SUPPLIES**

47           **SECTION 12H.27.(a)** Notwithstanding any other provision of law, the Department  
48 of Health and Human Services, Division of Medical Assistance, (Department) is authorized to  
49 use any reimbursement methodology or arrangement to provide Medicaid coverage for blood  
50 glucose testing equipment and supplies, provided that the Department's total requirements, net  
51 of rebates, for providing blood glucose testing equipment and supplies does not exceed one

1 million nine hundred thirty-three thousand three hundred fifty-seven dollars (\$1,933,357) in  
2 fiscal year 2015-2016 and two million twenty thousand nine hundred seventy-four dollars  
3 (\$2,020,974) in fiscal year 2016-2017.

4 **SECTION 12H.27.(b)** Any state plan amendment submitted to implement this  
5 section shall not be subject to the 90-day prior submission requirement of G.S. 108A-54.1A(e).

#### 6 7 **MEDICAID CONTINGENCY RESERVE**

8 **SECTION 12H.28.(a)** Funds in the Medicaid Contingency Reserve established by  
9 Section 12H.38 of S.L. 2014-100 shall be used only for budget shortfalls in the Medicaid  
10 Program that occur during the 2015-2016 fiscal year. These funds shall be available for  
11 expenditure only upon an appropriation by act of the General Assembly.

12 **SECTION 12H.28.(b)** It is the intent of the General Assembly to appropriate funds  
13 from the Medicaid Contingency Reserve only if:

- 14 (1) The Director of the Budget, after the State Controller has verified that  
15 receipts are being used appropriately, has found that additional funds are  
16 needed to cover a shortfall in the Medicaid budget for the State fiscal year.
- 17 (2) The Department of Health and Human Services or the Health Benefits  
18 Authority created in Section 12H.24 of this act has submitted a State plan  
19 amendment to the Centers for Medicare and Medicaid Services to delink  
20 eligibility for Medicaid from eligibility for State-County Special Assistance,  
21 to be effective 90 days after the date of submission of the State plan  
22 amendment. At least 45 days prior to submitting that State plan amendment,  
23 the Department of Health and Human Services or the Health Benefits  
24 Authority must have submitted a draft of that plan to the Joint Legislative  
25 Oversight Committee on the Health Benefits Authority and, if the General  
26 Assembly was not in session, must have consulted with the Committee on  
27 that draft.
- 28 (3) The Director of the Budget has reported immediately to the Fiscal Research  
29 Division on the amount of the shortfall found in accordance with subdivision  
30 (1) of this subsection. This report shall include an analysis of the causes of  
31 the shortfall, such as (i) unanticipated enrollment and mix of enrollment, (ii)  
32 unanticipated growth or utilization within particular service areas, (iii) errors  
33 in the data or analysis used to project the Medicaid budget, (iv) the failure of  
34 the program to achieve budgeted savings, (v) other factors and market trends  
35 that have impacted the price of or spending for services, (vi) variations in  
36 receipts from prior years or from assumptions used to prepare the Medicaid  
37 budget for the current fiscal year, or (vii) other factors. The report shall also  
38 include data in an electronic format that is adequate for the Fiscal Research  
39 Division to confirm the amount of the shortfall and its causes.

40 **SECTION 12H.28.(c)** Effective 90 days after the State plan amendment is  
41 submitted to the Centers for Medicare and Medicaid Services (CMS) or when CMS approves  
42 the State plan amendment, whichever occurs later, eligibility for Medicaid coverage is delinked  
43 from eligibility for State-County Special Assistance and recipients of State-County Special  
44 Assistance no longer automatically qualify for Medicaid coverage solely because of their  
45 receipt of State-County Special Assistance.

46 **SECTION 12H.28.(d)** Nothing in this section shall be construed to limit the  
47 authority of the Governor to carry out his duties under the Constitution.

#### 48 49 **SUBPART XII-I. DHHS BLOCK GRANTS**

#### 50 51 **DHHS BLOCK GRANTS**

1           **SECTION 12L.1.(a)** Except as otherwise provided, appropriations from federal  
 2 block grant funds are made for each year of the fiscal biennium ending June 30, 2017,  
 3 according to the following schedule:  
 4

5   **TEMPORARY ASSISTANCE FOR NEEDY    FY 2015-2016                FY 2016-2017**  
 6   **FAMILIES (TANF) FUNDS**

7  
 8   Local Program Expenditures

9  
 10     Division of Social Services

11  
 12       01. Work First Family Assistance    \$57,167,454                \$57,167,454

13  
 14       02. Work First County Block Grants    80,093,566                78,073,437

15  
 16       03. Work First Electing Counties    2,378,213                2,378,213

17  
 18       04. Adoption Services – Special Children  
 19             Adoption Fund    2,026,877                2,026,877

20  
 21       05. Child Protective Services – Child Welfare  
 22             Workers for Local DSS    9,412,391                9,412,391

23  
 24       06. Child Welfare Collaborative    632,416                632,416

25  
 26   Division of Child Development and Early Education

27  
 28       07. Subsidized Child Care Program    35,248,910                37,419,801

29  
 30       08. Swap Child Care Subsidy    6,352,644                6,352,644

31  
 32       09. Pre-K Swap Out    16,829,306                12,333,981

33  
 34   Division of Public Health

35  
 36       10. Teen Pregnancy Prevention Initiatives    2,950,000                2,950,000

37  
 38   DHHS Administration

39  
 40       11. Division of Social Services    2,482,260                2,482,260

41  
 42       12. Office of the Secretary    34,042                34,042

43  
 44       13. Eligibility Systems – Operations and  
 45             Maintenance    2,738,926                4,206,640

46  
 47       14. NC FAST Implementation    1,313,384                1,865,799

48  
 49   Transfers to Other Block Grants

50  
 51   Division of Child Development and Early Education

1			
2	15. Transfer to the Child Care and		
3	Development Fund	71,773,001	71,773,001
4			
5	Division of Social Services		
6			
7	16. Transfer to Social Services Block		
8	Grant for Child Protective Services –		
9	Training	1,300,000	1,300,000
10			
11	17. Transfer to Social Services Block		
12	Grant for Child Protective Services	5,040,000	5,040,000
13			
14	18. Transfer to Social Services Block		
15	Grant for County Departments of		
16	Social Services for Children's Services	4,148,001	4,148,001
17			
18	19. Transfer to Social Services Block		
19	Grant – Foster Care Services	1,385,152	1,385,152
20			
21	<b>TOTAL TEMPORARY ASSISTANCE FOR</b>		
22	<b>NEEDY FAMILIES (TANF) FUNDS</b>	<b>\$303,306,543</b>	<b>\$300,982,109</b>
23			
24	<b>TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)</b>		
25	<b>EMERGENCY CONTINGENCY FUNDS</b>		
26			
27	Local Program Expenditures		
28			
29	Division of Child Development and Early Education		
30			
31	01. Subsidized Child Care	29,033,340	28,600,000
32			
33	02. Subsidized Child Care Swap Out	4,547,023	0
34			
35	<b>TOTAL TEMPORARY ASSISTANCE FOR</b>		
36	<b>NEEDY FAMILIES (TANF) EMERGENCY</b>		
37	<b>CONTINGENCY FUNDS</b>	<b>\$33,580,363</b>	<b>\$28,600,000</b>
38			
39	<b>SOCIAL SERVICES BLOCK GRANT</b>		
40			
41	Local Program Expenditures		
42			
43	Divisions of Social Services and Aging and Adult Services		
44			
45	01. County Departments of Social Services		
46	(Transfer From TANF \$4,148,001)	\$27,427,015	\$27,165,668
47			
48	02. Child Protective Services		
49	(Transfer From TANF)	5,040,000	5,040,000
50			
51	03. State In-Home Services Fund	2,382,970	1,943,950



1			
2	04. Adult Protective Services	1,245,363	1,245,363
3			
4	05. State Adult Day Care Fund	1,994,084	1,994,084
5			
6	06. Child Protective Services/CPS		
7	Investigative Services – Child Medical		
8	Evaluation Program	563,868	563,868
9			
10	07. Special Children Adoption Incentive Fund	462,600	462,600
11			
12	08. Child Protective Services – Child		
13	Welfare Training for Counties		
14	(Transfer From TANF)	1,300,000	1,300,000
15			
16	09. Home and Community Care Block		
17	Grant (HCCBG)	1,696,888	1,696,888
18			
19	10. Child Advocacy Centers	375,000	375,000
20			
21	11. Guardianship	3,978,360	3,978,360
22			
23	12. Foster Care Services		
24	(Transfer From TANF)	1,385,152	1,385,152
25			
26	Division of Central Management and Support		
27			
28	13. DHHS Competitive Block Grants		
29	for Nonprofits	3,852,500	3,852,500
30			
31	14. NC FAST – Operations and		
32	Maintenance	712,324	939,315
33			
34	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
35			
36	15. Mental Health Services – Adult and		
37	Child/Developmental Disabilities Program/		
38	Substance Abuse Services – Adult	4,030,730	4,030,730
39			
40	DHHS Program Expenditures		
41			
42	Division of Services for the Blind		
43			
44	16. Independent Living Program	3,361,323	3,361,323
45			
46	Division of Health Service Regulation		
47			
48	17. Adult Care Licensure Program	381,087	381,087
49			
50	18. Mental Health Licensure and		
51	Certification Program	190,284	190,284

1			
2	DHHS Administration		
3			
4	19. Division of Aging and Adult Services	577,745	577,745
5			
6	20. Division of Social Services	559,109	559,109
7			
8	21. Office of the Secretary/Controller's Office	127,731	127,731
9			
10	22. Division of Child Development and		
11	Early Education	13,878	13,878
12			
13	23. Division of Mental Health, Developmental		
14	Disabilities, and Substance Abuse Services	27,446	27,446
15			
16	24. Division of Health Service Regulation	118,946	118,946
17			
18	<b>TOTAL SOCIAL SERVICES BLOCK GRANT</b>	<b>\$61,804,403</b>	<b>\$61,331,027</b>
19			
20	<b>LOW-INCOME ENERGY ASSISTANCE BLOCK GRANT</b>		
21			
22	Local Program Expenditures		
23			
24	Division of Social Services		
25			
26	01. Low-Income Energy Assistance		
27	Program (LIEAP)	\$40,244,534	\$39,303,674
28			
29	02. Crisis Intervention Program (CIP)	40,244,534	39,303,674
30			
31	Local Administration		
32			
33	Division of Social Services		
34			
35	03. County DSS Administration	6,454,961	6,454,961
36			
37	DHHS Administration		
38			
39	04. Office of the Secretary/DIRM	412,488	412,488
40			
41	05. Office of the Secretary/Controller's Office	18,378	18,378
42			
43	06. NC FAST Development	1,075,319	3,381,373
44			
45	Transfers to Other State Agencies		
46			
47	Department of Environment and Natural		
48	Resources (DENR)		
49			
50	07. Weatherization Program	11,847,017	11,570,050
51			

1	08. Heating Air Repair and Replacement		
2	Program (HARRP)	6,303,514	6,156,147
3			
4	09. Local Residential Energy Efficiency Service		
5	Providers – Weatherization	475,046	475,046
6			
7	10. Local Residential Energy Efficiency Service		
8	Providers – HARRP	252,761	252,761
9			
10	11. DENR – Weatherization Administration	475,046	475,046
11			
12	12. DENR – HARRP Administration	252,760	252,760
13			
14	Department of Administration		
15			
16	13. N.C. Commission on Indian Affairs	87,736	87,736
17			
18	<b>TOTAL LOW-INCOME ENERGY</b>		
19	<b>ASSISTANCE BLOCK GRANT</b>	<b>\$108,144,094</b>	<b>\$108,144,094</b>
20			
21	<b>CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT</b>		
22			
23	Local Program Expenditures		
24			
25	Division of Child Development and Early Education		
26			
27	01. Child Care Services		
28	(Smart Start \$7,000,000)	\$154,678,008	\$152,370,856
29			
30	02. Electronic Tracking System	801,240	401,492
31			
32	03. Transfer from TANF Block Grant		
33	for Child Care Subsidies	71,773,001	71,773,001
34			
35	04. Quality and Availability Initiatives		
36	(TEACH Program \$3,800,000)	26,514,964	26,019,987
37			
38	DHHS Administration		
39			
40	Division of Child Development and Early Education		
41			
42	05. DCDEE Administrative Expenses	9,049,505	9,049,505
43			
44	Division of Social Services		
45			
46	06. Local Subsidized Child Care		
47	Services Support	15,930,279	15,930,279
48			
49	07. NC FAST Development	186,404	586,152
50			
51	Division of Central Administration		

1			
2	08. DHHS Central Administration – DIRM		
3	Technical Services	775,000	775,000
4			
5	09. Central Regional Maintenance	202,000	202,000
6			
7	10. Child Care Health Consultation Contracts	62,205	62,205
8			
9	<b>TOTAL CHILD CARE AND DEVELOPMENT</b>		
10	<b>FUND BLOCK GRANT</b>	<b>\$279,972,606</b>	<b>\$277,170,477</b>
11			
12	<b>MENTAL HEALTH SERVICES BLOCK GRANT</b>		
13			
14	Local Program Expenditures		
15			
16	01. Mental Health Services – Child	\$3,619,833	\$3,619,833
17			
18	02. Administration	200,000	200,000
19			
20	03. Mental Health Services – Adult/Child	11,755,152	11,755,152
21			
22	04. Crisis Solutions Initiative – Critical		
23	Time Intervention	750,000	750,000
24			
25	05. Mental Health Services – First		
26	Psychotic Symptom Treatment	643,491	643,491
27			
28	<b>TOTAL MENTAL HEALTH SERVICES</b>		
29	<b>BLOCK GRANT</b>	<b>\$16,968,476</b>	<b>\$16,968,476</b>
30			
31	<b>SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT</b>		
32			
33	Local Program Expenditures		
34			
35	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
36			
37	01. Substance Abuse – HIV and IV Drug	\$3,919,723	\$3,919,723
38			
39	02. Substance Abuse Prevention	8,669,284	8,669,284
40			
41	03. Substance Abuse Services – Treatment for		
42	Children/Adults	29,519,883	29,519,883
43			
44	04. Crisis Solutions Initiatives – Walk-In		
45	Crisis Centers	420,000	420,000
46			
47	05. Crisis Solutions Initiatives – Collegiate		
48	Wellness/Addiction Recovery	1,085,000	1,085,000
49			
50	06. Crisis Solutions Initiatives – Community		
51	Paramedic Mobile Crisis Management	60,000	60,000

1			
2	07. Crisis Solutions Initiatives – Innovative		
3	Technologies	41,000	41,000
4			
5	08. Crisis Solutions Initiatives – Veteran's Crisis	250,000	250,000
6			
7	09. Administration	454,000	454,000
8			
9	Division of Public Health		
10			
11	10. HIV Testing for Individuals in Substance		
12	Abuse Treatment	765,949	765,949
13			
14	<b>TOTAL SUBSTANCE ABUSE PREVENTION</b>		
15	<b>AND TREATMENT BLOCK GRANT</b>	<b>\$45,184,839</b>	<b>\$45,184,839</b>
16			
17	<b>MATERNAL AND CHILD HEALTH BLOCK GRANT</b>		
18			
19	Local Program Expenditures		
20			
21	Division of Public Health		
22			
23	01. Children's Health Services		
24	(Safe Sleep Campaign		
25	\$45,000; Prevent Blindness \$560,837;		
26	Community-Based		
27	Sickle Cell Centers \$100,000)	\$7,574,703	\$7,574,703
28			
29	02. Women's Health		
30	(March of Dimes \$350,000; Teen Pregnancy		
31	Prevention Initiatives \$650,000;		
32	17P Project \$52,000; Nurse-Family		
33	Partnership \$509,018; Carolina Pregnancy		
34	Care Fellowship \$300,000)	6,520,148	6,520,148
35			
36	03. Oral Health	44,901	44,901
37			
38	04. Evidence-Based Programs in Counties		
39	With Highest Infant Mortality Rates	1,575,000	1,575,000
40			
41	DHHS Program Expenditures		
42			
43	Division of Public Health		
44			
45	05. Children's Health Services	1,342,928	1,342,928
46			
47	06. Women's Health – Maternal Health	107,714	107,714
48			
49	07. State Center for Health Statistics	158,583	158,583
50			
51	08. Health Promotion – Injury and		

1	Violence Prevention	87,271	87,271
2			
3	DHHS Administration		
4			
5	Division of Public Health		
6			
7	09. Division of Public Health Administration	552,571	552,571
8			
9	<b>TOTAL MATERNAL AND CHILD</b>		
10	<b>HEALTH BLOCK GRANT</b>	<b>\$17,963,819</b>	<b>\$17,963,819</b>
11			
12	<b>PREVENTIVE HEALTH SERVICES BLOCK GRANT</b>		
13			
14	Local Program Expenditures		
15			
16	01. Physical Activity and Prevention	\$2,034,060	\$2,034,060
17			
18	02. Injury and Violence Prevention		
19	(Services to Rape Victims – Set-Aside)	173,476	173,476
20			
21	03. Community-Focused Eliminating Health		
22	Disparities Initiative Grants	2,756,855	0
23			
24	DHHS Program Expenditures		
25			
26	Division of Public Health		
27			
28	04. HIV/STD Prevention and		
29	Community Planning	145,819	145,819
30			
31	05. Oral Health Preventive Services	320,074	451,809
32			
33	06. Laboratory Services – Testing,		
34	Training, and Consultation	21,012	21,012
35			
36	07. Injury and Violence Prevention		
37	(Services to Rape Victims – Set-Aside)	192,315	192,315
38			
39	08. State Laboratory Services – Testing,		
40	Training, and Consultation	199,634	199,634
41			
42	09. Heart Disease and Stroke Prevention	273,772	405,507
43			
44	10. Performance Improvement and		
45	Accountability	839,736	971,471
46			
47	11. Physical Activity and Nutrition	68,073	68,073
48			
49	12. State Center for Health Statistics	107,291	107,291
50			
51	DHHS Administration		

1			
2	Division of Public Health		
3			
4	13. Division of Public Health	172,820	172,820
5			
6	14. Division of Public Health –		
7	Physical Activity and Nutrition Branch	1,243,899	0
8			
9	<b>TOTAL PREVENTIVE HEALTH</b>		
10	<b>SERVICES BLOCK GRANT</b>	<b>\$8,548,836</b>	<b>\$4,943,288</b>
11			
12	<b>COMMUNITY SERVICES BLOCK GRANT</b>		
13			
14	Local Program Expenditures		
15			
16	Office of Economic Opportunity		
17			
18	01. Community Action Agencies	\$24,047,065	\$24,047,065
19			
20	02. Limited Purpose Agencies	1,335,948	1,335,948
21			
22	DHHS Administration		
23			
24	03. Office of Economic Opportunity	1,335,948	1,335,948
25			
26	<b>TOTAL COMMUNITY SERVICES</b>		
27	<b>BLOCK GRANT</b>	<b>\$26,718,961</b>	<b>\$26,718,961</b>
28			

**GENERAL PROVISIONS**

**SECTION 12I.1.(b)** Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

- (1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.
- (2) A delineation of the proposed State and local administrative expenditures.
- (3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.
- (4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.
- (5) A projection of current year expenditures by program or activity.
- (6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

**SECTION 12I.1.(c)** Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

1 If the Congress of the United States decreases the federal fund availability for any of  
2 the Block Grants or contingency funds and other grants related to existing Block Grants  
3 administered by the Department of Health and Human Services from the amounts appropriated  
4 in this section, the Department shall develop a plan to adjust the Block Grants based on reduced  
5 federal funding.

6 Notwithstanding the provisions of this subsection, for fiscal years 2015-2016 and  
7 2016-2017, increases in the federal fund availability for the Temporary Assistance to Needy  
8 Families (TANF) Block Grant shall be used only for the North Carolina Child Care Subsidy  
9 program to pay for child care in four- or five-star-rated facilities for four-year-old children and  
10 shall not be used to supplant State funds.

11 Prior to allocating the change in federal fund availability, the proposed allocation  
12 must be approved by the Office of State Budget and Management. If the Department adjusts the  
13 allocation of any Block Grant due to changes in federal fund availability, then a report shall be  
14 made to the Joint Legislative Oversight Committee on Health and Human Services and the  
15 Fiscal Research Division.

16 **SECTION 12L.1.(d)** Except as otherwise provided, appropriations from federal  
17 Block Grant funds are made for each year of the fiscal biennium ending June 30, 2017,  
18 according to the schedule enacted for State fiscal years 2015-2016 and 2016-2017 or until a  
19 new schedule is enacted by the General Assembly.

20 **SECTION 12L.1.(e)** All changes to the budgeted allocations to the Block Grants or  
21 contingency funds and other grants related to existing Block Grants administered by the  
22 Department of Health and Human Services that are not specifically addressed in this section  
23 shall be approved by the Office of State Budget and Management, and the Office of State  
24 Budget and Management shall consult with the Joint Legislative Oversight Committee on  
25 Health and Human Services for review prior to implementing the changes. The report shall  
26 include an itemized listing of affected programs, including associated changes in budgeted  
27 allocations. All changes to the budgeted allocations to the Block Grants shall be reported  
28 immediately to the Joint Legislative Oversight Committee on Health and Human Services and  
29 the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by  
30 legislative salary increases and benefit adjustments.

31 **SECTION 12L.1.(f)** Except as otherwise provided, the Department of Health and  
32 Human Services shall have flexibility to transfer funding between the Temporary Assistance  
33 for Needy Families (TANF) Block Grant and the TANF Emergency Contingency Funds Block  
34 Grant so long as the total allocation for the line items within those block grants remains the  
35 same.

## 36 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

37 **SECTION 12L.1.(g)** The sum of eighty million ninety-three thousand five hundred  
38 sixty-six dollars (\$80,093,566) for the 2015-2016 fiscal year and the sum of seventy-eight  
39 million seventy-three thousand four hundred thirty-seven dollars (\$78,073,437) for the  
40 2016-2017 fiscal year appropriated in this section in TANF funds to the Department of Health  
41 and Human Services, Division of Social Services, shall be used for Work First County Block  
42 Grants. The Division shall certify these funds in the appropriate State-level services based on  
43 prior year actual expenditures. The Division has the authority to realign the authorized budget  
44 for these funds among the State-level services based on current year actual expenditures.

45 **SECTION 12L.1.(h)** The sum of nine million four hundred twelve thousand three  
46 hundred ninety-one dollars (\$9,412,391) appropriated in this section to the Department of  
47 Health and Human Services, Division of Social Services, in TANF funds for each year of the  
48 2015-2017 fiscal biennium for child welfare improvements shall be allocated to the county  
49 departments of social services for hiring or contracting staff to investigate and provide services  
50 in Child Protective Services cases; to provide foster care and support services; to recruit, train,  
51



1 license, and support prospective foster and adoptive families; and to provide interstate and  
2 post-adoption services for eligible families.

3 Counties shall maintain their level of expenditures in local funds for Child  
4 Protective Services workers. Of the Block Grant funds appropriated for Child Protective  
5 Services workers, the total expenditures from State and local funds for fiscal years 2015-2016  
6 and 2016-2017 shall not be less than the total expended from State and local funds for the  
7 2012-2013 fiscal year.

8 **SECTION 12L.1.(i)** The sum of two million twenty-six thousand eight hundred  
9 seventy-seven dollars (\$2,026,877) appropriated in this section in TANF funds to the  
10 Department of Health and Human Services, Special Children Adoption Fund, for each year of  
11 the 2015-2017 fiscal biennium shall be used in accordance with G.S. 108A-50.2. The Division  
12 of Social Services, in consultation with the North Carolina Association of County Directors of  
13 Social Services and representatives of licensed private adoption agencies, shall develop  
14 guidelines for the awarding of funds to licensed public and private adoption agencies upon the  
15 adoption of children described in G.S. 108A-50 and in foster care. Payments received from the  
16 Special Children Adoption Fund by participating agencies shall be used exclusively to enhance  
17 the adoption services program. No local match shall be required as a condition for receipt of  
18 these funds.

#### 19 **SOCIAL SERVICES BLOCK GRANT**

20 **SECTION 12L.1.(j)** The sum of twenty-seven million four hundred twenty-seven  
21 thousand fifteen dollars (\$27,427,015) for the 2015-2016 fiscal year and the sum of  
22 twenty-seven million one hundred sixty-five thousand six hundred sixty-eight dollars  
23 (\$27,165,668) for the 2016-2017 fiscal year appropriated in this section in the Social Services  
24 Block Grant to the Department of Health and Human Services, Division of Social Services,  
25 shall be used for county block grants. The Division shall certify these funds in the appropriate  
26 State-level services based on prior year actual expenditures. The Division has the authority to  
27 realign the authorized budget for these funds among the State-level services based on current  
28 year actual expenditures.

29 **SECTION 12L.1.(k)** The sum of one million three hundred thousand dollars  
30 (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department  
31 of Health and Human Services, Division of Social Services, for each year of the 2015-2017  
32 fiscal biennium shall be used to support various child welfare training projects as follows:

- 33 (1) Provide a regional training center in southeastern North Carolina.
- 34 (2) Provide training for residential child caring facilities.
- 35 (3) Provide for various other child welfare training initiatives.

36 **SECTION 12L.1.(l)** The Department of Health and Human Services is authorized,  
37 subject to the approval of the Office of State Budget and Management, to transfer Social  
38 Services Block Grant funding allocated for departmental administration between divisions that  
39 have received administrative allocations from the Social Services Block Grant.

40 **SECTION 12L.1.(m)** Social Services Block Grant funds appropriated for the  
41 Special Children Adoption Incentive Fund will require a fifty-percent (50%) local match.

42 **SECTION 12L.1.(n)** The sum of five million forty thousand dollars (\$5,040,000)  
43 appropriated in this section in the Social Services Block Grant for each year of the 2015-2017  
44 fiscal biennium shall be allocated to the Department of Health and Human Services, Division  
45 of Social Services. The Division shall allocate these funds to local departments of social  
46 services to replace the loss of Child Protective Services State funds that are currently used by  
47 county governments to pay for Child Protective Services staff at the local level. These funds  
48 shall be used to maintain the number of Child Protective Services workers throughout the State.  
49 These Social Services Block Grant funds shall be used to pay for salaries and related expenses  
50

1 only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five  
2 percent (25%).

3 **SECTION 12I.1.(o)** The sum of three million eight hundred fifty-two thousand  
4 five hundred dollars (\$3,852,500) appropriated in this section in the Social Services Block  
5 Grant to the Department of Health and Human Services, Division of Central Management and  
6 Support, shall be used for DHHS competitive block grants pursuant to Section 12A.8 of this act  
7 for each year of the 2015-2017 fiscal biennium. These funds are exempt from the provisions of  
8 10A NCAC 71R .0201(3).

9 **SECTION 12I.1.(p)** The sum of three hundred seventy-five thousand dollars  
10 (\$375,000) appropriated in this section in the Social Services Block Grant for each year of the  
11 2015-2017 fiscal biennium to the Department of Health and Human Services, Division of  
12 Social Services, shall be used to continue support for the Child Advocacy Centers, and the  
13 funds are exempt from the provisions of 10A NCAC 71R .0201(3).

14 **SECTION 12I.1.(q)** The sum of three million nine hundred seventy-eight thousand  
15 three hundred sixty dollars (\$3,978,360) for each year of the 2015-2017 fiscal biennium  
16 appropriated in this section in the Social Services Block Grant to the Department of Health and  
17 Human Services, Divisions of Social Services and Aging and Adult Services, shall be used for  
18 guardianship services pursuant to Chapter 35A of the General Statutes. The Department may  
19 expend funds appropriated in this section to support (i) existing corporate guardianship  
20 contracts during the 2015-2016 and 2016-2017 fiscal years and (ii) guardianship contracts  
21 transferred to the State from local management entities or managed care organizations during  
22 the 2015-2016 and 2016-2017 fiscal years.

## 23 24 **LOW-INCOME ENERGY ASSISTANCE BLOCK GRANT**

25 **SECTION 12I.1.(r)** Additional emergency contingency funds received may be  
26 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior  
27 consultation with the Joint Legislative Oversight Committee on Health and Human Services.  
28 Additional funds received shall be reported to the Joint Legislative Oversight Committee on  
29 Health and Human Services and the Fiscal Research Division upon notification of the award.  
30 The Department of Health and Human Services shall not allocate funds for any activities,  
31 including increasing administration, other than assistance payments, without prior consultation  
32 with the Joint Legislative Oversight Committee on Health and Human Services.

33 **SECTION 12I.1.(s)** The sum of forty million two hundred forty-four thousand five  
34 hundred thirty-four dollars (\$40,244,534) for the 2015-2016 fiscal year and the sum of  
35 thirty-nine million three hundred three thousand six hundred seventy-four dollars (\$39,303,674)  
36 for the 2016-2017 fiscal year appropriated in this section in the Low-Income Energy Assistance  
37 Block Grant to the Department of Health and Human Services, Division of Social Services,  
38 shall be used for Energy Assistance Payments for the households of (i) elderly persons age 60  
39 and above with income up to one hundred thirty percent (130%) of the federal poverty level  
40 and (ii) disabled persons eligible for services funded through the Division of Aging and Adult  
41 Services.

42 County departments of social services shall submit to the Division of Social  
43 Services an outreach plan for targeting households with 60-year-old household members no  
44 later than August 1 of each year. The outreach plan shall comply with the following:

- 45 (1) Ensure that eligible households are made aware of the available assistance,  
46 with particular attention paid to the elderly population age 60 and above and  
47 disabled persons receiving services through the Division of Aging and Adult  
48 Services.
- 49 (2) Include efforts by the county department of social services to contact other  
50 State and local governmental entities and community-based organizations to

1 (i) offer the opportunity to provide outreach and (ii) receive applications for  
2 energy assistance.

3 (3) Be approved by the local board of social services or human services board  
4 prior to submission.  
5

#### 6 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

7 **SECTION 12L.1.(t)** Payment for subsidized child care services provided with  
8 federal TANF funds shall comply with all regulations and policies issued by the Division of  
9 Child Development for the subsidized child care program.

10 **SECTION 12L.1.(u)** If funds appropriated through the Child Care and  
11 Development Fund Block Grant for any program cannot be obligated or spent in that program  
12 within the obligation or liquidation periods allowed by the federal grants, the Department may  
13 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the  
14 grant, in order to use the federal funds fully.  
15

#### 16 **MENTAL HEALTH SERVICES BLOCK GRANT**

17 **SECTION 12L.1.(v)** The sum of six hundred forty-three thousand four hundred  
18 ninety-one dollars (\$643,491) appropriated in this section in the Mental Health Services Block  
19 Grant to the Department of Health and Human Services, Division of Mental Health,  
20 Developmental Disabilities, and Substance Abuse Services, for each year of the 2015-2017  
21 fiscal biennium is allocated for Mental Health Services – First Psychotic Symptom Treatment.  
22 The Division shall report on (i) the specific evidence-based treatment and services provided,  
23 (ii) the number of persons treated, and (iii) the measured outcomes or impact on the participants  
24 served. The Division shall report to the House of Representatives Appropriations Committee on  
25 Health and Human Services, the Senate Appropriations Committee on Health and Human  
26 Services, and the Fiscal Research Division no later than December 31, 2016.  
27

#### 28 **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

29 **SECTION 12L.1.(w)** The sum of two hundred fifty thousand dollars (\$250,000)  
30 appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to  
31 the Department of Health and Human Services, Division of Mental Health, Developmental  
32 Disabilities, and Substance Abuse Services, for each year of the 2015-2017 fiscal biennium  
33 shall be allocated to the Department of Administration, Division of Veterans Affairs, to  
34 establish a call-in center to assist veterans in locating service benefits and crisis services. The  
35 call-in center shall be staffed by certified veteran peers within the Division of Veterans Affairs  
36 and trained by the Division of Mental Health, Developmental Disabilities, and Substance  
37 Abuse Services.  
38

#### 39 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

40 **SECTION 12L.1.(x)** If federal funds are received under the Maternal and Child  
41 Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193  
42 (42 U.S.C. § 710), for the 2015-2016 fiscal year or the 2016-2017 fiscal year, then those funds  
43 shall be transferred to the State Board of Education to be administered by the Department of  
44 Public Instruction. The Department of Public Instruction shall use the funds to establish an  
45 abstinence until marriage education program and shall delegate to one or more persons the  
46 responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department  
47 of Public Instruction shall carefully and strictly follow federal guidelines in implementing and  
48 administering the abstinence education grant funds.

49 **SECTION 12L.1.(y)** The Department of Health and Human Services shall ensure  
50 that there will be follow-up testing in the Newborn Screening Program.

1           **SECTION 12I.1.(z)** The sum of one million five hundred seventy-five thousand  
2 dollars (\$1,575,000) appropriated in this section in the Maternal and Child Health Block Grant  
3 to the Department of Health and Human Services, Division of Public Health, for each year of  
4 the 2015-2017 fiscal biennium shall be used for evidence-based programs in counties with  
5 highest infant mortality rates. The Division shall report on (i) the counties selected to receive  
6 the allocation, (ii) the specific evidenced-based services provided, (iii) the number of women  
7 served, and (iv) any impact on the counties' infant mortality rate. The Division shall report its  
8 findings to the House of Representatives Appropriations Committee on Health and Human  
9 Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal  
10 Research Division no later than December 31, 2016.

11           **SECTION 12I.1.(aa)** The sum of one hundred thousand dollars (\$100,000)  
12 allocated in this section in the Maternal and Child Health Block Grant to the Department of  
13 Health and Human Services, Division of Public Health, for each year of the 2015-2017 fiscal  
14 biennium for community-based sickle cell centers shall not be used to supplant existing State or  
15 federal funds.

16           **SECTION 12I.1.(bb)** No more than fifteen percent (15%) of the funds provided in  
17 this section in the Maternal and Child Health Block Grant to Carolina Pregnancy Care  
18 Fellowship shall be used for administrative purposes. The balance of those funds shall be used  
19 for direct services.  
20

## 21 **PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

### 22 **TVA SETTLEMENT FUNDS**

23           **SECTION 13.2.** In fiscal year 2015-2016, The Department of Agriculture and  
24 Consumer Services shall apply for two million two hundred forty thousand dollars (\$2,240,000)  
25 from the Tennessee Valley Authority Settlement Agreement in compliance with the  
26 requirements of paragraphs 122 through 128 of the Consent Decree entered into by the State in  
27 *State of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in the United  
28 States District Court for the Eastern District of Tennessee, and Appendix C to the Compliance  
29 Agreement. The funds received by the State shall be allocated to the following programs for  
30 projects, with priority given to projects in the counties of Avery, Buncombe, Burke, Cherokee,  
31 Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain,  
32 Transylvania, Watauga, and Yancey:

- 33           (1) One million dollars (\$1,000,000) to the Agriculture Cost Share Program for  
34 Nonpoint Source Pollution Control.
- 35           (2) Five hundred thousand dollars (\$500,000) to the Department's Bioenergy  
36 Development Program.
- 37           (3) Five hundred thousand dollars (\$500,000) to the North Carolina Agricultural  
38 Development and Farmland Preservation Trust Fund to be used,  
39 notwithstanding G.S. 106-744, in the areas specified in this section.
- 40           (4) Two hundred forty thousand dollars (\$240,000) to the North Carolina  
41 Agricultural Water Resources Assistance Program.  
42  
43

### 44 **DISPOSITION OF ROSE HILL LABORATORY PROPERTY**

45           **SECTION 13.3.** The Department of Administration shall sell the building and  
46 associated real property formerly used to house the Veterinary Diagnostic Laboratory located in  
47 the Town of Rose Hill in Duplin County.  
48

### 49 **DRUG MANUFACTURING LICENSING AND REGISTRATION FEES**

50           **SECTION 13.4.(a)** G.S. 106-140.1(h) reads as rewritten:

1       "(h) The Commissioner shall adopt rules to implement the registration requirements of  
2 this section. These rules ~~may~~shall provide for an annual registration fee of ~~up to five hundred~~  
3 ~~dollars (\$500.00)~~one thousand dollars (\$1,000) for companies operating as ~~manufacturers,~~  
4 ~~wholesalers, or repackagers.~~manufacturers or repackagers and seven hundred dollars (\$700.00)  
5 for companies operating as wholesalers. The Department of Agriculture and Consumer  
6 Services shall use these funds for the implementation of the North Carolina Food, Drug and  
7 Cosmetic Act."

8               **SECTION 13.4.(b)** G.S. 106-145.4(b) reads as rewritten:

9       "**§ 106-145.4. Application and fee for license.**

10       "(b) Fee. – An application for an initial license or a renewed license as a wholesale  
11 distributor shall be accompanied by a nonrefundable fee of ~~five hundred dollars (\$500.00)~~one  
12 thousand dollars (\$1,000) for a manufacturer or ~~three hundred fifty dollars (\$350.00)~~seven  
13 hundred dollars (\$700.00) for any other person."

## 14       **FOOD MANUFACTURER AND RETAILER INSPECTION FEES**

15               **SECTION 13.5.** G.S. 106-254 reads as rewritten:

16       "**§ 106-254. Inspection fees; wholesalers; retailers and cheese factories.**

17       For the purpose of defraying the expenses incurred in the enforcement of this Article, the  
18 owner, proprietor or operator of each ice cream factory where ice cream, milk shakes, milk  
19 sherbet, sherbet, water ices, mixes for frozen or semifrozen desserts and other similar frozen or  
20 semifrozen food products are made or stored, or any cheese factory or butter-processing plant  
21 that disposes of its products at wholesale to retail dealers for resale in this State shall pay to the  
22 Commissioner of Agriculture each year an inspection fee of ~~forty dollars (\$40.00)~~one hundred  
23 dollars (\$100.00). Each maker of ice cream, milk shakes, milk sherbet, sherbet, water ices  
24 and/or other similar frozen or semifrozen food products who disposes of his product at retail  
25 only, and cheese factories, shall pay to the Commissioner of Agriculture an inspection fee of  
26 ~~ten dollars (\$10.00)~~fifty dollars (\$50.00) each year. The inspection fee of ~~ten dollars (\$10.00)~~  
27 fifty dollars (\$50.00) shall not apply to conventional spindle-type milk-shake mixers, but shall  
28 apply to milk-shake dispensing and vending machines, which operate on a continuous or  
29 automatic basis."  
30

## 31       **SPAY/NEUTER PROGRAM REVISIONS**

32               **SECTION 13.7.** G.S. 19A-63 reads as rewritten:

33       "**§ 19A-63. Eligibility for distributions from Spay/Neuter Account.**

34       (a) A county or city is eligible for reimbursement from the Spay/Neuter Account if it  
35 meets the following condition:

- 36               (1) The county or city offers one or more of the following programs to  
37 low-income persons on a year-round basis for the purpose of reducing the  
38 cost of spaying and neutering procedures for dogs and cats:
- 39               a. A spay/neuter clinic operated by the county or city.
  - 40               b. ~~A spay/neuter clinic operated by a private organization under~~  
41 ~~contract or other arrangement with the county or city.~~
  - 42               c. A contract or contracts with one or more veterinarians, whether or  
43 not located within the county, to provide reduced-cost spaying and  
44 neutering procedures.
  - 45               d. Subvention of the spaying and neutering costs incurred by  
46 low-income pet owners through the use of vouchers or other  
47 procedure that provides a discount of the cost of the spaying or  
48 neutering procedure fixed by a participating veterinarian or other  
49 provider.  
50

1 e. Subvention of the spaying and neutering costs incurred by persons  
2 who adopt a pet from an animal shelter operated by or under contract  
3 with the county or city.

4 (2) Reserved for future codification purposes.

5 (b) For purposes of this Article, the term "low-income person" shall mean an individual  
6 ~~who qualifies for one or more of the programs of public assistance administered by the~~  
7 ~~Department of Health and Human Services pursuant to Chapter 108A of the General Statutes or~~  
8 whose annual household income is under three hundred percent (300%) lower than one  
9 hundred percent (100%) of the federal poverty level guidelines published by the United States  
10 Department of Health and Human Services.

11 (c) Each county shall make rules or publish guidelines that designate what proof a  
12 low-income person must submit to establish that the person ~~qualifies for public assistance~~  
13 ~~under subsection (b) of this section or~~ has an annual household income lower than ~~three~~  
14 ~~hundred percent (300%)~~ one hundred percent (100%) of the federal poverty level guidelines  
15 published by the United States Department of Health and Human Services."  
16

## 17 CONSERVATION RESERVE ENHANCEMENT PROGRAM REPORT

18 **SECTION 13.8.(a)** The Department of Agriculture and Consumer Services shall  
19 study and report on the activities of the Conservation Reserve Enhancement Program. The  
20 report shall include, at a minimum, the following components:

- 21 (1) A listing of contracts currently in effect and contracts entered into in each of  
22 the last five fiscal years, including the acreage and location of the land under  
23 contract and the distribution of contracts by duration.
- 24 (2) A five-year projection of future funding requirements.
- 25 (3) A detailed listing of the conservation practices used at project sites over the  
26 last five fiscal years and an assessment of the effectiveness of those practices  
27 for preventing or reducing nonpoint source pollution.
- 28 (4) An assessment of the effectiveness and impact of the program in both  
29 protection of waterways from nonpoint source pollution and the leveraging  
30 of additional programs and efforts to reduce nonpoint source pollution.

31 **SECTION 13.8.(b)** The Department shall submit its findings and report to the  
32 chairs of the Senate Appropriations Committee on Natural and Economic Resources and the  
33 House Appropriations Committee on Agriculture and Natural and Economic Resources and to  
34 the Fiscal Research Division no later than April 1, 2016.  
35

## 36 BEER MARKETING

37 **SECTION 13.9.** The additional funds allocated by this act to the Marketing  
38 Division of the Department of Agriculture and Consumer Services shall be used for the  
39 promotion of beer produced in the State.  
40

## 41 REPEAL MINE SAFETY AND HEALTH ACT

42 **SECTION 13.10.(a)** Article 2A of Chapter 74 of the General Statutes is repealed.

43 **SECTION 13.10.(b)** G.S. 130A-460 reads as rewritten:

44 "**§ 130A-460. Report to Department of Labor.**

45 ...

46 (c) Subsection (b) shall not apply to inspections conducted for the Industrial  
47 Commission pursuant to ~~G.S. 97-76 and shall not affect the allocation of responsibilities set~~  
48 ~~forth in G.S. 74-24.4(e)-G.S. 97-76."~~  
49

## 50 LABOR CONSULTATIVE SERVICES BUREAU INSPECT MINES & QUARRIES

1           **SECTION 13.11.(a)** The Department of Labor, Consultative Services Bureau, shall  
2 inspect mines and quarries in the State in a manner consistent with inspections conducted by  
3 the Mine and Quarry Bureau prior to the date this section becomes effective.

4           **SECTION 13.11.(b)** This section is effective when it becomes law.  
5

## 6 **PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

### 7 8 **PROSPERITY ZONE DENR LIAISONS**

9           **SECTION 14.1.** Section 4.1 of S.L. 2014-18 reads as rewritten:

10          "**SECTION 4.1.** No later than January 1, 2015, the Departments of Commerce,  
11 Environment and Natural Resources, and Transportation shall have at least one employee  
12 physically located in the same office in each of the Collaboration for Prosperity Zones set out  
13 in G.S. 143B-28.1 to serve as that department's liaison with the other departments and with  
14 local governments, schools and colleges, planning and development bodies, and businesses in  
15 that zone. The departments shall jointly select the office. For purposes of this Part, the  
16 Department of Commerce may contract with a North Carolina nonprofit corporation pursuant  
17 to G.S. 143B-431A, as enacted by this act, to fulfill the departmental liaison requirements for  
18 each office in each of the Collaboration for Prosperity ~~Zones~~Zones, and the Department of  
19 Environment and Natural Resources shall fulfill the departmental liaison requirements from  
20 existing positions.

21          No later than January 1, 2015, the Community Colleges System Office shall designate at  
22 least one representative from a community college or from the Community Colleges System  
23 Office to serve as a liaison in each Collaboration for Prosperity Zone for the community  
24 college system, the community colleges in the zone, and other educational agencies and schools  
25 within the zone. A liaison may be from a business center located in a community college. These  
26 liaisons are not required to be collocated with the liaisons from the Departments of Commerce,  
27 Environment and Natural Resources, and Transportation.

28          No later than January 1, 2015, the State Board of Education shall designate at least one  
29 representative from a local school administrative unit or from the Department of Public  
30 Instruction to serve as a liaison in each Collaboration for Prosperity Zone for the local school  
31 administrative units and other public schools within the zone. These liaisons are not required to  
32 be collocated with the liaisons from the Departments of Commerce, Environment and Natural  
33 Resources, and Transportation."  
34

### 35 **IMPROVE FINANCIAL MANAGEMENT OF ENVIRONMENTAL STEWARDSHIP** 36 **FUNDS THROUGH CONSERVATION GRANT FUND**

37           **SECTION 14.2.** G.S. 147-69.2(d) reads as rewritten:

38          "(d) The State Treasurer may invest funds deposited pursuant to ~~subdivision~~  
39 ~~(a)(17i)~~subdivisions (a)(17i) or (a)(17j) of this section in any of the investments authorized  
40 under subdivisions (1) through (6) and subdivision (8) of subsection (b) of this section. The  
41 State Treasurer may require a minimum deposit, up to one hundred thousand dollars  
42 (\$100,000), and may assess a reasonable fee, not to exceed 15 basis points, as a condition of  
43 participation pursuant to this subsection. Funds deposited pursuant to this subsection shall  
44 remain the funds of the North Carolina Conservation Easement Endowment ~~Fund~~Fund or the  
45 Conservation Grant Fund, as applicable, and interest or other investment income earned thereon  
46 shall be prorated and credited to the North Carolina Conservation Easement Endowment ~~Fund~~  
47 Fund or the Conservation Grant Fund on the basis of the amounts ~~thereof~~  
48 contributed, contributed to the respective Funds, figured according to sound accounting  
49 principles."  
50

1 **ALLOW REVENUE GENERATED FROM TIMBER SALE TO BE RETAINED IN A**  
2 **NONREVERTING ACCOUNT FOR A PERIOD OF FOUR YEARS**

3 **SECTION 14.3.** The Department of Environment and Natural Resources'  
4 Stewardship Program may retain revenue generated from timber harvesting on the Great  
5 Coharie property in the Conservation Grant Endowment Interest Fund (6705) for the purpose of  
6 restoration and stewardship of that property and these funds are hereby appropriated for that  
7 purpose. Any unused portion of this revenue remaining in the Fund on June 30, 2019, shall  
8 revert to the General Fund.  
9

10 **SEPARATE NATURAL HERITAGE PROGRAM FROM CLEAN WATER**  
11 **MANAGEMENT TRUST FUND**

12 **SECTION 14.4.** Subdivisions (8e) and (9) of subsection (c) and subsection (d) of  
13 G.S. 113A-253 are repealed.  
14

15 **ENVIRONMENTAL MANAGEMENT OF IMPAIRED WATER BODIES**

16 **SECTION 14.5.(a)** Of the funds appropriated in this act to the Clean Water  
17 Management Trust Fund, the sum of four million five hundred thousand dollars (\$4,500,000) in  
18 the 2015-2017 fiscal biennium shall be used by the Department of Environment and Natural  
19 Resources to research, implement, and monitor in situ strategies beyond traditional watershed  
20 controls that have the potential to mitigate water quality impairments resulting from aquatic  
21 flora, sediment, nutrients, or other water quality variables that impair or have the potential to  
22 impair water bodies of the State.

23 **SECTION 14.5.(b)** The Department shall extend existing contracts related to in  
24 situ water quality remediation strategies for two years at a price less than current terms and may  
25 enter into new purchase or lease agreements for equipment, goods, or contractor services prior  
26 to June 30, 2017. The Department, in consultation with the Environmental Management  
27 Commission, shall have the authority to determine the size, scope, and location of a new project  
28 or expansion of the scope of an existing project as well as the methods to be deployed;  
29 provided, however, that the Department shall issue a Request for Proposal for any new leases  
30 or purchases authorized by this subsection and shall evaluate and select contractors or  
31 equipment based on likelihood of success in addition to price.

32 **SECTION 14.5.(c)** The General Assembly finds that there is a need for timely  
33 initiation of projects authorized by this section during the biennium to expedite mitigation of  
34 impaired waters of the State and federal review and approval of these projects prior to  
35 deployment. Therefore, any contract, lease, purchase, or other agreement entered into under  
36 this section shall not be subject to the requirements of Article 3, 3D, or 8 of Chapter 143 of the  
37 General Statutes in order to expedite deployment.

38 **SECTION 14.5.(d)** The General Assembly further finds that existing rules or  
39 proposed rules intended to address water quality of impaired water bodies may need to be  
40 modified based on the completion and analysis of projects authorized or extended by this  
41 section and that there is a need to better understand the impact of in situ mitigation on overall  
42 water quality of impaired water bodies. Therefore, any rules issued by the Commission or  
43 directed by the General Assembly that pertain to basinwide nutrient management and  
44 mitigation of water quality for impaired water bodies, as defined by the federal government,  
45 and that have been temporarily delayed by a prior act of the General Assembly or Commission,  
46 shall have an effective date of two additional years or one year after the completion of the  
47 projects described in this subsection, whichever is later.

48 **SECTION 14.5.(e)** The Department and Commission shall consider and include in  
49 situ strategies, as described in subsection (a) of this section, in their development, review, and  
50 modifications of basinwide water quality management plans or related water quality mitigation  
51 modeling.



1  
2 **INLET AND PORT ACCESS MANAGEMENT**3 **SECTION 14.6.(a)** G.S. 143-215.73F reads as rewritten:4 **"§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake Maintenance**  
5 **Fund.**6 (a) Fund Established. – The Shallow Draft Navigation Channel Dredging and Lake  
7 Maintenance Fund is established as a special revenue fund. The Fund consists of fees credited  
8 to it under ~~G.S. 75A-3, 75A-38, G.S. 75A-3 and G.S. 75A-38~~ and ~~105-449.126~~ taxes credited  
9 under G.S. 105-449.126.10 (b) Uses of Fund. – Revenue in the Fund may only be used ~~to~~ for the following  
11 purposes:12 (1) To provide the State's share of the costs associated with any dredging project  
13 designed to keep shallow draft navigation channels located in State waters or  
14 waters of the state located within lakes navigable and ~~safe, or for safe.~~15 (2) For aquatic weed control projects in waters of the State located within lakes  
16 under Article 15 of Chapter 113A of the General Statutes. Funding for  
17 aquatic weed control projects is limited to five hundred thousand dollars  
18 (\$500,000) in each fiscal year.19 (c) Cost-Share. – Any project funded by revenue from the Fund must be cost-shared  
20 with non-State dollars on a one-to-one basis, provided that the cost-share for a lake located  
21 within a component of the State Parks System shall be provided by the Division of Parks and  
22 Recreation of the Department of Environment and Natural Resources. The Division of Parks  
23 and Recreation may use funds allocated to the State Parks System for capital projects under  
24 G.S. 113-44.15 for the cost-share.25 (d) Waiver of Cost-Share. – The Secretary may waive or modify the non-State  
26 cost-share requirement for dredging projects that (i) alleviate a navigational emergency or (ii)  
27 represent an opportunity to supplement or leverage Corps funding that would be lost if a  
28 cost-share was required. The Secretary may only waive or modify the non-State cost-share  
29 requirement up to an amount not to exceed five hundred thousand dollars (\$500,000) per  
30 project.31 (e) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund  
32 for a particular project or group of projects may make a written request to the Secretary that the  
33 contribution be returned if the contribution has not been spent or encumbered within two years  
34 of receipt of the contribution by the Fund. If the written request is made prior to the funds being  
35 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the  
36 later of (i) receiving the request or (ii) the expiration of the two-year period described by this  
37 subsection.38 (f) Reporting. – The Secretary shall report any waivers or modifications of the  
39 cost-share requirement made under subsection (d) of this section within 30 days of issuing the  
40 waiver or modification to the Joint Legislative Commission on Governmental Operations and  
41 the Fiscal Research Division of the General Assembly. The report shall include an explanation  
42 of the factors in subsection (d) of this section that are the basis for the waiver or modification  
43 decision.44 (g) Definitions. – The following definitions apply in this section:45 (1) Corps. – The United States Army Corps of Engineers.46 (2) Costs associated with a dredging project. – Includes the cost of the dredging  
47 operation, surveys or studies directly attributable to the project, and the costs  
48 of disposal of dredged material.49 (3) Navigational emergency. – With respect to a shallow draft navigation  
50 channel, the removal of or statement of intent to remove one or more

1 navigational buoys by the United States Coast Guard from the channel due  
2 to shoaling.

- 3 (4) Shallow draft navigation channel. – (i) ~~a~~ A waterway connection with a  
4 maximum depth of 16 feet between the Atlantic Ocean and a bay or the  
5 Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean  
6 through which tidal and other currents flow, or (iii) other interior coastal  
7 waterways. ~~"Shallow draft navigation channel"~~ The term includes the  
8 Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor,  
9 Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout  
10 Back, channels connected to federal navigation channels, Lockwoods Folly  
11 River, Manteo/Shallowbag Bay, including Oregon Inlet, Masonboro Inlet,  
12 New River, New Topsail Inlet, Rodanthe, Hatteras Inlet, Rollinson, Shallotte  
13 River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and  
14 Beaufort Harbor."

15 **SECTION 14.6.(b)** Notwithstanding G.S. 143-215.73F, the funds available in the  
16 Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund shall be reserved for  
17 all of the following purposes:

- 18 (1) The sum of four million dollars (\$4,000,000) shall be reserved for Oregon  
19 Inlet dredging needs.
- 20 (2) The sum of one hundred fifty thousand dollars (\$150,000) shall be reserved  
21 to reimburse the Department of Administration for its costs associated with  
22 exploring options for acquiring Oregon Inlet and the adjacent real property,  
23 including, but not limited to, surveys and appraisals, legal research, and  
24 studies related to sand management, engineering proposals, and larval  
25 transport.
- 26 (3) The sum of seven hundred fifty thousand dollars (\$750,000) shall be  
27 reserved to reimburse the Department of Administration for its costs  
28 associated with the implementation of Section 14.7(g) of S.L. 2014-100.  
29 Upon completion of the actions defined in Sections 14.7(a) through (f) of  
30 S.L. 2014-100 by the Secretary of Administration and the federal  
31 government, Section 14.7(g) of S.L. 2014-100 is repealed. The Department  
32 of Administration shall use the report submitted by the Department of  
33 Transportation pursuant to Section 14.7(h) of S.L. 2014-100 and consult  
34 with the Department of Transportation when prioritizing condemnation of all  
35 existing and future transportation corridors on the Outer Banks, a right  
36 retained by the State and recorded in a deed executed on August 7, 1958,  
37 when these lands were conveyed to the federal government.
- 38 (4) The sum of two hundred fifty thousand dollars (\$250,000) shall be reserved  
39 for use by the Department of Environment and Natural Resources to update  
40 the Beach and Inlet Management Plan. The Department may enter into a  
41 sole-source contract of up to two hundred fifty thousand dollars (\$250,000)  
42 with the firm that developed the initial Plan to have the firm update the Plan.  
43 The updated Plan shall include a recommended schedule for ongoing inlet  
44 maintenance. No later than December 1, 2016, the Department shall report to  
45 the Environmental Review Commission on the updated Plan.

46 The conditions on funding set out in G.S. 143-215.73F(c) may not be waived  
47 pursuant to G.S. 143-215.73F(d) for funds reserved for the Oregon Inlet dredging needs set out  
48 in subdivision (1) of this subsection. If State funds reserved for the purposes listed above are  
49 not spent or encumbered by June 30, 2016, the State funds shall be unreserved and made  
50 available for any of the uses set out in G.S. 143-215.73F.

1           **SECTION 14.6.(c)** Article 21 of Chapter 143 of the General Statutes is amended  
2 by adding a new Part to read:

3           "Part 8C. Deep Draft Navigation Channel Dredging and Maintenance Fund.

4           "§ 143-215.73G. Deep Draft Navigation Channel Dredging and Maintenance Fund.

5           (a) Fund Established. – The Deep Draft Navigation Channel Dredging and Maintenance  
6 Fund is established as a special revenue fund. The Fund consists of General Fund  
7 appropriations, gifts, or grants, including monies contributed by a non-State entity for a  
8 particular dredging project or group of projects and any other revenues specifically allocated to  
9 the Fund by an act of the General Assembly.

10          (b) Uses of the Fund. – Revenue credited to the Fund may only be used for costs  
11 associated with projects providing safe and efficient navigational access to a State Port,  
12 including the design, construction, expansion, modification, or maintenance of deep draft  
13 navigation channels, turning basins, berths, and related structures, as well as surveys or studies  
14 related to any of the foregoing and the costs of disposal of dredged material.

15          (c) Conditions on Funding. – State funds credited to the Fund from the sources  
16 described in subsection (a) of this section must be cost-shared on a one-to-one basis with funds  
17 provided by the State Ports Authority, provided that:

18            (1) Funds contributed to the Fund by a non-State entity are not considered State  
19 funds and may be used to provide the cost-share required by this subsection.

20            (2) The Secretary may waive or modify the cost-share requirement for any  
21 project that supplements Corps funding for a study authorized by the Corps  
22 related to navigational access to a State Port, based on availability of  
23 alternate funding sources.

24          (d) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund  
25 for a particular project or group of projects may make a written request to the Secretary that the  
26 contribution be returned if the contribution has not been spent or encumbered within two years  
27 of receipt of the contribution by the Fund. If the written request is made prior to the funds being  
28 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the  
29 later of (i) receiving the request or (ii) the expiration of the two-year period described by this  
30 subsection.

31          (e) Definitions. – The following definitions apply in this Part:

32            (1) Corps. – The United States Army Corps of Engineers.

33            (2) State Port. – Facilities at Wilmington or Morehead City managed or operated  
34 by the State Ports Authority."

35          **SECTION 14.6.(d)** SPA Memorandum of Agreement. – The State Ports Authority  
36 shall negotiate with the United States Army Corps of Engineers (hereafter, "Corps") a  
37 memorandum of agreement allowing for nonfederal funding of dredging and related studies or  
38 maintenance at the State Ports located at Wilmington and Morehead City. The memorandum  
39 required by this subsection shall be for as long a term as possible.

40          **SECTION 14.6.(e)** DENR Memorandum of Agreement. – The Division of Water  
41 Resources of the Department of Environment and Natural Resources shall negotiate with the  
42 Corps a memorandum of agreement allowing for nonfederal funding of dredging of Oregon  
43 Inlet. The memorandum required by this subsection shall be for as long a term as possible.

44          **SECTION 14.6.(f)** Port Access Lands Acquisition Agreement. – Notwithstanding  
45 Chapter 146 of the General Statutes or any other provision of law, the Department of  
46 Administration, on behalf of the State, shall seek to initiate negotiations with the appropriate  
47 agency of the federal government for an agreement to acquire the federally owned property  
48 necessary for management of deep draft navigation channels providing access to State Port  
49 facilities at Morehead City from the federal government in exchange for State-owned real  
50 property.

- 1 (1) Interagency cooperation. – The North Carolina Ports Authority and the  
2 Department of Transportation shall be included in the planning and carrying  
3 out of these negotiations, but the ultimate approval authority remains solely  
4 with the Secretary of the Department of Administration.
- 5 (2) Terms of agreement. – The Secretary of the Department of Administration  
6 shall have the authority to negotiate the terms of the acquisition agreement.  
7 The agreement (i) shall provide for the acquisition of interests in real  
8 property described in this subsection and no other; (ii) shall provide that the  
9 conveyances described in the agreement become effective as soon as  
10 practicable; and (iii) shall incorporate the relevant terms of this subsection.
- 11 (3) Execution of deeds. – Within 30 days of the acquisition becoming effective,  
12 the Attorney General shall execute any documents or deeds necessary to  
13 effectuate the acquisition under the exact terms set forth in the acquisition  
14 agreement. All State agencies and officials shall cooperate to the fullest  
15 extent possible in effectuating the acquisition agreement.
- 16 (4) Reporting. – Within 30 days after an agreement is entered into pursuant to  
17 this section, the Secretary of the Department of Administration shall report  
18 to the Joint Legislative Commission on Governmental Operations on the  
19 terms of the agreement.

20 **SECTION 14.6.(g)** Contested Case Exemption. – G.S. 150B-1(e) is amended by  
21 adding a new subdivision to read:

22 "(e) Exemptions From Contested Case Provisions. – The contested case provisions of  
23 this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter.  
24 The contested case provisions of this Chapter do not apply to the following:

- 25 ...
- 26 (22) The Secretary of Environment and Natural Resources for the waiver or  
27 modification of non-State cost-share requirements under G.S. 143-215.73F  
28 and G.S. 143-215.73G."

29 **SECTION 14.6.(h)** The General Assembly finds that the New Inlet Dam or "The  
30 Rocks" is a breakwater established by the United States Army Corps of Engineers in the late  
31 1800s. The New Inlet Dam is composed of two components, a Northern Component that  
32 extends from Federal Point to Zeke's Island and a Southern Component that extends  
33 southwestward from Zeke's Island and separates the New Inlet from the main channel of the  
34 Cape Fear River. The General Assembly further finds that the Southern Component of the New  
35 Inlet Dam impedes the natural flow of water between the Cape Fear River and the Atlantic  
36 Ocean that occurred prior to emplacement of the dam. The General Assembly further finds that  
37 it is necessary to remove the Southern Component of the New Inlet Dam in order to reestablish  
38 the natural hydrodynamic flow between the Cape Fear River and the Atlantic Ocean. To this  
39 end, the Department of Environment and Natural Resources shall do all of the following:

- 40 (1) Notify the United States Army Corps of Engineers of the State's intent to  
41 remove the Southern Component of the New Inlet Dam.
- 42 (2) Issue a Request for Proposals for a firm capable of conducting all aspects of  
43 removal of the Southern Component of the New Inlet Dam, including  
44 securing all necessary State and federal permits and developing and  
45 implementing a removal plan. Identification of a capable firm pursuant to  
46 this section shall be done in accordance with Article 8 of Chapter 143 of the  
47 General Statutes.
- 48 (3) Execute a contract with the firm chosen to implement subdivision (2) of this  
49 subsection and exercise oversight of the fulfillment of the contract.  
50 Execution of a contract pursuant to this section shall be done in accordance  
51 with Article 8 of Chapter 143 of the General Statutes.

- 1 (4) Request approval from the National Oceanic and Atmospheric  
2 Administration to adjust the boundary established for Zeke's Island for both  
3 of the following changes:
- 4 a. Moving the current western boundary 200 feet seaward and  
5 removing the area that lies between the current boundary and the new  
6 boundary from the North Carolina National Estuarine Research  
7 Reserve.
- 8 b. Compensating for any loss of acreage pursuant to sub-subdivision a.  
9 of this subdivision by adding a corresponding amount of acreage to  
10 the northern boundary of Zeke's Island from adjacent acreage at Fort  
11 Fisher State Recreation Area.
- 12 (5) If the Department obtains approval from the National Oceanic and  
13 Atmospheric Administration to adjust the boundary established for Zeke's  
14 Island as described in subdivision (4) of this subsection, the Coastal  
15 Resources Commission shall amend 15A NCAC 070 .0105 (North Carolina  
16 Coastal Reserve: Reserve Components) as follows:
- 17 a. Definitions. – "Reserve Components Rule" means 15A NCAC 070  
18 .0105 (North Carolina Coastal Reserve: Reserve Components) for  
19 purposes of this section and its implementation.
- 20 b. Reserve Components Rule. – Until the effective date of the revised  
21 permanent rule that the Coastal Resources Commission is required to  
22 adopt pursuant to sub-subdivision d. of this subdivision, the  
23 Commission and the Department of Environment and Natural  
24 Resources shall implement the Reserve Components Rule, as  
25 provided in sub-subdivision c. of this subdivision.
- 26 c. Implementation. – Notwithstanding the Reserve Components Rule,  
27 the Commission shall adjust the boundary established for Zeke's  
28 Island in conformance with any boundary change that is approved by  
29 the National Oceanic and Atmospheric Administration pursuant to  
30 subdivision (4) of this subsection.
- 31 d. Additional rule-making authority. – The Commission shall adopt a  
32 rule to replace the Reserve Components Rule. Notwithstanding  
33 G.S. 150B-19(4), the rule adopted by the Commission pursuant to  
34 this subdivision shall be substantively identical to the provisions of  
35 sub-subdivision c. of this subdivision. Rules adopted pursuant to this  
36 subdivision are not subject to Part 3 of Article 2A of Chapter 150B  
37 of the General Statutes. Rules adopted pursuant to this subdivision  
38 shall become effective as provided in G.S. 150B-21.3(b1) as though  
39 10 or more written objections had been received as provided by  
40 G.S. 150B-21.3(b2).
- 41 e. Effective date. – Sub-subdivision c. of this subdivision expires when  
42 permanent rules to replace sub-subdivision c. of this subdivision have  
43 become effective, as provided by sub-subdivision d. of this  
44 subdivision.

45 Notwithstanding any other provision of law, the Department of Environment and  
46 Natural Resources may use funds from the Deep Draft Navigation Channel Dredging and  
47 Maintenance Fund, established pursuant to G.S. 143-215.73G, as enacted by subsection (c) of  
48 this section, to implement this subsection.

49 **SECTION 14.6(i)** Coastal Waterways User Identification Number and Fee. –  
50 Article 1 of Chapter 75A of the General Statutes is amended by adding a new section to read:  
51 **"§ 75A-5.3. Coastal Waterways User Identification Number required.**

- 1       (a) Definitions. – As used in this section, "coastal fishing waters" has the same meaning  
2 as in G.S. 113-129.
- 3       (b) Coastal Waterways User Identification Number Required. – All of the following  
4 vessels are required to be numbered with a Coastal Waterways User Identification Number  
5 issued by the Wildlife Resources Commission:
- 6           (1) A vessel required to be numbered pursuant to G.S. 75A-4 that is 24 feet or  
7 more in length and that is operated in the coastal fishing waters of the State.
- 8           (2) A vessel that (i) is numbered in accordance with applicable federal law or in  
9 accordance with a federally approved numbering system of another state, (ii)  
10 is 24 feet or more in length, and (iii) is used to engage in commercial or  
11 recreational fishing in the coastal fishing waters of the State under any of the  
12 following fishing licenses:
- 13           a. A Standard Commercial Fishing License issued pursuant to  
14 G.S. 113-168.2.
- 15           b. A Retired Standard Commercial Fishing License issued pursuant to  
16 G.S. 113-168.3.
- 17           c. A Shellfish License issued pursuant to G.S. 113-169.2.
- 18           d. A Recreational Commercial Gear License issued pursuant to  
19 G.S. 113-173.
- 20           e. A Coastal Recreational Fishing License issued pursuant to  
21 G.S. 113-174.2 or G.S. 113-351.
- 22           f. A For-Hire License issued pursuant to G.S. 113-174.3.
- 23       (c) Fees. – The annual fee for a Coastal Waterways User Identification Number shall be  
24 calculated by rounding down the length of the vessel to the nearest foot, dividing this length by  
25 eight, and multiplying the result by the length of the vessel rounded down to the nearest foot.  
26 The result of this calculation shall be rounded down to the nearest cent, and this result shall be  
27 the dollar amount of the annual fee for each vessel. Notwithstanding this subsection, an annual  
28 fee for a Coastal Waterways User Identification Number shall not be greater than the fee for a  
29 100-foot vessel. The funds collected pursuant to this section shall be credited on a quarterly  
30 basis to the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund  
31 established by G.S. 143-215.73F.
- 32       (d) Renewal of Number. – An owner of a vessel issued a Coastal Waterways User  
33 Identification Number pursuant to this section shall renew the number on or before the number  
34 expires. If the number is not renewed before it expires, it shall lapse and be void until such time  
35 as it may thereafter be renewed. Application for renewal shall be submitted on a form approved  
36 by the Commission and shall be accompanied by a fee in the amount set forth in subsection (c)  
37 of this section.
- 38       (e) Duplicate Number. – The Commission shall issue a duplicate number for a Coastal  
39 Waterways User Identification Number upon application by the person entitled to hold the  
40 number if the Commission is satisfied the original number has been lost, stolen, mutilated,  
41 destroyed, or has become illegible.
- 42       (f) Vessel Change of Ownership. – Should the ownership of a vessel with a valid  
43 Coastal Waterways User Identification Number change, a new application form with the fee set  
44 forth in subsection (c) of this section shall be filed with the Commission by the new owner  
45 upon expiration if the new owner intends to use the vessel as described in subsection (b) of this  
46 section. Coastal Waterways User Identification Numbers are not transferable from one vessel to  
47 another.
- 48       (g) Duration. – Coastal Waterways User Identification Numbers are valid for a period  
49 of 12 months from the date of issuance. Subsequent renewals made before the expiration date  
50 of the number are valid the first day after the expiration of the currently valid number.

1 Renewals made after the number expires are valid for a period of 12 months from the date of  
2 issuance.

3 (h) Display. – Notwithstanding G.S. 75A-5(k), the Coastal Waterways User  
4 Identification Number shall be displayed on each side of the bow of the vessel.

5 (i) Penalty. – A person who fails to obtain and display the Coastal Waterways User  
6 Identification Number required by this section is responsible for an infraction as provided in  
7 G.S. 14-3.1 and shall pay a fine equal to the amount of the fee for the applicable Coastal  
8 Waterways User Identification Number.

9 (j) Rule Making. – The Wildlife Resources Commission shall adopt rules to implement  
10 this section."

11 **SECTION 14.6.(j)** G.S. 75A-5.2(c) reads as rewritten:

12 "(c) As compensation for services rendered to the Commission and to the general public,  
13 vessel agents shall receive the surcharge listed below. The surcharge shall be added to the fee  
14 for each certificate issued.

15 (1) Renewal of certificate of number – \$3.00.

16 (2) Transfer of ownership and certificate of number – \$5.00.

17 (3) Issuance of new certificate of number – \$5.00.

18 (4) Issuance of duplicate certificate of number – \$3.00.

19 (5) Issuance or transfer of certificate of title – \$5.00.

20 (6) Issuance of new, duplicate, or renewal Coastal Waterways User  
21 Identification Number – \$3.50."

22 **SECTION 14.6.(k)** The Wildlife Resources Commission shall disseminate  
23 information regarding the Coastal Waterways User Identification Number to the public in order  
24 to inform affected vessel owners of the Coastal Waterways User Identification Number  
25 requirements.

26 **SECTION 14.6.(l)** Coastal Waterways User Fee Administrative Costs. –  
27 Notwithstanding G.S. 75A-3, of the funds to be transferred to the Shallow Draft Navigation  
28 Channel and Lake Dredging Fund pursuant to G.S. 75A-3, the Wildlife Resources Commission  
29 may retain up to two hundred fifty thousand dollars (\$250,000) in each fiscal year of the  
30 2015-2017 fiscal biennium to implement subsections (i), (j), and (k) of this section.

31 **SECTION 14.6.(m)** Amend Dare County Occupancy Tax. – Effective July 1,  
32 2015, for net proceeds collected on or after that date, Chapter 449 of the 1985 Session Laws, as  
33 amended by Chapters 177 and 906 of the 1991 Session Laws, Part VII of S.L. 2001-439, and  
34 Section 7 of S.L. 2010-78, is amended by adding a new section to read:

35 "Sec. 3.3. Waterway Maintenance. – Notwithstanding any provision restricting the use of  
36 taxes authorized in this act, the county may use up to three million dollars (\$3,000,000) of the  
37 net proceeds of the taxes authorized by Sections 3.1 and 3.2 of this act per fiscal year for  
38 maintenance of waterways located wholly or partially in the county. This section is repealed for  
39 fiscal years beginning on or after July 1, 2020."

40 **SECTION 14.6.(n)** Section 1 of S.L. 2013-182 is repealed.

41 **SECTION 14.6.(o)** G.S. 153A-132(i), as rewritten by S.L. 2013-182, reads as  
42 rewritten:

43 "(i) A county may by ordinance prohibit the abandonment of vessels in navigable waters  
44 within the county's ordinance-making jurisdiction, subject to the provisions of this subsection.  
45 The provisions of this section shall apply to abandoned vessels in the same manner that they  
46 apply to abandoned or junked motor vehicles to the extent that the provisions may apply to  
47 abandoned vessels. For purposes of this subsection, an "abandoned vessel" is one that meets  
48 any of the following:

49 (1) A vessel that is moored, anchored, or otherwise located for more than 30  
50 consecutive days in any 180 consecutive-day period without permission of  
51 the dock owner.

- 1 (2) A vessel that is in danger of sinking, has sunk, is resting on the bottom, or is  
2 located such that it is a hazard to navigation or is an immediate danger to  
3 other vessels.

4 Shipwrecks, vessels, cargoes, tackle, and other underwater archeological remains that have  
5 been in place for more than 10 years shall not be considered abandoned vessels and shall not be  
6 removed under the provisions of this section without the approval of the Department of  
7 Cultural Resources, which is the legal custodian of these properties pursuant to G.S. 121-22  
8 and G.S. 121-23. This subsection applies only to the counties set out in G.S. 113A-103(2)."

9 **SECTION 14.6.(p)** The Coastal Resources Commission shall amend its rules for  
10 the use of temporary erosion control structures to provide for all of the following:

- 11 (1) Allow the placement of temporary erosion control structures on a property  
12 that is experiencing coastal erosion even if there are no imminently  
13 threatened structures on the property if the property is adjacent to a property  
14 where temporary erosion control structures have been placed.
- 15 (2) Allow the placement of contiguous temporary erosion control structures  
16 from one shoreline boundary of a property to the other shoreline boundary,  
17 regardless of proximity to an imminently threatened structure.
- 18 (3) The termination date of all permits for contiguous temporary erosion control  
19 structures on the same property shall be the same and shall be the latest  
20 termination date for any of the permits.
- 21 (4) The replacement, repair, or modification of damaged temporary erosion  
22 control structures that are either legally placed with a current permit or  
23 legally placed with an expired permit, but the status of the permit is being  
24 litigated by the property owner.

25 **SECTION 14.6.(q)** The Coastal Resources Commission shall adopt temporary  
26 rules to implement subsection (p) of this section no later than December 31, 2015. The  
27 Commission shall also adopt permanent rules to implement this section.

28 **SECTION 14.6.(r)** Subsections (a) through (i) of G.S. 75A-5.3, as enacted by  
29 subsection (i) of this section, become effective January 1, 2016.

## 30 31 **USE OF OYSTER SHELLS PROHIBITED IN COMMERCIAL LANDSCAPING**

32 **SECTION 14.7.(a)** Article 20 of Chapter 113 of the General Statutes is amended  
33 by adding a new section to read:

### 34 **"§ 113-270. Use of oyster shells by landscape contractors prohibited.**

35 (a) No landscape contractor shall use oyster shells as a ground cover.

36 (b) Enforcement of the prohibition set forth in this section shall be under the  
37 jurisdiction of the Marine Fisheries Commission.

38 (c) For purposes of this section, landscape contractor shall have the definition set forth  
39 in G.S. 89D-11."

40 **SECTION 14.7.(b)** This section is effective October 1, 2015.

## 41 42 **CORE SOUND OYSTER LEASING**

43 **SECTION 14.8.** The Division of Marine Fisheries of the Department of  
44 Environment and Natural Resources shall, in consultation with representatives of the  
45 commercial fishing industry, representatives of the shellfish aquaculture industry, and relevant  
46 federal agencies, create a proposal to open to shellfish cultivation leasing certain areas of Core  
47 Sound that are currently subject to a moratorium on shellfish leasing. The Division shall submit  
48 a report regarding the plan no later than April 1, 2016, to the Joint Legislative Commission on  
49 Governmental Operations.



1 AMEND SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY  
2 LEGISLATION

3 SECTION 14.9. Section 44 of S.L. 2014-120 reads as rewritten:

4 "SENATOR JEAN PRESTON MARINE ~~SHELLFISH~~ OYSTER SANCTUARY  
5 PROGRAM

6 "SECTION 44.(a) It is the intent of the General Assembly ~~to establish a marine shellfish~~  
7 ~~sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston, to be~~  
8 ~~called the "Senator Jean Preston Marine Shellfish Sanctuary."~~to enhance shellfish habitats  
9 within the Albemarle and Pamlico Sounds and their tributaries to benefit fisheries, water  
10 quality, and the economy. This will be achieved through the establishment of a network of  
11 oyster sanctuaries, harvestable enhancement sites, and coordinated support for the development  
12 of shellfish aquaculture. The network of oyster sanctuaries is to be named in honor of  
13 Senator Jean Preston and shall be called the "Senator Jean Preston Oyster Sanctuary  
14 Network".

15 "SECTION 44.(b) The Division of Marine Fisheries of the Department of Environment  
16 and Natural Resources shall ~~designate an area of appropriate acreage within the Pamlico Sound~~  
17 ~~as a recommendation to the Environmental Review Commission for establishment of the~~  
18 ~~"Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for managing the~~  
19 ~~sanctuary that includes~~develop a plan to construct and manage additional oyster habitats. The  
20 new sanctuaries, along with selected existing oyster sanctuaries, shall be included in the  
21 Senator Jean Preston Oyster Sanctuary Network. The plan shall include the following  
22 components:

- 23 (1) Location and delineation of the sanctuary.—~~oyster sanctuaries.~~ — The plan  
24 should include ~~a location~~locations for the sanctuarysanctuary network  
25 components that minimizesminimize the impact on commercial trawling. ~~In~~  
26 ~~addition, the sanctuary should be gridded into areas leased to private parties~~  
27 ~~for restoration and harvest and areas operated and maintained by the State~~  
28 ~~for restoration that are not open for harvest. The leased and unleased areas~~  
29 ~~should be arranged in a pattern where leased squares are surrounded on four~~  
30 ~~sides by unleased squares.~~The location of sanctuaries shall take into account  
31 connectivity to existing oyster sanctuaries and proposed oyster enhancement  
32 sites. New oyster sanctuaries shall be designed to provide hook-and-line  
33 fishing while allowing the development of complex fish habitats and  
34 brood-stock oysters that will enhance recruitment in the surrounding reefs.  
35 The plan should outline a 10-year development project to accomplish the  
36 expansion.
- 37 (2) Administration.— The plan should include the ~~prices to be charged for the~~  
38 ~~leased portions of the sanctuary, including an administration fee to be~~  
39 ~~retained by the Division to support the leasing and monitoring program. The~~  
40 ~~plan shall also provide that the balance of lease payments collected by the~~  
41 ~~Division be transferred to the General Fund with a recommendation that~~  
42 ~~some or all of the proceeds be used for the support of the State's special~~  
43 ~~education programs in memory of Senator Jean Preston.~~
- 44 (3) Enhancement of oyster habitat restoration. — The General Assembly finds  
45 that the lack of a reliable State-based supply of oyster seed and inadequate  
46 funding for cultch planting are limitations to the expansion of oyster  
47 harvesting and the restoration of wild oyster habitat in North Carolina.  
48 Therefore, the plan should include the following:
- 49 a. Provisions and recommendations to facilitate the availability of  
50 oyster seed produced in North Carolina for wild oyster habitat  
51 restoration projects as well as oyster aquaculture and to reduce

- 1                    potential negative impacts from importation of non-native oyster  
2                    seed.
- 3                    b. Plans, where feasible, for public-private partnerships for State-based  
4                    production of viable oyster seed through the creation of one or more  
5                    production hatcheries and recommendations for increased support of  
6                    the existing research hatchery at UNC-Wilmington.
- 7                    c. Plans and cost estimates for an expansion of cultch planting in  
8                    suitable areas of the State's coastal waters in order to expand areas  
9                    suitable for development of wild oyster habitat.
- 10                  (4) Economic relief. – The plan should consider a waiver of application fees and  
11                  yearly rental fees for new shellfish leases for an established period of time to  
12                  further promote and support shellfish aquaculture in North Carolina. The  
13                  new leasing fee waiver program should include measures to discourage  
14                  speculation and target persons with a genuine interest in starting a shellfish  
15                  aquaculture business, such as a requirement that the lease be nontransferable  
16                  for a five-year period.
- 17                  (5) Outreach. – The plan should include outreach and education that promotes,  
18                  whenever possible, public-private partnerships utilizing the Sea Grant  
19                  College Program, local colleges, and other nongovernmental organizations  
20                  to (i) encourage shellfish aquaculture and provide technical assistance to  
21                  broaden cost-effective technologies available to leaseholders; (ii) encourage  
22                  best management practices to leaseholders; and (iii) inform fishermen and  
23                  the public on the benefits provided by the Senator Jean Preston Oyster  
24                  Sanctuary Network.
- 25                  (6) Monitoring. – The plan should include a monitoring plan designed to (i)  
26                  determine the success of oyster reef construction and (ii) evaluate the cost  
27                  benefit of the oyster sanctuary network and harvestable enhancement sites.
- 28                  ~~(3)~~(7) Funding. – The plan should include a request for appropriations sufficient to  
29                  ~~provide funds for the construction of appropriate bottom habitat and shellfish~~  
30                  ~~seeding and for Division staff necessary to conduct oyster restoration and~~  
31                  ~~monitoring activities. The plan should provide that, whenever possible,~~  
32                  ~~construction and shellfish seeding be carried out by contract with private~~  
33                  ~~entities for Division staff to expand oyster restoration and monitoring~~  
34                  ~~activities for 10 years. The plan should provide that, whenever possible,~~  
35                  ~~public-private partnerships are employed to meet the construction, seeding,~~  
36                  ~~and outreach requirements of the plan.~~
- 37                  ~~(4) Commercial fisherman relief. – To promote the diversification of~~  
38                  ~~commercial fishing opportunities, the plan should include a program to~~  
39                  ~~award free or discounted leases under this section to commercial fishermen~~  
40                  ~~who (i) have held one or more commercial fishing licenses continually for a~~  
41                  ~~period of 10 or more years and (ii) receive at least fifty percent (50%) of~~  
42                  ~~their income from commercial fishing with those licenses.~~
- 43                  ~~(5)~~(8) Recommendations. – The plan should shall include recommendations for  
44                  statutory or regulatory changes needed to expedite the expansion of shellfish  
45                  restoration and harvesting in order to improve water quality, restore  
46                  ecological habitats, provide enhanced recreational and commercial fishing  
47                  opportunities, and expand the coastal economy.
- 48                  (9) No funding for sanctuaries in closed areas. – The plan shall provide that no  
49                  funding or other resources shall be available in water bodies where a  
50                  moratorium or other legal prohibition on shellfish leasing under Article 16 of  
51                  Chapter 113 of the General Statutes is currently in effect. This subdivision

1 does not apply to leasing moratoria imposed because the area is closed to  
2 shellfish harvesting or recommended for closure by the State Health Director  
3 due to pollution.

4 "**SECTION 44.(c)** ~~No later than December 1, 2014, and quarterly thereafter until~~  
5 ~~submission of a final plan to the Environmental Review Commission, March 1, 2016, the~~  
6 Department of Environment and Natural Resources shall report to the ~~Environmental Review~~  
7 ~~Commission~~ Chairs of the House of Representatives Appropriations Committee on Agriculture  
8 and Natural and Economic Resources, the Senate Appropriations Committee on Natural and  
9 Economic Resources, and the Fiscal Research Division regarding its implementation of this  
10 section and its recommended plan."  
11

## 12 SHELLFISH CULTIVATION LEASING REFORM

13 **SECTION 14.10.(a)** G.S. 113-202(i) reads as rewritten:

14 "**§ 113-202. New and renewal leases for shellfish cultivation; termination of leases issued**  
15 **prior to January 1, 1966.**

16 ...

17 (i) After a lease application is approved by the Secretary, the applicant shall submit to  
18 the Secretary ~~a survey of the area approved for leasing and~~ information sufficient to define the  
19 bounds of the area approved for leasing with markers in accordance with the rules of the  
20 Commission. ~~The survey information shall conform to standards prescribed by the Secretary~~  
21 ~~concerning accuracy of survey and the amount of detail to be shown. When an acceptable~~  
22 ~~survey information is submitted, the boundaries are marked and all fees and rents due in~~  
23 advance are paid, the Secretary shall execute the lease on forms approved by the Attorney  
24 General. The Secretary is authorized, with the approval of the lessee, to amend an existing lease  
25 by reducing the area under lease or by combining contiguous leases without increasing the total  
26 area leased. The information required by this subsection may be based on coordinate  
27 information produced using a device equipped to receive global positioning system data."

28 **SECTION 14.10.(b)** G.S. 113-202(j) reads as rewritten:

29 "(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at  
30 noon on the first day of July following the ~~fifth-tenth~~ anniversary of the granting of the lease.  
31 Renewal leases are issued for a period of ~~five~~ 10 years from the time of expiration of the  
32 previous lease. At the time of making application for renewal of a lease, the applicant must pay  
33 a filing fee of one hundred dollars (\$100.00). The rental for initial leases is one dollar (\$1.00)  
34 per acre ~~for all leases entered into before July 1, 1965, and for all other leases until noon on the~~  
35 ~~first day of July following the first anniversary of the lease. Thereafter, for initial leases entered~~  
36 ~~into after July 1, 1965, leases~~ and from the beginning for renewals of leases entered into after  
37 that date, the rental is ten dollars (\$10.00) per acre per year. Rental must be paid annually in  
38 advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata  
39 amount for the portion of the year left until the first day of July must be paid in advance at the  
40 rate of one dollar (\$1.00) per acre per year; then, on or before the first day of April next, the  
41 lessee must pay the rental for the next full year."

42 **SECTION 14.10.(c)** This section applies to shellfish lease applications received by  
43 the Department of Environment and Natural Resources on or after the date this act becomes  
44 law.  
45

## 46 SIMPLIFY OYSTER RESTORATION PROJECT PERMITTING

47 **SECTION 14.10A.(a)** The Division of Marine Fisheries and Division of Coastal  
48 Management of the Department of Environment and Natural Resources shall, in consultation  
49 with representatives of nongovernmental conservation organizations working on oyster  
50 restoration, create a new permitting process specifically designed for oyster restoration projects  
51 that apply to oyster restoration projects instead of a major development permit under

1 G.S. 113A-118. The Department shall submit its report, including recommended legislation, to  
2 the Environmental Review Commission no later than May 1, 2016.

3 **SECTION 14.10A.(b)** Until the effective date of the revised permanent rule that  
4 the Coastal Resources Commission is required to adopt pursuant to subsection (d) of this  
5 section, the Commission and the Department of Environment and Natural Resources shall  
6 implement 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit) as provided in  
7 subsection (c) of this section.

8 **SECTION 14.10A.(c)** Notwithstanding 15A NCAC 03O .0503(g) (Scientific or  
9 Educational Activity Permit), the Division of Marine Fisheries may issue a scientific or  
10 educational activity permit for approved activities conducted by or under the direction of a  
11 nongovernmental conservation organization in addition to a scientific or educational institution.  
12 For purposes of this section, a nongovernmental conservation organization is defined as an  
13 organization whose primary mission is the conservation of natural resources.

14 **SECTION 14.10A.(d)** The Environmental Management Commission shall adopt  
15 rules to amend 15A NCAC 03O .0503(g) and any other cross-referenced rules consistent with  
16 subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the  
17 Commission pursuant to this subsection shall be substantively identical to the provisions of  
18 subsection (c) of this section. Rules adopted pursuant to this subsection are not subject to Part 3  
19 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this  
20 subsection shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more  
21 written objections had been received as provided by G.S. 150B-21.3(b2).

22 **SECTION 14.10A.(e)** This section is effective when this act becomes law.  
23 Subsection (c) of this section expires on the date that rules adopted pursuant to subsection (d)  
24 of this section become effective.  
25

## 26 SCFL EXEMPTION FOR EMPLOYEES OF LEASEHOLDER

27 **SECTION 14.10B.** G.S. 113-169.2 reads as rewritten:

28 "**§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

29 (a) License or Endorsement Necessary to Take or Sell Shellfish Taken by Hand  
30 Methods. – It is unlawful for an individual to take shellfish from the public or private grounds  
31 of the State as part of a commercial fishing operation by hand methods without holding either a  
32 shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks  
33 only to take shellfish by hand methods and sell such shellfish shall be eligible to obtain a  
34 shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell  
35 shellfish.

36 (a1) License Necessary to Take or Sell Shellfish Taken by Mechanical Means. – ~~Subject~~  
37 ~~to~~ Except as provided in subsection (i) of this section, an individual who takes shellfish from  
38 the public or private grounds of the State by mechanical means must obtain an SCFL under the  
39 provisions of G.S. 113-168.2.

40 ...

41 (i) Taking Shellfish Without a License for Personal Use. ~~Use or as Employee of Certain~~  
42 License Holders. – Shellfish may be taken without a license ~~for~~ under the following  
43 circumstances:

44 (1) For personal use in quantities established by rules of the Marine Fisheries  
45 Commission.

46 (2) When the taking is from an area leased for the cultivation of shellfish under  
47 Article 16 of this Chapter by a person who is an employee of a leaseholder  
48 holding a valid SCFL issued under the provisions of G.S. 113-168.2."  
49

## 50 WATER COLUMN LEASING CLARIFICATION

51 **SECTION 14.10C.(a)** G.S. 113-201.1(5) reads as rewritten:

1           "(5) "Water column" means the vertical extent of water, including the surface  
2           ~~thereof,~~ above a designated area of submerged bottom land."

3           **SECTION 14.10C.(b)** G.S. 113-202 is amended by adding a new subsection to  
4 read:

5           "(r) A lease under this section shall include the right to place devices or equipment  
6 related to the cultivation or harvesting of marine resources on or within 18 inches of the leased  
7 bottom. Devices or equipment not resting on the bottom or extending more than 18 inches  
8 above the bottom will require a water column lease under G.S. 113-202.1."

9           **SECTION 14.10C.(c)** G.S. 113-202.1 reads as rewritten:

10          "**§ 113-202.1. Water column leases for aquaculture.**

11          ..."

12          (c) The Secretary shall not amend shellfish cultivation leases to authorize ~~use~~uses of  
13 the water column involving devices or equipment not resting on the bottom or that extend more  
14 than 18 inches above the bottom unless:

- 15           (1) The leaseholder submits an application, accompanied by a nonrefundable  
16 application fee of one hundred dollars (\$100.00), which conforms to the  
17 standards for lease applications in G.S. 113-202(d) and the duly adopted  
18 rules of the Commission;
- 19           (2) The proposed amendment has been noticed consistent with G.S. 113-202(f);
- 20           (3) Public hearings have been conducted consistent with G.S. 113-202(g);
- 21           (4) The aspects of the proposals which require use and dedication of the water  
22 column have been documented and are recognized by the Secretary as  
23 commercially feasible forms of aquaculture which will enhance shellfish  
24 production on the leased area;
- 25           (5) It is not feasible to undertake the aquaculture activity outside of coastal  
26 fishing waters; and
- 27           (6) The authorized water column use has the least disruptive effect on other  
28 public trust uses of the waters of any available technology to produce the  
29 shellfish identified in the proposal.

30          ...."

## 31 32 **BLUE RIBBON OYSTER STUDY**

33           **SECTION 14.10D.** The Joint Legislative Oversight Committee on Natural and  
34 Economic Resources created by this act shall convene a stakeholder working group to study  
35 and advance efforts to ecologically restore the resource and achieve economic stability of the  
36 shellfish aquaculture industry, including (i) how best to spend financial resources to counter  
37 declining oyster populations and habitats; (ii) the use of nonnative oyster species to accomplish  
38 oyster restoration; (iii) means of combating oyster disease and managing harvesting practices to  
39 balance the needs of the industry and promote long-term viability and health of oyster habitat  
40 and substrate; (iv) economic aquaculture methods to improve oyster stock and populations; (v)  
41 long-term, dedicated options for funding sources and water quality improvements; (vi) means  
42 to increase oyster production for both population growth and harvest; (vii) options that expand  
43 the use of private hatchery capacity in the State; (viii) options for promoting the use of cultch  
44 planting to enhance and increase oyster habitat and population; (ix) other resources that might  
45 be leveraged to enhance reform efforts; and (x) any other issue the Committee deems relevant.  
46 In the conduct of this study, the Committee may consult with representatives of the North  
47 Carolina Division of Marine Fisheries, the Marine Fisheries Commission, nature conservation  
48 entities, and commercial and recreational oyster harvesting industries and with experts in the  
49 fields of marine biology and marine ecology. The Department of Environment and Natural  
50 Resources shall provide any information and personnel requested by the Committee in the  
51 conduct of this study.

**FISHERY MANAGEMENT PLAN PROCEDURES**

**SECTION 14.10E.(a)** The Marine Fisheries Commission shall study its procedures for adoption of temporary supplemental management measures to the State's fishery management plans. The study shall include a review of the opportunities provided in the process for public input and comment from commercial and recreational fishing interests, local governments, environmental and conservation nonprofits, and other stakeholders, and an assessment of whether economic impact of a proposed measure is adequately addressed in the formulation, approval, and implementation of temporary supplemental management measures. The Commission shall report no later than May 1, 2016, to the chairs of the Senate Natural and Economic Resources Committee, the chairs of the House Agriculture and Natural and Economic Resources Committee, and the Fiscal Research Division.

**SECTION 14.10E.(b)** The Marine Fisheries Commission shall not adopt any temporary supplemental management measures to the State's fishery management plans until the study required by this section has been submitted or July 1, 2016, whichever occurs later.

**DIVISION OF MARINE FISHERIES/NO JOINT ENFORCEMENT AGREEMENTS**

**SECTION 14.10F.(a)** G.S. 113-224 reads as rewritten:

**"§ 113-224. Cooperative agreements by Department.**

(a) ~~The~~ Except as otherwise provided in this section, the Department is empowered to enter into cooperative agreements with public and private agencies and individuals respecting the matters governed in this Subchapter. Pursuant to such agreements the Department may expend funds, assign employees to additional duties within or without the State, assume additional responsibilities, and take other actions that may be required by virtue of such agreements, in the overall best interests of the conservation of marine and estuarine resources.

(b) The Fisheries Director or a designee of the Fisheries Director may not enter into an agreement with the National Marine Fisheries Service of the United States Department of Commerce allowing Division of Marine Fisheries inspectors to accept delegation of law enforcement powers over matters within the jurisdiction of the National Marine Fisheries Service."

**SECTION 14.10F.(b)** G.S. 128-1.1(c2) is repealed.

**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

1 advisory group and shall report to the Environmental Review Commission no later than  
2 January 15, 2016, regarding the implementation process required by this section.

#### 4 **DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION**

5 **SECTION 14.10H.(a)** G.S. 143-254.5 reads as rewritten:

6 "**§ 143-254.5. Disclosure of personal identifying information.**

7 Social security numbers and identifying information obtained by the Commission shall be  
8 treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information"  
9 also includes a person's mailing address, residence address, e-mail address, date of birth, and  
10 telephone number."

11 **SECTION 14.10H.(b)** G.S. 143B-289.52(h) reads as rewritten:

12 "(h) Social security numbers and identifying information obtained by the Commission or  
13 the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of  
14 this subsection, "identifying information" also includes a person's mailing address, residence  
15 address, e-mail address, date of birth, and telephone number."

#### 17 **BEACH EROSION STUDY**

18 **SECTION 14.10L.(a)** The Division of Coastal Management shall study and  
19 develop a proposed strategy for preventing, mitigating, and remediating the effects of beach  
20 erosion. The study shall consider efforts by other states and countries to prevent beach erosion  
21 and ocean overwash and to renourish and sustain beaches and coastlines and incorporate best  
22 practices into the strategy.

23 **SECTION 14.10L.(b)** By February 15, 2016, the Division of Coastal Management  
24 shall report to the Environmental Review Commission, the chairs of the Senate Appropriations  
25 Committee on Natural and Economic Resources and the House Appropriations Committee on  
26 Agriculture, Natural, and Economic Resources, and the Fiscal Research Division on the results  
27 of the study and its proposed strategy as required by subsection (a) of this section, including  
28 any legislative recommendations.

#### 30 **DYNAMIC PRICING FOR STATE PARKS AND ATTRACTIONS**

31 **SECTION 14.11.(a)** G.S. 150B-1(d) reads as rewritten:

32 "**§ 150B-1. Policy and scope.**

33 ...  
34 (d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the  
35 following:

36 ...  
37 (26) The Board of Agriculture in the Department of Agriculture and Consumer  
38 Services with respect to ~~annual~~ the following:

39 a. Annual admission fees for the State Fair.

40 b. Operating hours, admission fees, or related activity fees at State  
41 forests.

42 The Board shall annually post the admission fee and operating hours  
43 schedule on its Web site and provide notice of the ~~fee~~-schedule, along with a  
44 citation to this section, to all persons named on the mailing list maintained  
45 pursuant to G.S. 150B-21.2(d).

46 (27) The Department of Environment and Natural Resources with respect to  
47 operating hours, admission fees, or related activity fees at:

48 a. The North Carolina Zoological Park pursuant to G.S. 143B-335.

49 b. State parks pursuant to G.S. 113-35.

50 c. The North Carolina Aquariums pursuant to G.S. 143B-289.44.

51 d. The North Carolina Museum of Natural Sciences.

1           The exclusion from rule making for the setting of operating hours set forth in  
2           this subdivision shall not apply to a decision to eliminate all public operating  
3           hours for the sites and facilities listed."

4           **SECTION 14.11.(b)** The Department of Environment and Natural Resources, or  
5 any other department given responsibilities for the North Carolina Zoological Park, State parks,  
6 the North Carolina Museum of Natural Sciences, and the North Carolina Aquariums, may  
7 establish admission fees and related activity fees. In setting these fees, the Department of  
8 Environment and Natural Resources shall use a dynamic pricing strategy as defined in  
9 subsection (e) of this section. Any rule currently in the Administrative Code related to fees  
10 covered by subsection (a) of this section is ineffective and repealed upon the effective date of  
11 new admission fees and related activity fees adopted by the Department under the authority set  
12 out in that subsection. Notice of the initial adoption of new admission fees and related activity  
13 fees under subsection (a) of this section shall be given by the Department to the Codifier of  
14 Rules, who, upon receipt of notice of the initial adoption of new admission fees and related  
15 activity fees by the Department, shall note the repeal of these rules in the Administrative Code.

16           **SECTION 14.11.(c)** The Department of Cultural Resources may establish  
17 admission fees and related activity fees authorized by G.S. 121-7.3 for historic sites and  
18 museums. In setting these fees, the Department shall use a dynamic pricing strategy as defined  
19 in subsection (e) of this section.

20           **SECTION 14.11.(d)** The Department of Agriculture and Consumer Services may  
21 establish admission fees and related activity fees authorized by G.S. 106-877 for State forests.  
22 In setting these fees, the Department shall use a dynamic pricing strategy as defined in  
23 subsection (e) of this section.

24           **SECTION 14.11.(e)** For purposes of this section, "dynamic pricing" is the  
25 adjustment of fees for admission and related activities from time to time to reflect market  
26 forces, including seasonal variations and special event interests, with the intent and effect to  
27 maximize revenues from use of these State resources to the extent practicable to offset  
28 appropriations from the General Assembly.

29           **SECTION 14.11.(f)** No later than March 1, 2016, the Department of Environment  
30 and Natural Resources, the Department of Cultural Resources, and the Department of  
31 Agriculture and Consumer Services shall submit a report on implementation of the new pricing  
32 strategy to the Environmental Review Commission, including an evaluation of the feasibility  
33 and obstacles to charging new entrance or admission fees at other attractions not subject to this  
34 section.

35           **SECTION 14.11.(g)** This part applies to admission fees or related activity fees  
36 charged on or after the effective date of this act.

## 37 38 **WATER INFRASTRUCTURE AUTHORITY REVISIONS**

39           **SECTION 14.13.(a)** G.S. 159G-20(1) is recodified as G.S. 159G-20(1a), and  
40 G.S. 159G-20(1a) is recodified as G.S. 159G-20(1c).

41           **SECTION 14.13.(b)** G.S. 159G-20, as amended by subsection (a) of this section,  
42 reads as rewritten:

### 43 **"§ 159G-20. Definitions.**

44           The following definitions apply in this Chapter:

- 45           (1) Affordability. – The relative affordability of a project for a community  
46           compared to other communities in North Carolina based on factors that shall  
47           include, at a minimum, water and sewer service rates, median household  
48           income, poverty rates, employment rates, the population of the served  
49           community, and past expenditures by the community on water infrastructure  
50           compared to that community's capacity for financing of water infrastructure  
51           improvements.



- 1 (1a) Asset management plan. – The strategic and systematic application of  
2 management practices applied to the infrastructure assets of a local  
3 government unit in order to minimize the total costs of acquiring, operating,  
4 maintaining, improving, and replacing the assets while at the same time  
5 maximizing the efficiency, reliability, and value of the assets.
- 6 (1b) Authority. – The State Water Infrastructure Authority created and  
7 established pursuant to Article 5 of this Chapter.
- 8 ...
- 9 ~~(9) High unit cost project. — A project that results in an estimated average~~  
10 ~~household user fee for water and sewer service in the area served by the~~  
11 ~~project in excess of the high unit cost threshold. The average household user~~  
12 ~~fee is calculated for a continuous 12-month period.~~
- 13 ~~(10) High unit cost threshold. — Either of the following amounts determined on~~  
14 ~~the basis of data from the most recent federal decennial census and updated~~  
15 ~~by the U.S. Department of Housing and Urban Development's annual~~  
16 ~~estimated income adjustment factors:~~
- 17 ~~a. One and one-half percent (1.5%) of the median household income in~~  
18 ~~an area that receives both water and sewer service.~~
- 19 ~~b. Three-fourths of one percent (3/4%) of the median household income~~  
20 ~~in an area that receives only water service or only sewer service.~~
- 21 ...
- 22 (13) Local government unit. – Any of the following:
- 23 a. A city as defined in G.S. 160A-1.
- 24 b. A county.
- 25 c. A consolidated city-county as defined in G.S. 160B-2.
- 26 d. A county water and sewer district created pursuant to Article 6 of
- 27 Chapter 162A of the General Statutes.
- 28 e. A metropolitan sewerage district or a metropolitan water district
- 29 created pursuant to Article 4 of Chapter 162A of the General
- 30 Statutes.
- 31 f. A water and sewer authority created under Article 1 of Chapter 162A
- 32 of the General Statutes.
- 33 g. A sanitary district created pursuant to Part 2 of Article 2 of Chapter
- 34 130A of the General Statutes.
- 35 h. A joint agency created pursuant to Part 1 of Article 20 of Chapter
- 36 160A of the General Statutes.
- 37 i. A joint agency that was created by agreement between two cities and
- 38 towns to operate an airport pursuant to G.S. 63-56 and that provided
- 39 drinking water and wastewater services off the airport premises
- 40 before 1 January 1995.
- 41 (13a) Merger. – The consolidation of two or more water and/or sewer systems into  
42 one system with common ownership, management, and operation.
- 43 (14) Nonprofit water corporation. – A nonprofit corporation that is incorporated
- 44 under Chapter 55A of the General Statutes solely for the purpose of
- 45 providing drinking water or wastewater services and is an eligible applicant
- 46 for a federal loan or grant from the Rural Utility Services Division, U.S.
- 47 Department of Agriculture.
- 48 (15) Public water system. – Defined in G.S. 130A-313.
- 49 (16) Regionalization. – The physical interconnecting of an eligible entity's  
50 wastewater system to another entity's wastewater system for the purposes of  
51 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~~ 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~~ State has priority.
- (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~~ 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.
  - b. Conservation or reuse of water, including bulk water reuse facilities and waterlines to supply reuse water for irrigation and other approved uses.
  - c. Construction of an interconnection between water systems intended for use in drought or other water shortage emergency.
  - d. Repair or replacement of leaking waterlines to improve water conservation and efficiency or to prevent contamination.
  - e. Replacement of meters and installation of new metering systems.
- (4) Comprehensive land-use plan. – A project that is located in a city or county that has adopted or has taken significant steps to adopt a comprehensive land-use plan under Article 18 of Chapter 153A of the General Statutes or Article 19 of Chapter 160A of the General Statutes ~~has priority over a project located in a city or county that has not adopted a plan or has not taken steps to do so.~~ Statutes. The existence of a plan has more priority than steps taken to adopt a plan, such as adoption of a zoning ordinance. A plan that exceeds the minimum State standards for protection of water resources has ~~more~~ higher priority than one that does not. A project is considered to be located in a city or county if it is located in whole or in part in that unit. A land-use plan is not considered a comprehensive land-use plan unless it has

- 1 provisions that protect existing water uses and ensure compliance with water  
2 quality standards and classifications in all waters of the State affected by the  
3 plan.
- 4 (5) ~~Flood hazard ordinance. – A project that is located in a city or county that~~  
5 ~~has adopted a flood hazard prevention ordinance under G.S. 143-215.54A~~  
6 ~~has priority over a project located in a city or county that has not adopted an~~  
7 ~~ordinance. G.S. 143-215.54A. A plan that exceeds the minimum standards~~  
8 ~~under G.S. 143-215.54A for a flood hazard prevention ordinance has more~~  
9 ~~higher priority than one that does not. A project is considered to be located~~  
10 ~~in a city or county if it is located in whole or in part in that unit. If no part of~~  
11 ~~the service area of a project is located within the 100-year floodplain, the~~  
12 ~~project has the same priority.~~ equal consideration under this subdivision as if  
13 it were located in a city or county that has adopted a flood hazard prevention  
14 ordinance. The most recent maps prepared pursuant to the National Flood  
15 Insurance Program or approved by the Department determine whether an  
16 area is within the 100-year floodplain.
- 17 (6) Sound management. – A project submitted by a local government unit that  
18 has demonstrated a willingness and ability to meet its responsibilities  
19 through sound fiscal policies and efficient operation and ~~management has~~  
20 ~~priority.~~ management.
- 21 (6a) Asset management plan. – A project submitted by a local government unit  
22 with more than 1,000 service connections that has developed and is  
23 implementing an asset management ~~plan has priority over a project~~  
24 ~~submitted by a local government unit with more than 1,000 service~~  
25 ~~connections that has not developed or is not implementing an asset~~  
26 ~~management plan.~~ plan.
- 27 (7) Capital improvement plan. – A project that implements the applicant's  
28 capital improvement plan for the wastewater system or public water system  
29 it ~~manages has priority over a project that does not implement a capital~~  
30 ~~improvement plan. To receive priority, a~~ manages, so long as the capital  
31 ~~improvement plan must set~~ sets out the applicant's expected water  
32 infrastructure needs for at least 10 years.
- 33 (8) Coastal habitat protection. – A project that implements a recommendation of  
34 a Coastal Habitat Protection Plan adopted by the Environmental  
35 Management Commission, the Coastal Resources Commission, and the  
36 Marine Fisheries Commission pursuant to ~~G.S. 143B-279.8 has priority over~~  
37 ~~other projects that affect counties subject to that Plan. G.S. 143B-279.8. If no~~  
38 ~~part of the service area of a project is located within a county subject to that~~  
39 ~~Plan, the project has equal priority under this subdivision with a project that~~  
40 ~~receives priority under this subdivision.~~ receives priority under this subdivision.
- 41 (9) ~~High unit cost threshold. – A high unit cost project has priority over~~  
42 ~~projects that are not high unit cost projects. The priority given to a~~  
43 ~~high unit cost project shall be set using a sliding scale based on the amount~~  
44 ~~by which the applicant exceeds the high unit cost threshold.~~ Affordability. –  
45 The relative affordability of a project for a community compared to other  
46 communities in North Carolina.
- 47 (10) Merger and Regionalization. – A project to provide for the planning of  
48 regional public water and wastewater systems, to provide for the orderly  
49 coordination of local actions relating to public water and wastewater  
50 systems, or to help realize economies of scale in regional public water and  
51 wastewater systems through consolidation, management, merger, or

interconnection of public water and wastewater ~~systems has priority systems.~~  
 If an applicant demonstrates that it is not feasible for the project to include regionalization, the funding agency shall assign the project the same priority under this subdivision as a project that includes regionalization.

- (11) State water supply plan. – A project that addresses a potential conflict between local plans or implements a measure in which local water supply plans could be better coordinated, as identified in the State water supply plan pursuant to ~~G.S. 143-355(m), has priority.~~G.S. 143-355(m).
- (12) Water conservation measures for drought. – A project that includes adoption of water conservation measures by a local government unit that are more stringent than the minimum water conservation measures required pursuant to ~~G.S. 143-355.2 has priority.~~G.S. 143-355.2.
- (13) Low-income residents. – A project that is located in an area annexed by a municipality under Article 4A of Chapter 160A of the General Statutes in order to provide water or sewer services to low-income ~~residents has priority. For purposes of this section, low income residents are those with a family income that is eighty percent (80%) or less of median family income.~~residents."

**SECTION 14.13.(c1)** G.S. 159G-31 reads as rewritten:

**"§ 159G-31. Entities eligible to apply for loan or grant.**

(a) A local government unit or a nonprofit water corporation is eligible to apply for a loan or grant from the CWSRF, the DWSRF, the Wastewater Reserve, or the Drinking Water Reserve. An investor-owned drinking water corporation is also eligible to apply for a loan or grant from the DWSRF. Other entities are not eligible for a loan or grant from these accounts.

(b) Entities eligible in subsection (a) of this section for grants from the Wastewater Reserve and the Drinking Water Reserve may be limited, based on affordability, to a portion of the total construction costs for the project types defined in G.S. 159G-33(a)(2) and G.S. 159G-34(a)(2).

(c) To the extent that funds are available, loans shall be considered for the portion of construction costs not eligible for grant funding."

**SECTION 14.13.(d)** G.S. 159G-33(a)(4) is recodified as G.S. 159G-33(a)(5).

**SECTION 14.13.(e)** G.S. 159G-33(a), as amended by subsection (d) of this section, reads as rewritten:

"(a) Types. – The Department is authorized to make the types of loans and grants listed in this subsection from the Wastewater Reserve. Each type of loan or grant must be administered through a separate account within the Wastewater Reserve.

(1) ~~General.—Loan.~~ Loan. – A loan ~~or grant~~ is available for a project authorized in G.S. 159G-32(b).

(2) ~~High-unit-cost~~Project grant. – A ~~high-unit-cost~~project grant is available for a portion of the portion of the construction costs of a wastewater collection system ~~project or project,~~ a wastewater treatment works ~~project that results in an estimated average household user fee for water and sewer service in the area served by the project that exceeds the high-unit-cost threshold.~~project, or a stormwater quality project as authorized in G.S. 159G-32(b).

(3) ~~Technical assistance~~Merger/regionalization feasibility grant. – A ~~technical assistance~~merger/regionalization feasibility grant is available to determine the ~~best way to correct the deficiencies in a wastewater collection system or wastewater treatment works that either is not in compliance with its permit limits or, as identified in the most recent inspection report by the Department under G.S. 143-215.3, is experiencing operational problems and is at risk of violating its permit limits.~~feasibility of consolidating the management of

1 multiple utilities into a single utility operation or to provide regional  
2 treatment and the best way of carrying out the consolidation or  
3 regionalization. The Department shall not make a loan or grant under this  
4 subdivision for a merger or regionalization proposal that would result in a  
5 new surface water transfer regulated under G.S. 143-215.22L.

6 (4) Asset inventory and assessment grant. – An asset inventory and assessment  
7 grant is available to inventory the existing water and/or sewer system and  
8 document the condition of the inventoried infrastructure.

9 (5) Emergency loan. – An emergency loan is available in the event the Secretary  
10 certifies that a serious public health hazard related to the inadequacy of an  
11 existing wastewater collection system or wastewater treatment works is  
12 present or imminent in a community."

13 **SECTION 14.13.(f)** G.S. 159G-34(a)(4) is recodified as G.S. 159G-34(a)(5).

14 **SECTION 14.13.(g)** G.S. 159G-34(a), as amended by subsection (f) of this section,  
15 reads as rewritten:

16 "(a) Types. – The Department is authorized to make the types of loans and grants listed  
17 in this section from the Drinking Water Reserve. Each type of loan or grant must be  
18 administered through a separate account within the Drinking Water Reserve.

19 (1) ~~General.—Loan.~~ Loan. – A loan ~~or grant~~ is available for a project for a public  
20 water system.

21 (2) ~~High unit cost~~ Project grant. – A project grant is available for ~~the a~~ portion of  
22 the construction costs of a public water system project ~~that results in an~~  
23 ~~estimated average household user fee for water and sewer service in the area~~  
24 ~~served by the project that exceeds the high unit cost threshold.~~ as defined in  
25 G.S. 159G-32(c).

26 (3) ~~Technical assistance~~ Merger/regionalization feasibility grant. – A technical  
27 assistance merger/regionalization grant is available to determine the ~~best way~~  
28 ~~to correct the deficiencies in a public water system that does not comply~~  
29 ~~with State law or the rules adopted to implement that law.~~ feasibility of  
30 consolidating the management of multiple utilities into a single utility  
31 operation or to provide regional water supply and the best way of carrying  
32 out the consolidation or regionalization. The Department shall not make a  
33 loan or grant under this subdivision for a merger or regionalization proposal  
34 that would result in a new surface water transfer regulated under  
35 G.S. 143-215.22L.

36 (4) Asset inventory and assessment grant. – An asset inventory and assessment  
37 grant is available to inventory the existing water and/or sewer system and  
38 document the condition of the inventoried infrastructure.

39 (5) Emergency loan. – An emergency loan is available to an applicant in the  
40 event the Secretary certifies that either a serious public health hazard or a  
41 drought emergency related to the water supply system is present or imminent  
42 in a community."

43 **SECTION 14.13.(h)** G.S. 159G-35 reads as rewritten:

44 "**§ 159G-35. Criteria for loans and grants.**

45 (a) CWSRF and DWSRF. – Federal law determines the criteria for awarding a loan or  
46 grant from the CWSRF or the DWSRF. An award of a loan or grant from one of these accounts  
47 must meet the criteria set under federal law. The Department is directed to establish through  
48 negotiation with the United States Environmental Protection Agency the criteria for evaluating  
49 applications for loans and grants from the CWSRF and the DWSRF and the priority assigned to  
50 the criteria. The Department must incorporate the negotiated criteria and priorities in the  
51 Capitalization Grant Operating Agreement between the Department and the United States

1 Environmental Protection Agency. The criteria and priorities incorporated in the Agreement  
2 apply to a loan or grant from the CWSRF or the DWSRF. The ~~common criteria~~priority  
3 considerations in G.S. 159G-23 do not apply to a loan or grant from the CWSRF or the  
4 DWSRF.

5 (b) Reserves. – The ~~common criteria~~priority considerations in G.S. 159G-23 apply to a  
6 loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Department  
7 may establish by rule other criteria that apply to a loan or grant from the Wastewater Reserve  
8 or the Drinking Water Reserve."

9 **SECTION 14.13.(i)** G.S. 159G-36(c) reads as rewritten:

10 "(c) Reserve Recipient Limit. – The following limits apply to ~~a~~the loan or grant types  
11 made from the Wastewater Reserve or the Drinking Water Reserve to the same local  
12 government unit or nonprofit water corporation:

- 13 (1) The amount of loans awarded for a fiscal year may not exceed three million  
14 dollars (\$3,000,000).
- 15 (2) The amount of loans awarded for three consecutive fiscal years for targeted  
16 interest rate projects may not exceed three million dollars (\$3,000,000).
- 17 (3) The amount of ~~high-unit-cost~~project grants awarded for three consecutive  
18 fiscal years may not exceed three million dollars (\$3,000,000).
- 19 (4) The amount of ~~technical assistance~~emerging/regionalization feasibility grants  
20 awarded for three consecutive fiscal years may not exceed fifty thousand  
21 dollars (\$50,000).
- 22 (5) The amount of asset inventory and assessment grants awarded for three  
23 consecutive fiscal years may not exceed one hundred fifty thousand dollars  
24 (\$150,000)."

25 **SECTION 14.13.(j)** The Division of Water Infrastructure of the Department of  
26 Environment and Natural Resources shall report to the Environmental Review Commission and  
27 the Fiscal Research Division regarding its implementation of the relative affordability of  
28 projects criteria for grants from the Wastewater Reserve or Drinking Water Reserve set forth in  
29 G.S. 159G-23(9), as amended by subsection (c) of this section, within 30 days of the adoption  
30 of the affordability criteria.

## 31 32 WATER INFRASTRUCTURE STATE MATCH SURPLUS FUNDS

33 **SECTION 14.14.** Notwithstanding G.S. 159G-22, funds appropriated in this act to  
34 the Division of Water Infrastructure for the Clean Water State Revolving Fund and the  
35 Drinking Water State Revolving Fund to provide State matching funds that are in excess of the  
36 amount required to draw down the maximum amount of federal capitalization grant funds may  
37 be used for State water and wastewater infrastructure grants awarded from the Wastewater  
38 Reserve and the Drinking Water Reserve that benefit rural and economically distressed areas of  
39 the State.

## 40 41 ENCOURAGE INTERCONNECTION OF PUBLIC WATER SYSTEMS

42 **SECTION 14.14.(a)** G.S. 130A-317 is amended by adding a new subsection to  
43 read:

44 "(g) The Department shall identify systems meeting all of the following criteria:

- 45 (1) As constructed or altered, the system appears capable of interconnectivity  
46 with another system or systems located within the same river basin, as set  
47 out in G.S. 143-215.22.
- 48 (2) The system appears to have adequate unallocated capacity to expand.
- 49 (3) Interconnectivity would promote public health, protect the environment, or  
50 ensure compliance with established drinking water rules.

1        The Department shall notify the identified systems of the potential for interconnectivity in  
2 the future. The systems so notified may discuss options for potential interconnectivity,  
3 including joint operations, regionalization, or merger. The Local Government Commission  
4 shall be copied on the notice from the Department and shall assist the systems with any  
5 questions regarding liabilities of the systems and alterations to the operational structure of the  
6 systems."

7            **SECTION 14.14A.(b)** The Commission for Public Health may adopt rules to  
8 implement G.S. 130A-317, as amended by this section.

9  
10 **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES/CLOSE**  
11 **CERTAIN SPECIAL FUNDS**

12            **SECTION 14.16.(a)** The Office of State Budget and Management, in conjunction  
13 with the Office of the State Controller and the Department of Environment and Natural  
14 Resources, shall transfer the unencumbered cash balances in the following funds as of June 30,  
15 2015, to the Department's General Fund budget and then close each of these special funds:

- 16            (1) Mining Fees (Special Fund Code 24300-2745).
- 17            (2) Mining Interest (Special Fund Code 24300-2610).
- 18            (3) Storm Water Permits (Special Fund Code 24300-2750).
- 19            (4) UST Soil Permitting (Special Fund Code 24300-2391).

20            **SECTION 14.16.(b)** G.S. 74-54.1(b) reads as rewritten:

21            "~~(b) The Mining Account is established as a nonreverting account within the~~  
22 ~~Department. Fees collected under this section shall be credited to the Mining Account-General~~  
23 ~~Fund and shall be applied to the costs of administering this Article."~~

24            **SECTION 14.16.(c)** G.S. 130A-309.17(i) is repealed.

25            **SECTION 14.16.(d)** G.S. 143-215.3A(a) reads as rewritten:

26            "(a) The Water and Air Quality Account is established as an account within the  
27 Department. Revenue in the Account shall be applied to the costs of administering the  
28 programs for which the fees were collected. Revenue credited to the Account pursuant to  
29 G.S. 105-449.43, G.S. 105-449.125, and G.S. 105-449.136 shall be used to administer the air  
30 quality program. Any funds credited to the Account from fees collected for laboratory facility  
31 certifications under G.S. 143-215.3(a)(10) that are not expended at the end of each fiscal year  
32 for the purposes for which these fees may be used under G.S. 143-215.3(a)(10) shall revert.  
33 Any other funds credited to the Account that are not expended at the end of each fiscal year  
34 shall not revert. Except for the following fees, all application fees and permit administration  
35 fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38 of this  
36 Chapter shall be credited to the Account:

- 37            (1) Fees collected under Part 2 of Article 21A and credited to the Oil or Other  
38            Hazardous Substances Pollution Protection Fund.
- 39            (2) Fees credited to the Title V Account.
- 40            (3) Repealed by Session Laws 2005-454, s. 7, effective January 1, 2006.
- 41            (4) Fees collected under G.S. 143-215.28A.
- 42            (5) Fees collected under G.S. 143-215.94C shall be credited to the Commercial  
43            Leaking Petroleum Underground Storage Tank Cleanup Fund.
- 44            (6) Fees collected under G.S. 143-215.3D for the following permits and  
45 certificates shall be credited to the General Fund for use by the Department  
46 to administer the program for which the fees were collected:
  - 47            a. Stormwater permits and certificates of general permit coverage  
48            authorized under G.S. 143-214.7.
  - 49            b. Permits to apply petroleum contaminated soil to land authorized  
50            under G.S. 143-215.1."

1           **SECTION 14.16.(e)** The transfers in subsection (a) of this section are to offset  
2 reductions in General Fund appropriations to the Department of Environment and Natural  
3 Resources for the 2015-2016 fiscal year. Fee receipts previously deposited to the funds listed in  
4 subsection (a) of this section shall be budgeted to support the programs and functions  
5 previously supported by those funds.  
6

7 **PHASEOUT OF NONCOMMERCIAL LEAKING UST FUND**

8           **SECTION 14.16A.(a)** G.S. 143-215.94B(b) reads as rewritten:

9           "(b) The Commercial Fund shall be used for the payment of the following costs up to an  
10 aggregate maximum of one million dollars (\$1,000,000) per occurrence resulting from a  
11 discharge or release of a petroleum product from a commercial underground storage tank:

- 12           (1) For discharges or releases discovered or reported between 30 June 1988 and  
13 31 December 1991 inclusive, the cleanup of environmental damage as  
14 required by G.S. 143-215.94E(a) in excess of fifty thousand dollars  
15 (\$50,000) per occurrence.
- 16           (2) For discharges or releases discovered on or after 1 January 1992 and  
17 reported between 1 January 1992 and 31 December 1993 inclusive, the  
18 cleanup of environmental damage as required by G.S. 143-215.94E(a) in  
19 excess of twenty thousand dollars (\$20,000) per occurrence.
- 20           (2a) For discharges or releases discovered and reported on or after 1 January  
21 1994 and prior to 1 January 1995, the cleanup of environmental damage as  
22 required by G.S. 143-215.94E(a) in excess of twenty thousand dollars  
23 (\$20,000) if the owner or operator (i) notifies the Department prior to 1  
24 January 1994 of its intent to permanently close the tank in accordance with  
25 applicable regulations or to upgrade the tank to meet the requirements that  
26 existing underground storage tanks must meet by 22 December 1998, (ii)  
27 commences closure or upgrade of the tank prior to 1 July 1994, and (iii)  
28 completes closure or upgrade of the tank prior to 1 January 1995.
- 29           (3) For discharges or releases reported on or after 1 January 1994, the cleanup of  
30 environmental damage as required by G.S. 143-215.94E(a) in excess of  
31 twenty thousand dollars (\$20,000) if, prior to the discharge or release, the  
32 commercial underground storage tank from which the discharge or release  
33 occurred met the performance standards applicable to tanks installed after 22  
34 December 1988 or met the requirements that existing underground storage  
35 tanks must meet by 22 December 1998.
- 36           (4) For discharges or releases reported on or after 1 January 1994 from a  
37 commercial underground storage tank that does not qualify under  
38 subdivision (2a) of this subsection or does not meet the standards in  
39 subdivision (3) of this subsection, sixty percent (60%) of the costs per  
40 occurrence of the cleanup of environmental damage as required by  
41 G.S. 143-215.94E(a) that exceeds twenty thousand dollars (\$20,000) but is  
42 not more than one hundred fifty-seven thousand five hundred dollars  
43 (\$157,500) and one hundred percent (100%) of the costs above this amount,  
44 up to the limits established in this section.
- 45           (5) Compensation to third parties for bodily injury and property damage in  
46 excess of one hundred thousand dollars (\$100,000) per occurrence.
- 47           (6) Reimbursing the State for damages or other costs incurred as a result of a  
48 loan from the Loan Fund. The per occurrence limit does not apply to  
49 reimbursements to the State under this subdivision.



- 1 (7) Recordation of residual petroleum as required by G.S. 143B-279.11 if the  
2 Commercial Fund is responsible for the payment of costs under subdivisions  
3 (1) through (4) of this subsection.
- 4 (8) The costs of a site investigation required by the Department for the purpose  
5 of determining whether a release from a tank system has occurred, whether  
6 or not the investigation confirms that a release has occurred. This  
7 subdivision shall not be construed to allow reimbursement for costs of  
8 investigations that are part of routine leak detection procedures required by  
9 statute or rule.
- 10 (9) If the owner or operator cannot be identified or fails to proceed with the  
11 cleanup.
- 12 (10) That was taken out of operation prior to 1 January 1974 if, at the time the  
13 discharge or release is discovered, neither the owner or operator owns or  
14 leases the lands on which the tank is located.
- 15 (11) Where the owner of the commercial underground storage tank is the owner  
16 only as a result of owning the land on which the commercial underground  
17 storage tank is located, the owner did not know or have reason to know that  
18 the underground storage tank was located on the property, and the land was  
19 not transferred to the owner to avoid liability for the commercial  
20 underground storage tank.
- 21 (12) Compensation to third parties for bodily injury and property damage in  
22 excess of one hundred thousand dollars (\$100,000) per occurrence caused by  
23 releases from noncommercial underground storage tanks reported to the  
24 Department prior to August 1, 2015, if the claim for compensation is made  
25 prior to July 1, 2016."

26 **SECTION 14.16A.(b)** G.S. 143-215.94D reads as rewritten:

27 **"§ 143-215.94D. Noncommercial Leaking Petroleum Underground Storage Tank**  
28 **Cleanup Fund.**

29 (a) There is established under the control and direction of the Department the  
30 Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This  
31 Noncommercial Fund shall be a nonreverting revolving fund consisting of any monies  
32 appropriated for such purpose by the General Assembly or available to it from grants, or other  
33 monies paid to it or recovered on behalf of the Noncommercial Fund.

34 (b) The Noncommercial Fund shall be used for the payment of the costs set out in  
35 subsection (b1) of this section, up to an aggregate maximum of one million dollars  
36 (\$1,000,000) per occurrence resulting from a discharge or release of a petroleum product  
37 reported to the Department prior to August 1, 2015, from:

- 38 (1) Noncommercial underground storage tanks if the discharge or release meets  
39 the minimum priority criteria for corrective action established by the  
40 Department.
- 41 ~~(2) Commercial underground storage tanks if the owner or operator cannot be~~  
42 ~~identified or fails to proceed with the cleanup.~~
- 43 ~~(3) Commercial underground storage tanks that were taken out of operation~~  
44 ~~prior to 1 January 1974 if, at the time the discharge or release is discovered,~~  
45 ~~neither the owner or operator owns or leases the lands on which the tank is~~  
46 ~~located.~~
- 47 ~~(4) Commercial underground storage tanks if the owner of the commercial~~  
48 ~~underground storage tank is the owner only as a result of owning the land on~~  
49 ~~which the commercial underground storage tank is located, the owner did~~  
50 ~~not know or have reason to know that the underground storage tank was~~

- 1                    ~~located on the property, and the land was not transferred to the owner to~~  
2                    ~~avoid liability for the commercial underground storage tank.~~
- 3            (b1)    The Noncommercial Fund shall be used for the payment of the ~~costs of~~ following  
4 costs, provided a claim for compensation is made prior to July 1, 2016:
- 5            (1)    For releases discovered or reported to the Department prior to August 1,  
6            2013, the cleanup of environmental damage as required by  
7            G.S. 143-215.94E(a).
- 8            (1a)    For releases ~~discovered or reported~~ to the Department on or after ~~August 1,~~  
9            ~~2013,~~ August 1, 2013, and prior to August 1, 2015, the cleanup of  
10            environmental damage as required by G.S.143-215.94E(a) in excess of two  
11            thousand dollars (\$2,000) or the sum of the following amounts, whichever is  
12            less:
- 13            a.        A deductible of one thousand dollars (\$1,000) per occurrence.
- 14            b.        A co-payment equal to ten percent (10%) of the costs of the cleanup  
15            of environmental damage, per occurrence.
- 16            (2)    ~~Compensation to third parties for bodily injury and property damage in~~  
17            ~~excess of one hundred thousand dollars (\$100,000) per occurrence.~~
- 18            (3)    Reimbursing the State for damages or other costs incurred as a result of a  
19            loan from the Loan Fund. The per occurrence limit does not apply to  
20            reimbursements to the State under this subdivision.
- 21            (4)    Recordation of residual petroleum as required by G.S. 143B-279.11 if the  
22            Noncommercial Fund is responsible for the payment of costs under  
23            subdivisions (1) through (3) of this subsection and subsection (b) of this  
24            section.
- 25            (b2)    The Noncommercial Fund may be used by the Department for the payment of costs  
26            necessary to render harmless any noncommercial underground storage tank from which a  
27            discharge or release has not occurred but which poses an imminent hazard to the environment if  
28            the owner or operator cannot be identified or located, or if the owner or operator fails to take  
29            action to render harmless the underground storage tank within 90 days after having been  
30            notified of the imminent hazard posed by the underground storage tank. The Secretary shall  
31            seek to recover the costs of the action from the owner or operator as provided in  
32            G.S. 143-215.94G.
- 33            (b3)    For purposes of subsection (b1) of this section, the cleanup of environmental  
34            damage includes connection of a third party to a public water system if the Department  
35            determines that connection of the third party to a public water system is a cost-effective  
36            measure, when compared to other available measures, to reduce risk to human health or the  
37            environment. A payment or reimbursement under this subsection is subject to the requirements  
38            and limitations of this section. This subsection shall not be construed to limit any right or  
39            remedy available to a third party under any other provision of law. This subsection shall not be  
40            construed to require a third party to connect to a public water system. Except as provided by  
41            this subsection, connection to a public water system does not constitute cleanup under Part 2 of  
42            this Article, G.S. 143-215.94E, G.S. 143-215.94V, any other applicable statute, or at common  
43            law.
- 44            (b4)    The Noncommercial Fund shall pay any claim made after 1 September 2001 for  
45            compensation to third parties pursuant to subdivision (2) of subsection (b1) of this section only  
46            if the owner, operator, or other party responsible for the discharge or release has complied with  
47            the requirements of G.S. 143B-279.9 and G.S. 143B-279.11, unless compliance is prohibited  
48            by another provision of law.
- 49            (c)    The Noncommercial Fund is to be available on an occurrence basis, without regard  
50            to number of occurrences associated with tanks owned or operated by the same owner or  
51            operator.

1 (d) The Noncommercial Fund shall not be used for:

2 (1) Costs incurred as a result of a discharge or release from an aboveground  
3 tank, aboveground pipe or fitting not connected to an underground storage  
4 tank, or vehicle.

5 (2) The removal or replacement of any tank, pipe, fitting or related equipment.

6 (3) Costs incurred as a result of a discharge or release of petroleum from a  
7 transmission pipeline.

8 (4) Costs intended to be paid for by the Commercial Fund.

9 (5) Costs associated with the administration of any underground storage tank  
10 program other than the program administered pursuant to this Part.

11 (6) Costs paid or reimbursed by or from any source other than the  
12 Noncommercial Fund, including, but not limited to, any payment or  
13 reimbursement made under a contract of insurance.

14 (7) Costs incurred as a result of the cleanup of environmental damage to  
15 groundwater to a more protective standard than the risk-based standard  
16 required by the Department unless the cleanup of environmental damage to  
17 groundwater to a more protective standard is necessary to resolve a claim for  
18 compensation by a third party for property damage.

19 (8) Costs in excess of those required to achieve the most cost-effective cleanup.

20 (e) The Noncommercial Fund shall be treated as a special trust fund pursuant to  
21 G.S. 147-69.2 and G.S. 147-69.3, except that interest and other income received on the Fund  
22 balance shall be treated as set forth in G.S. 147-69.1(d).

23 (f) Expired October 1, 2011, pursuant to Session Laws 2001-442, s. 8, as amended by  
24 Session Laws 2008-195, s. 11.

25 (g) The Noncommercial Fund may be used to support the administrative functions of  
26 the program for underground storage tanks under this Part and Part 2B of this Article up to the  
27 amounts allowed by law, which amounts may be changed from time to time. In the case of a  
28 legislated increase or decrease in salaries and benefits, the administrative allowance existing at  
29 the time of the increase or decrease shall be correspondingly increased or decreased an amount  
30 equal to the legislated increase or decrease in salaries and benefits.

31 (h) During each fiscal year, the Department shall use up to one hundred thousand  
32 (\$100,000) of the funds in the Noncommercial Fund to fund necessary assessment and cleanup  
33 to be conducted by the Department of discharges or releases for which a responsible party has  
34 been identified but for which the responsible party can demonstrate that undertaking the costs  
35 of assessment and cleanup will impose a severe financial hardship. Any portion of the \$100,000  
36 designated each fiscal year, which is not used during that fiscal year to address situations of  
37 severe financial hardship, shall revert to the Noncommercial Fund for the uses otherwise  
38 provided by this section. The Commission shall adopt rules to define severe financial hardship;  
39 establish criteria for assistance due to severe financial hardship pursuant to this section; and  
40 establish a process for evaluation and determinations of eligibility with respect to applications  
41 for assistance due to severe financial hardship. The Commission shall create a subcommittee of  
42 the Commission's Committee on Civil Penalty Remissions as established by G.S. 143B-282.1  
43 to render determinations of eligibility under this subsection."

44 **SECTION 14.16A.(c)** G.S. 143-215.94N(b) reads as rewritten:

45 "(b) ~~The~~ Except as otherwise specified in this Part, the provisions of this Part as they  
46 relate to costs paid from the Noncommercial Fund apply to discharges or releases without  
47 regard to the date discovered or reported; however, reimbursement of costs under  
48 G.S. 143-215.94G(d)(1), (2), (3), (3a), and (4) shall be for the full amount of the costs paid for  
49 from the Noncommercial Fund and shall not be limited pursuant to G.S. 143-215.94E(b) for  
50 discharges or releases from commercial underground storage tanks discovered or reported on or  
51 before 30 June 1988."

1           **SECTION 14.16A.(d)** G.S. 143-215.94A(6), 143-215.94B(d)(4), 143-215.94D,  
2 and 143-215.94N(b) are repealed.

3           **SECTION 14.16A.(e)** G.S. 143-215.94E reads as rewritten:

4       "**§ 143-215.94E. Rights and obligations of the owner or operator.**

5       ...

6       (b1) In the case of a discharge or release from a commercial underground storage tank  
7 where the owner and operator cannot be identified or located, or where the owner and operator  
8 fail to proceed as required by subsection (a) of this section, the following requirements apply:

9           (1) ~~if~~ if the current landowner of the land in which the commercial underground  
10 storage tank is located notifies the Department in accordance with  
11 G.S. 143-215.85 and undertakes to collect and remove the discharge or  
12 release and to restore the area affected in accordance with the requirements  
13 of this Article and applicable federal and State laws, regulations, and rules,  
14 the current landowner may elect to have the Commercial Fund pay or  
15 reimburse the current landowner for any costs described in subdivisions (1),  
16 (2), (2a), (3), and (4) of G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) that  
17 exceed the amounts for which the owner or operator is responsible under that  
18 subsection.

19           a. The current landowner is not eligible for payment or reimbursement  
20 until the current landowner has paid the costs described in  
21 subdivisions (1), (2), (2a), (3), and (4) of G.S. 143-215.94B(b) or  
22 G.S. 143-215.94B(b1) for which the owner or operator is  
23 responsible.

24           b. Eligibility for reimbursement under this subsection may be  
25 transferred from a current landowner who has paid the costs  
26 described in subdivisions (1), (2), (2a), (3), and (4) of  
27 G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) to a subsequent  
28 landowner.

29           The current landowner shall submit documentation of all expenditures as  
30 required by G.S. 143-215.94G(b).

31           (2) The sum of payments from the Commercial Fund and from all other sources  
32 shall not exceed one million dollars (\$1,000,000) per discharge or release  
33 except as provided in G.S. 143-215.94B(b2).

34           (3) This subsection shall not be construed to require a current landowner to  
35 cleanup a discharge or release of petroleum from an underground storage  
36 tank for which the current landowner is not otherwise responsible. This  
37 subsection does not alter any right, duty, obligation, or liability of a current  
38 landowner, former landowner, subsequent landowner, owner, or operator  
39 under other provisions of law.

40           (4) This subsection shall not be construed to limit the authority of the  
41 Department to engage in a cleanup under this Article or any other provision  
42 of law. In the event that an owner or operator is subsequently identified or  
43 located, the Secretary shall seek reimbursement as provided in  
44 G.S. 143-215.94G(d). ~~The current landowner shall submit documentation of~~  
45 ~~all expenditures as required by G.S. 143-215.94G(b).~~

46           ~~(c) In the case of a discharge or release from a noncommercial underground storage~~  
47 ~~tank or a commercial underground storage tank eligible for the Noncommercial Fund in~~  
48 ~~accordance with G.S. 143-215.94D(b), where the owner or operator has been identified and has~~  
49 ~~proceeded with the cleanup, the owner or operator may elect to have the Noncommercial Fund~~  
50 ~~pay or reimburse the owner or operator for any costs described in G.S. 143-215.94D(b1) up to a~~  
51 ~~maximum of one million dollars (\$1,000,000) per discharge or release.~~

1       ~~(e1) In the case of a discharge or release from a noncommercial underground storage~~  
2 ~~tank where the owner and operator cannot be identified or located, or where the owner and~~  
3 ~~operator fail to proceed as required by subsection (a) of this section, if the current landowner of~~  
4 ~~the land in which the noncommercial underground storage tank is located notifies the~~  
5 ~~Department in accordance with G.S. 143-215.85 and undertakes to collect and remove the~~  
6 ~~discharge or release and to restore the area affected in accordance with the requirements of this~~  
7 ~~Article and applicable federal and State laws, regulations, and rules, the current landowner may~~  
8 ~~elect to have the Noncommercial Fund pay or reimburse the current landowner for any costs~~  
9 ~~described in G.S. 143-215.94D(b1). Eligibility for reimbursement under this subsection may be~~  
10 ~~transferred to a subsequent landowner from a current landowner. The sum of payments from~~  
11 ~~the Noncommercial Fund and from all other sources shall not exceed one million dollars~~  
12 ~~(\$1,000,000) per discharge or release. This subsection shall not be construed to require a~~  
13 ~~current landowner to clean up a discharge or release of petroleum from an underground storage~~  
14 ~~tank for which the current landowner is not otherwise responsible. This subsection does not~~  
15 ~~alter any right, duty, obligation, or liability of a current landowner, former landowner,~~  
16 ~~subsequent landowner, owner, or operator under other provisions of law. This subsection shall~~  
17 ~~not be construed to limit the authority of the Department to engage in a cleanup under this~~  
18 ~~Article or any other provision of law. The current landowner shall submit documentation of all~~  
19 ~~expenditures as required by G.S. 143-215.94G(b).~~

20       ...

21       (e1) The Department may contract for any services necessary to evaluate any claim for  
22 reimbursement or compensation from either the Commercial Fund or the Noncommercial Fund,  
23 may contract for any expert witness or consultant services necessary to defend any decision to  
24 pay or deny any claim for reimbursement, and may pay the cost of these services from the fund  
25 against which the claim is made; provided that in any fiscal year the Department shall not  
26 expend from either fund more than one percent (1%) of the unobligated balance of the fund on  
27 30 June of the previous fiscal year. The cost of contractual services to evaluate a claim or for  
28 expert witness or consultant services to defend a decision with respect to a claim shall be  
29 included as costs under G.S. 143-215.94B(b), 143-215.94B(b1), and 143-215.94D(b1).

30       ...

- 31       (e4) (1) If the owner or operator takes initial steps to collect and remove the  
32 discharge or release as required by the Department and completes the initial  
33 assessment required to determine degree of risk, the owner or operator shall  
34 not be subject to any violation or penalty for any failure to proceed with  
35 further assessment or cleanup under G.S. 143-215.84 or this section before  
36 the owner or operator is authorized to proceed with further assessment or  
37 cleanup as provided in subsection (e5) of this section. The lack of  
38 availability of funds in the Commercial Fund or the Noncommercial Fund  
39 shall not relieve an owner or operator of responsibility to immediately  
40 undertake to collect and remove the discharge or release or to conduct any  
41 assessment or cleanup ordered by the Department or be a defense against  
42 any violations and penalties issued to the owner or operator for failure to  
43 conduct required assessment or cleanup.
- 44       (2) The Department shall establish the degree of risk to human health and the  
45 environment posed by a discharge or release of petroleum from a  
46 commercial underground storage tank and shall determine a schedule for  
47 further assessment and cleanup that is based on the degree of risk to human  
48 health and the environment posed by the discharge or release and that gives  
49 priority to the assessment and cleanup of discharges and releases that pose  
50 the greatest risk. If any of the costs of assessment and cleanup of the  
51 discharge or release from a commercial underground storage tank are

1 eligible to be paid or reimbursed from the Commercial Fund, the Department  
2 shall also consider the availability of funds in the Commercial Fund and the  
3 order in which the discharge or release was reported in determining the  
4 schedule.

5 (3) ~~The Department shall establish the degree of risk to human health and the  
6 environment posed by a discharge or release of petroleum from a  
7 noncommercial underground storage tank and shall determine a schedule for  
8 further assessment and cleanup that is based on the degree of risk to human  
9 health and the environment posed by the discharge or release and that gives  
10 priority to the assessment and cleanup of discharges and releases that pose  
11 the greatest risk. If any of the costs of assessment or cleanup of the discharge  
12 or release from a noncommercial underground storage tank are eligible to be  
13 paid or reimbursed from the Noncommercial Fund, the Department shall  
14 also consider the availability of funds in the Noncommercial Fund and the  
15 order in which the discharge or release was reported in determining the  
16 schedule.~~

17 (4) The Department may revise the schedules that apply to the assessment and  
18 cleanup of any discharge or release at any time based on its reassessment of  
19 any of the foregoing factors.

20 ...

21 (f1) Any person seeking payment or reimbursement from ~~either the Commercial Fund or~~  
22 ~~the Noncommercial Fund~~ shall certify to the Department that the costs to be paid or reimbursed  
23 by the Commercial Fund ~~or the Noncommercial Fund~~ are not eligible to be paid or reimbursed  
24 by or from any other source, including any contract of insurance. If any cost paid or reimbursed  
25 by the Commercial Fund ~~or the Noncommercial Fund~~ is eligible to be paid or reimbursed by or  
26 from another source, that cost shall not be paid from, or if paid shall be repaid to, the  
27 Commercial Fund ~~or the Noncommercial Fund~~. As used in this Part, the phrase "any other  
28 source including any contract of insurance" does not include self-insurance.

29 ...

30 (j) An owner, operator, or landowner shall request that the Department determine  
31 whether any of the costs of assessment and cleanup of a discharge or release from a petroleum  
32 underground storage tank are eligible to be paid or reimbursed from either the Commercial  
33 Fund ~~or the Noncommercial Fund~~ within one year after completion of any task that is eligible  
34 to be paid or reimbursed under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1).

35 (k) An owner, operator, or landowner shall request payment or reimbursement from the  
36 Commercial Fund ~~or the Noncommercial Fund~~ for the cost of a task within one year after the  
37 completion of the task. The Department shall deny any request for payment or reimbursement  
38 of the cost of any task that would otherwise be eligible to be paid or reimbursed if the request is  
39 not received within 12 months after the later of the date on which the:

40 (1) Department determines that the cost is eligible to be paid or reimbursed.

41 (2) Task is completed."

42 **SECTION 14.16A.(f)** G.S. 143-215.94G reads as rewritten:

43 **"§ 143-215.94G. Authority of the Department to engage in cleanups; actions for fund**  
44 **reimbursement.**

45 (a) The Department may use staff, equipment, or materials under its control or provided  
46 by other cooperating federal, State, or local agencies and may contract with any agent or  
47 contractor it deems appropriate to investigate a release, to develop and implement a cleanup  
48 plan, to provide interim alternative sources of drinking water to third parties, and to pay the  
49 initial costs for providing permanent alternative sources of drinking water to third parties, and  
50 shall pay the costs resulting from ~~commercial underground storage tanks~~ from the Commercial  
51 Fund and shall pay the costs resulting from ~~noncommercial underground storage tanks~~ from the

1 ~~Noncommercial Fund~~, Fund whenever there is a discharge or release of petroleum from any of  
2 the following:

- 3 (1) A noncommercial underground storage tank.
- 4 (2) An underground storage tank whose owner or operator cannot be identified  
5 or located.
- 6 (3) An underground storage tank whose owner or operator fails to proceed as  
7 required by G.S. 143-215.94E(a).
- 8 (4) A commercial underground storage tank taken out of operation prior to 1  
9 January 1974 if, when the discharge or release is discovered, neither the  
10 owner nor operator owns or leases the land on which the underground  
11 storage tank is located.

12 (a1) Every State agency shall provide to the Department to the maximum extent feasible  
13 such staff, equipment, and materials as may be available and useful to the development and  
14 implementation of a cleanup program.

15 (a2) The cost of any action authorized under subsection (a) of this section shall be paid,  
16 to the extent funds are available, from the following sources in the order listed:

- 17 (1) Any funds to which the State is entitled under any federal program providing  
18 for the cleanup of petroleum discharges or releases from underground  
19 storage tanks, including, but not limited to, the Leaking Underground  
20 Storage Tank Trust Fund established pursuant to 26 U.S.C. § 4081 and 42  
21 U.S.C. § 6991b(h).
- 22 (2) The Commercial ~~Fund or the Noncommercial~~ Fund.

23 (a3) Expired October 1, 2011, pursuant to Session Laws 2001-442, s. 8, as amended by  
24 Session Laws 2008-195, s. 11.

25 (b) Whenever the discharge or release of a petroleum product is from a commercial  
26 underground storage tank, the Department may supervise the cleanup of environmental damage  
27 required by G.S. 143-215.94E(a). If the owner or operator elects to have the Commercial Fund  
28 reimburse or pay for any costs allowed under subsection (b) or (b1) of G.S. 143-215.94B, the  
29 Department shall require the owner or operator to submit documentation of all expenditures  
30 claimed for the purposes of establishing that the owner or operator has spent the amounts  
31 required to be paid by the owner or operator pursuant to and in accordance with  
32 G.S. 143-215.94E(b). The Department shall allow credit for all expenditures that the  
33 Department determines to be reasonable and necessary. The Department may not pay for any  
34 costs for which the Commercial Fund was established until the owner or operator has paid the  
35 amounts specified in G.S. 143-215.94E(b).

36 (c) The Secretary shall keep a record of all expenses incurred for the services of State  
37 personnel and for the use of the State's equipment and material.

38 (d) The Secretary shall seek reimbursement through any legal means available, for:

- 39 (1) Any costs not authorized to be paid from ~~either the Commercial or the~~  
40 ~~Noncommercial~~ Fund;
- 41 (2) The amounts provided for in G.S. 143-215.94B(b) or G.S. 143-215.94B(b1)  
42 required to be paid for by the owner or operator pursuant to  
43 G.S. 143-215.94E(b) where the owner or operator of a commercial  
44 underground storage tank is later identified or located;
- 45 (3) The amounts provided for in G.S. 143-215.94B(b) or G.S. 143-215.94B(b1)  
46 required to be paid for by the owner or operator pursuant to  
47 G.S. 143-215.94E(b) where the owner or operator of a commercial  
48 underground storage tank failed to proceed as required by  
49 G.S. 143-215.94E(a);
- 50 (3a) The amounts provided for by G.S. 143-215.94B(b)(5) required to be paid by  
51 the owner or operator to third parties for the cost of providing interim

1 alternative sources of drinking water to third parties and the initial cost of  
2 providing permanent alternative sources of drinking water to third parties;

3 (4) Any funds due under G.S. 143-215.94E(g); and

4 (5) Any funds to which the State is entitled under any federal program providing  
5 for the cleanup of petroleum discharges or releases from underground  
6 storage tanks; [and]

7 (6) The amounts provided for in G.S. 143-215.94B(b5) and  
8 G.S. 143-215.94D(b2).

9 (e) In the event that a civil action is commenced to secure reimbursement pursuant to  
10 subdivisions (1) through (4) of subsection (d) of this section, the Secretary may recover, in  
11 addition to any amount due, the costs of the action, including but not limited to reasonable  
12 attorney's fees and investigation expenses. Any monies received or recovered as reimbursement  
13 shall be paid into the appropriate fund or other source from which the expenditures were made.

14 ~~(f) In the event that a recovery equal to or in excess of the amounts required to be paid  
15 for by the owner or operator pursuant to G.S. 143-215.94E(b) is recovered pursuant to  
16 subdivisions (2) and (3) of subsection (d) of this section for the costs described in  
17 G.S. 143-215.94B(b) or G.S. 143-215.94B(b1), the Department shall transfer funds from the  
18 Commercial Fund that would have been paid from the Commercial Fund pursuant to subsection  
19 (b) or (b2) of G.S. 143-215.94B if the owner or operator had proceeded with the cleanup, but  
20 which were paid from the Noncommercial Fund, into the Noncommercial Fund.~~

21 (g) If the Department paid or reimbursed costs that are not authorized to be paid or  
22 reimbursed under G.S. 143-215.94B or G.S. 143-215.94D as a result of a misrepresentation by  
23 an agent who acted on behalf of an owner, operator, or landowner, the Department shall first  
24 seek reimbursement, pursuant to subdivision (1) of subsection (d) of this section, from the  
25 agent of monies paid to or retained by the agent.

26 (h) The Department shall take administrative action to recover costs or bring a civil  
27 action pursuant to subdivision (1) of subsection (d) of this section to seek reimbursement of  
28 costs in accordance with the time limits set out in this subsection.

29 (1) The Department shall take administrative action to recover costs or bring a  
30 civil action to seek reimbursement of costs that are not authorized to be paid  
31 from the Commercial Fund under subdivision (1), (2), or (3) of  
32 G.S. 143-215.94B(d) ~~or from the Noncommercial Fund under subdivision  
33 (1), (2), or (3) of G.S. 143-215.94D(d) within five years after payment.~~

34 (2) The Department shall take administrative action to recover costs or bring a  
35 civil action to seek reimbursement of costs other than those described in  
36 subdivision (1) of this subsection within three years after payment.

37 (3) Notwithstanding the time limits set out in subdivisions (1) and (2) of this  
38 subsection, the Department may take administrative action to recover costs  
39 or bring a civil action to seek reimbursement of costs paid as a result of  
40 fraud or misrepresentation at any time.

41 (i) An administrative action or civil action that is not commenced within the time  
42 allowed by subsection (h) of this section is barred.

43 (j) Except with the consent of the claimant, the Department may not withhold payment  
44 or reimbursement of costs that are authorized to be paid from the Commercial Fund ~~or the  
45 Noncommercial Fund~~ in order to recover any other costs that are in dispute unless the  
46 Department is authorized to withhold payment by a final decision of the Commission pursuant  
47 to G.S. 150B-36 or an order or final decision of a court."

48 **SECTION 14.16A.(g)** G.S. 143-215.94J reads as rewritten:

49 **"§ 143-215.94J. Limitation of liability of the State of North Carolina.**



1 (a) No claim filed against ~~either the Commercial Fund or the Noncommercial Fund~~  
2 shall be paid except from assets of the respective fund as provided for in this Part or as may  
3 otherwise be authorized by law.

4 (b) This Part shall not be construed to obligate the General Assembly to make any  
5 appropriation to implement the provisions of this Part; nor shall it be construed to obligate the  
6 Secretary to take any action pursuant to this Part for which funds are not available from  
7 appropriations or otherwise.

8 (c) The Secretary may budget anticipated receipts as needed to implement this Part.

9 ~~(d) Should the Secretary find that the Noncommercial Fund balance is insufficient to~~  
10 ~~satisfy all claims and other obligations of the Noncommercial Fund incurred pursuant to this~~  
11 ~~Part, the Secretary may transfer funds which would otherwise revert to the General Fund to the~~  
12 ~~Noncommercial Fund in order to meet such claims and obligations.~~

13 (e) If at any time ~~either the~~ fund balance is insufficient to pay all valid claims against it,  
14 the claims shall be paid in full in the order in which they are finally determined. The Secretary  
15 may retain not more than five hundred thousand dollars (\$500,000) in the ~~Noncommercial~~  
16 Commercial Fund as a contingency reserve and not apply the reserve to the claims. The  
17 Department may use the contingency reserve to conduct cleanups in accordance with  
18 G.S. 143-215.94G when an imminent hazard poses a threat to human health or to significant  
19 natural resources."

20 **SECTION 14.16A.(h)** G.S. 143-215.94M reads as rewritten:

21 "**§ 143-215.94M. Reports.**

22 (a) The Secretary shall present an annual report to the Environmental Review  
23 Commission, the Fiscal Research Division, the Senate Appropriations Subcommittee on  
24 Natural and Economic Resources, and the House Appropriations Subcommittee on Natural and  
25 Economic Resources which shall include at least the following:

- 26 (1) A list of all discharges or releases of petroleum from underground storage  
27 tanks.
- 28 ~~(2) A list of all cleanups requiring State funding through the Noncommercial~~  
29 ~~Fund and a comprehensive budget to complete such cleanups.~~
- 30 (3) A list of all cleanups undertaken by tank owners or operators and the status  
31 of these cleanups.
- 32 (4) A statement of receipts and disbursements for ~~both the Commercial Fund~~  
33 ~~and the Noncommercial Fund.~~
- 34 (5) A statement of all claims against ~~both the Commercial Fund and the~~  
35 ~~Noncommercial Fund~~, including claims paid, claims denied, pending claims,  
36 anticipated claims, and any other obligations.
- 37 (6) The adequacy of ~~both the Commercial Fund and the Noncommercial Fund~~ to  
38 carry out the purposes of this Part together with any recommendations as to  
39 measures that may be necessary to assure the continued solvency of the  
40 ~~Commercial Fund and the Noncommercial Fund.~~
- 41 (7) Repealed by Session Laws 2012-200, s. 23, effective August 1, 2012.

42 (b) The report required by this section shall be made by the Secretary on or before  
43 November 1 of each year."

44 **SECTION 14.16A.(i)** Subsections (d) through (h) of this section become effective  
45 December 31, 2016. The balance remaining in the Noncommercial Leaking Petroleum  
46 Underground Storage Tank Cleanup Fund and any outstanding requests for payment or  
47 reimbursement that have been deemed eligible by the Department prior to that date are  
48 transferred to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.  
49 The Revisor of Statutes may conform names and titles changed by this section, and may correct  
50 statutory references as required by this section, throughout the General Statutes. In making the

1 changes authorized by this section, the Revisor may also adjust subject and verb agreement and  
2 the placement of conjunctions.

## 3 4 ENVIRONMENTAL ASSESSMENT METHODOLOGY

5 SECTION 14.19. The Department of Environment and Natural Resources shall  
6 review and revise its procedures and rate tables for reimbursement of soil assessment activities  
7 in order to facilitate the use of the Ultra Violet Fluorescence (UVF) test method as a substitute  
8 for US EPA Method 8015 for soil assessment and petroleum contamination delineation  
9 activities, where the substitution would (i) not violate federal law or regulations, (ii) provide  
10 equivalent accuracy and quality of results, and (iii) result in appreciable cost savings.

## 11 12 LANDFILL CHANGES

13 SECTION 14.20.(a) G.S. 130A-294 reads as rewritten:

### 14 "§ 130A-294. Solid waste management program.

15 (a) The Department is authorized and directed to engage in research, conduct  
16 investigations and surveys, make inspections and establish a statewide solid waste management  
17 program. In establishing a program, the Department shall have authority to:

18 ...

- 19 (4) a. Develop a permit system governing the establishment and operation  
20 of solid waste management facilities. A landfill with a disposal area  
21 of 1/2 acre or less for the on-site disposal of land clearing and inert  
22 debris is exempt from the permit requirement of this section and shall  
23 be governed by G.S. 130A-301.1. Demolition debris from the  
24 decommissioning of manufacturing buildings, including electric  
25 generating stations, that is disposed of on the same site as the  
26 decommissioned buildings, is exempt from the permit requirement of  
27 this section and rules adopted pursuant to this section and shall be  
28 governed by G.S. 130A-301.3. The Department shall not approve an  
29 application for a new permit, ~~the renewal of a permit,~~ major permit  
30 modification, or a substantial amendment to a permit for a sanitary  
31 landfill, excluding demolition landfills as defined in the rules of the  
32 Commission, except as provided in subdivisions (3) and (4) of  
33 subsection (b1) of this section. No permit shall be granted for a solid  
34 waste management facility having discharges that are point sources  
35 until the Department has referred the complete plans and  
36 specifications to the Commission and has received advice in writing  
37 that the plans and specifications are approved in accordance with the  
38 provisions of G.S. 143-215.1. In any case where the Department  
39 denies a permit for a solid waste management facility, it shall state in  
40 writing the reason for denial and shall also state its estimate of the  
41 changes in the applicant's proposed activities or plans that will be  
42 required for the applicant to obtain a permit.

43 ...

44 (a2) Permits for sanitary landfills and transfer stations shall be issued for ~~(i) a design and~~  
45 ~~operation phase of five years or (ii) a design and operation phase of 10 years.~~ A permit issued  
46 ~~for a design and operation phase of 10 years shall be subject to a limited review within five~~  
47 ~~years of the issuance date.~~ the life-of-site of the facility unless revoked as otherwise provided  
48 under this Article or upon the expiration of any local government franchise required for the  
49 facility pursuant to subsection (b1) of this section. For purposes of this section, "life-of-site"  
50 means the period from the initial receipt of solid waste at the facility until the Department  
51 approves final closure of the facility. Permits issued pursuant to this subsection shall take into

1 account the duration of any permits previously issued for the facility and the remaining  
2 capacity at the facility.

3 (a3) Each permit for a sanitary landfill and transfer station shall have a limited review of  
4 the permit five years after issuance of the initial permit and at five-year intervals thereafter until  
5 expiration of the permit. The limited review includes review of the operational activities at the  
6 facility for the preceding time period, as well as future operational plans, financial assurance  
7 cost estimates, environmental monitoring plans, closure plans, post-closure plans, and any other  
8 applicable plans for the facility. Whenever such review is undertaken, the Department may  
9 modify the permit to include additional limitations, standards, or conditions when the technical  
10 limitations, standards, or conditions on which the original permit was based have been changed  
11 by statute or rule. If, upon such review, the Department finds that repeated material or  
12 substantial violations at the sanitary landfill render operation of the facility a danger to human  
13 health, safety, and welfare, or the environment, the Department shall modify or revoke the  
14 permit. Parties aggrieved by a final decision of the Department pursuant to this subsection may  
15 appeal the decision as provided under Article 3 of Chapter 150B of the General Statutes.

16 (b) The Commission shall adopt and the Department shall enforce rules to implement a  
17 comprehensive statewide solid waste management program. The rules shall be consistent with  
18 applicable State and federal law; and shall be designed to protect the public health, safety, and  
19 welfare; preserve the environment; and provide for the greatest possible conservation of  
20 cultural and natural resources. Rules for the establishment, location, operation, maintenance,  
21 use, discontinuance, recordation, post-closure care of solid waste management facilities also  
22 shall be based upon recognized public health practices and procedures, including applicable  
23 epidemiological research and studies; hydrogeological research and studies; sanitary  
24 engineering research and studies; and current technological development in equipment and  
25 methods. The rules shall not apply to the management of solid waste that is generated by an  
26 individual or individual family or household unit on the individual's property and is disposed of  
27 on the individual's property.

28 (b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this  
29 section, a "substantial amendment" means either:

30 a. An increase of ten percent (10%) or more in:

- 31 1. The population of the geographic area to be served by the  
32 sanitary landfill;
- 33 2. The quantity of solid waste to be disposed of in the sanitary  
34 landfill; or
- 35 3. The geographic area to be served by the sanitary landfill.

36 b. A change in the categories of solid waste to be disposed of in the  
37 sanitary landfill or any other change to the application for a permit or  
38 to the permit for a sanitary landfill that the Commission or the  
39 Department determines to be substantial.

40 (2) A person who intends to apply for a new permit, ~~the renewal of a permit,~~  
41 major permit modification, or a substantial amendment to a permit for a  
42 sanitary landfill shall obtain, prior to applying for a permit, a franchise for  
43 the operation of the sanitary landfill from each local government having  
44 jurisdiction over any part of the land on which the sanitary landfill and its  
45 appurtenances are located or to be located. A local government may adopt a  
46 franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise  
47 granted for a sanitary landfill shall be granted for the life-of-site of the  
48 landfill and shall include all of the following:

- 49 a. A statement of the population to be served, including a description of  
50 the geographic area.
- 51 b. A description of the volume and characteristics of the waste stream.

- 1 c. A projection of the useful life of the sanitary landfill.  
2 d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.  
3 e. The procedures to be followed for governmental oversight and  
4 regulation of the fees and rates to be charged by facilities subject to  
5 the franchise for waste generated in the jurisdiction of the franchising  
6 entity.  
7 f. A facility plan for the sanitary landfill that shall include the  
8 boundaries of the proposed facility, proposed development of the  
9 facility ~~site in five-year operational phases, site,~~ the boundaries of all  
10 waste disposal units, final elevations and capacity of all waste  
11 disposal units, the amount of waste to be received per day in tons, the  
12 total waste disposal capacity of the sanitary landfill in tons, a  
13 description of environmental controls, and a description of any other  
14 waste management activities to be conducted at the facility. In  
15 addition, the facility plan shall show the proposed location of soil  
16 borrow areas, leachate facilities, and all other facilities and  
17 infrastructure, including ingress and egress to the facility.  
18

- 19 ...  
20 (4) An applicant for a new permit, ~~the renewal of a permit, major permit~~  
21 modification, or a substantial amendment to a permit for a sanitary landfill  
22 shall request each local government having jurisdiction over any part of the  
23 land on which the sanitary landfill and its appurtenances are located or to be  
24 located to issue a determination as to whether the local government has in  
25 effect a franchise, zoning, subdivision, or land-use planning ordinance  
26 applicable to the sanitary landfill and whether the proposed sanitary landfill,  
27 or the existing sanitary landfill as it would be operated under the ~~renewed or~~  
28 major permit modification or substantially amended permit, would be  
29 consistent with the applicable ordinances. The request to the local  
30 government shall be accompanied by a copy of the permit application and  
31 shall be delivered to the clerk of the local government personally or by  
32 certified mail. In order to serve as a basis for a determination that an  
33 application for a new permit, ~~the renewal of a permit, major permit~~  
34 modification, or a substantial amendment to a permit for a sanitary landfill is  
35 consistent with a zoning, subdivision, or land-use planning ordinance, an  
36 ordinance or zoning classification applicable to the real property designated  
37 in the permit application shall have been in effect not less than 90 days prior  
38 to the date the request for a determination of consistency is delivered to the  
39 clerk of the local government. The determination shall be verified or  
40 supported by affidavit signed by the chief administrative officer, the chief  
41 administrative officer's designee, clerk, or other official designated by the  
42 local government to make the determination and, if the local government  
43 states that the sanitary landfill as it would be operated under the ~~new,~~  
44 ~~renewed,~~ new permit, major permit modification, or substantially amended  
45 permit is inconsistent with a franchise, zoning, subdivision, or land-use  
46 planning ordinance, shall include a copy of the ordinance and the specific  
47 reasons for the determination of inconsistency. A copy of the determination  
48 shall be provided to the applicant when the determination is submitted to the  
49 Department. The Department shall not act upon an application for a permit  
50 under this section until it has received a determination from each local  
51 government requested to make a determination by the applicant; provided  
that if a local government fails to submit a determination to the Department

1 as provided by this subsection within 15 days after receipt of the request, the  
 2 Department shall proceed to consider the permit application without regard  
 3 to a franchise, local zoning, subdivision, and land-use planning ordinances.  
 4 Unless the local government makes a subsequent determination of  
 5 consistency with all ordinances cited in the determination or the sanitary  
 6 landfill as it would be operated under the ~~new, renewed, new permit, major~~  
 7 permit modification, or substantially amended permit is determined by a  
 8 court of competent jurisdiction to be consistent with the cited ordinances, the  
 9 Department shall attach as a condition of the permit a requirement that the  
 10 applicant, prior to construction or operation of the sanitary landfill under the  
 11 permit, comply with all lawfully adopted local ordinances cited in the  
 12 determination that apply to the sanitary landfill. This subsection shall not be  
 13 construed to affect the validity of any lawfully adopted franchise, local  
 14 zoning, subdivision, or land-use planning ordinance or to affect the  
 15 responsibility of any person to comply with any lawfully adopted franchise,  
 16 local zoning, subdivision, or land-use planning ordinance. This subsection  
 17 shall not be construed to limit any opportunity a local government may have  
 18 to comment on a permit application under any other law or rule. This  
 19 subsection shall not apply to any facility with respect to which local  
 20 ordinances are subject to review under either G.S. 104E-6.2 or  
 21 G.S. 130A-293.

- 22 (5) As used in this subdivision, "coal-fired generating unit" and "investor-owned  
 23 public utility" have the same meaning as in G.S. 143-215.107D(a).  
 24 Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no  
 25 franchise shall be required for a sanitary landfill used only to dispose of  
 26 waste generated by a coal-fired generating unit that is owned or operated by  
 27 an investor-owned utility subject to the requirements of G.S. 143-215.107D.

28 ...."

29 **SECTION 14.20.(b)** No later than July 1, 2016, the Environmental Management  
 30 Commission shall adopt rules to allow applicants for permits for sanitary landfills to apply for a  
 31 permit for the life-of-site of the facility. No later than July 1, 2016, the Commission shall also  
 32 adopt rules to allow applicants for permits for transfer stations to apply for a permit to construct  
 33 and operate a transfer station for the life-of-site of the station.

34 **SECTION 14.20.(c)** G.S. 130A-295.8 reads as rewritten:

35 **"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

36 (a) The Solid Waste Management Account is established as a nonreverting account  
 37 within the Department. All fees collected under this section shall be credited to the Account  
 38 and shall be used to support the solid waste management program established pursuant to  
 39 G.S. 130A-294.

40 (b) As used in this section:

41 (1) "Major permit modification" means either of the following:

42 a. ~~an~~ An application for any change to the approved engineering plans  
 43 for a sanitary landfill or transfer station permitted for a ~~10-year~~  
 44 life-of-site design capacity that does not constitute a "permit  
 45 amendment," "new permit," or "permit modification."

46 b. An application for a permit to be issued pursuant to  
 47 G.S. 130A-294(a2), which is issued for a duration of less than a  
 48 facility's life-of-site based upon permits previously issued to a  
 49 facility.

50 (1a) "New permit" means any of the following:

- 1 a. An application for a permit for a solid waste management facility  
2 that has not been previously permitted by the Department. The term  
3 includes one site suitability review, the initial permit to construct,  
4 and one permit to ~~operate the constructed portion of a phase included~~  
5 ~~in the permit to construct.~~operate.
- 6 b. An application that proposes to expand the boundary of a permitted  
7 waste management facility for the purpose of expanding the  
8 permitted activity.
- 9 c. An application that includes a proposed expansion to the boundary of  
10 a waste disposal unit within a permitted solid waste management  
11 facility.
- 12 d. An application for a substantial amendment to a solid waste permit,  
13 as defined in G.S. 130A-294.
- 14 (2) "Permit amendment" means any of the following:
- 15 a. ~~An application for a permit to construct and one permit to operate for~~  
16 ~~the second and subsequent phases of landfill development described~~  
17 ~~in the approved facility plan for a permitted solid waste management~~  
18 ~~facility.~~
- 19 b. An application for the five-year renewal of a permit for a permitted  
20 solid waste management facility or for a permit review of a permitted  
21 solid waste management facility. This sub-subdivision shall not  
22 apply to sanitary landfills or transfer stations.
- 23 c. Any application that proposes a change in ownership or corporate  
24 structure of a permitted solid waste management facility. This  
25 sub-subdivision shall not apply to sanitary landfills or transfer  
26 stations.
- 27 (3) "Permit modification" means any of the following:
- 28 a. An application for any change to the plans approved in a permit for a  
29 solid waste management facility that does not constitute a "permit  
30 amendment" or a "new permit". This sub-subdivision shall not apply  
31 to sanitary landfills or transfer stations.
- 32 b. ~~A second or subsequent permit to operate for a constructed portion of~~  
33 ~~a phase included in the permit to construct.~~
- 34 c. An application for a five-year limited review of a ~~10-year life-of-site~~  
35 permit, as required by ~~G.S. 130A-294(a2),~~ G.S. 130A-294(a3),  
36 including review of the ~~operations plan, operational activities at the~~  
37 ~~facility for the preceding time period, as well as future operational~~  
38 ~~plans, closure plan, plans, post-closure plan, plans, financial~~  
39 assurance cost estimates, environmental monitoring plans, and any  
40 other applicable plans for the facility.
- 41 (4) "Ownership modification" means any application that proposes a change in  
42 ownership or corporate structure of a permitted sanitary landfill or transfer  
43 station.
- 44 (e) ~~An applicant for a permit shall pay an application fee upon submission of an~~  
45 ~~application according to the following schedule:~~
- 46 (1) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~  
47 ~~solid waste, New Permit (Five Year) — \$25,000.~~
- 48 (1a) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~  
49 ~~solid waste, New Permit (Ten Year) — \$38,500.~~
- 50 (2) ~~Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~  
51 ~~solid waste, Amendment (Five Year) — \$15,000.~~

- 1           (2a)   Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
2           solid waste, Amendment (Ten Year) — \$28,500.
- 3           (3)     Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
4           solid waste, Modification (Five Year) — \$1,500.
- 5           (3a)   Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
6           solid waste, Major Modification (Ten Year) — \$7,500.
- 7           (4)     Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
8           waste, New Permit (Five Year) — \$50,000.
- 9           (4a)   Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
10          waste, New Permit (Ten Year) — \$77,000.
- 11          (5)     Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
12          waste, Amendment (Five Year) — \$30,000.
- 13          (5a)   Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
14          waste, Amendment (Ten Year) — \$57,000.
- 15          (6)     Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
16          waste, Modification (Five Year) — \$3,000.
- 17          (6a)   Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
18          waste, Major Modification (Ten Year) — \$15,000.
- 19          (7)     Construction and Demolition Landfill accepting less than 100,000 tons/year  
20          of solid waste, New Permit (Five Year) — \$15,000.
- 21          (7a)   Construction and Demolition Landfill accepting less than 100,000 tons/year  
22          of solid waste, New Permit (Ten Year) — \$22,500.
- 23          (8)     Construction and Demolition Landfill accepting less than 100,000 tons/year  
24          of solid waste, Amendment (Five Year) — \$9,000.
- 25          (8a)   Construction and Demolition Landfill accepting less than 100,000 tons/year  
26          of solid waste, Amendment (Ten Year) — \$16,500.
- 27          (9)     Construction and Demolition Landfill accepting less than 100,000 tons/year  
28          of solid waste, Modification (Five Year) — \$1,500.
- 29          (9a)   Construction and Demolition Landfill accepting less than 100,000 tons/year  
30          of solid waste, Major Modification (Ten Year) — \$4,500.
- 31          (10)   Construction and Demolition Landfill accepting 100,000 tons/year or more  
32          of solid waste, New Permit (Five Year) — \$30,000.
- 33          (10a)  Construction and Demolition Landfill accepting 100,000 tons/year or more  
34          of solid waste, New Permit (Ten Year) — \$46,000.
- 35          (11)   Construction and Demolition Landfill accepting 100,000 tons/year or more  
36          of solid waste, Amendment (Five Year) — \$18,500.
- 37          (11a)  Construction and Demolition Landfill accepting 100,000 tons/year or more  
38          of solid waste, Amendment (Ten Year) — \$34,500.
- 39          (12)   Construction and Demolition Landfill accepting 100,000 tons/year or more  
40          of solid waste, Modification (Five Year) — \$2,500.
- 41          (12a)  Construction and Demolition Landfill accepting 100,000 tons/year or more  
42          of solid waste, Major Modification (Ten Year) — \$9,250.
- 43          (13)   Industrial Landfill accepting less than 100,000 tons/year of solid waste, New  
44          Permit (Five Year) — \$15,000.
- 45          (13a)  Industrial Landfill accepting less than 100,000 tons/year of solid waste, New  
46          Permit (Ten Year) — \$22,500.
- 47          (14)   Industrial Landfill accepting less than 100,000 tons/year of solid waste,  
48          Amendment (Five Year) — \$9,000.
- 49          (14a)  Industrial Landfill accepting less than 100,000 tons/year of solid waste,  
50          Amendment (Ten Year) — \$16,500.

- 1           (15)   Industrial Landfill accepting less than 100,000 tons/year of solid waste,  
2           Modification (Five Year) — \$1,500.
- 3           (15a)   Industrial Landfill accepting less than 100,000 tons/year of solid waste,  
4           Major Modification (Ten Year) — \$4,500.
- 5           (16)   Industrial Landfill accepting 100,000 tons/year or more of solid waste, New  
6           Permit (Five Year) — \$30,000.
- 7           (16a)   Industrial Landfill accepting 100,000 tons/year or more of solid waste, New  
8           Permit (Ten Year) — \$46,000.
- 9           (17)   Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
10          Amendment (Five Year) — \$18,500.
- 11          (17a)   Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
12          Amendment (Ten Year) — \$34,500.
- 13          (18)   Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
14          Modification (Five Year) — \$2,500.
- 15          (18a)   Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
16          Major Modification (Ten Year) — \$9,250.
- 17          (19)   Tire Monofill, New Permit — \$1,750.
- 18          (19a)   Tire Monofill, New Permit (Ten Year) — \$2,500.
- 19          (20)   Tire Monofill, Amendment — \$1,250.
- 20          (20A)   Tire Monofill, Amendment (Ten Year) — \$2,000.
- 21          (21)   Tire Monofill, Modification — \$500.
- 22          (21A)   Tire Monofill, Major Modification — \$625.
- 23          (22)   Treatment and Processing, New Permit — \$1,750.
- 24          (23)   Treatment and Processing, Amendment — \$1,250.
- 25          (24)   Treatment and Processing, Modification — \$500.
- 26          (25)   Transfer Station, New Permit (Five Year) — \$5,000.
- 27          (25a)   Transfer Station, New Permit (Ten Year) — \$7,500.
- 28          (26)   Transfer Station, Amendment (Five Year) — \$3,000.
- 29          (26a)   Transfer Station, Amendment (Ten Year) — \$5,500.
- 30          (27)   Transfer Station, Modification (Five Year) — \$500.
- 31          (27a)   Transfer Station, Major Modification (Ten Year) — \$1,500.
- 32          (28)   Incinerator, New Permit — \$1,750.
- 33          (29)   Incinerator, Amendment — \$1,250.
- 34          (30)   Incinerator, Modification — \$500.
- 35          (31)   Large Compost Facility, New Permit — \$1,750.
- 36          (32)   Large Compost Facility, Amendment — \$1,250.
- 37          (33)   Large Compost Facility, Modification — \$500.
- 38          (34)   Land Clearing and Inert, New Permit — \$1,000.
- 39          (35)   Land Clearing and Inert, Amendment — \$500.
- 40          (36)   Land Clearing and Inert, Modification — \$250.
- 41          (d)   A permitted solid waste management facility shall pay an annual permit fee on or  
42          before 1 August of each year according to the following schedule:
- 43               (1)   Municipal Solid Waste Landfill — \$3,500.
- 44               (2)   Post-Closure Municipal Solid Waste Landfill — \$1,000.
- 45               (3)   Construction and Demolition Landfill — \$2,750.
- 46               (4)   Post-Closure Construction and Demolition Landfill — \$500.
- 47               (5)   Industrial Landfill — \$2,750.
- 48               (6)   Post-Closure Industrial Landfill — \$500.
- 49               (7)   Transfer Station — \$750.
- 50               (8)   Treatment and Processing Facility — \$500.
- 51               (9)   Tire Monofill — \$500.



1           ~~(10) Incinerator – \$500.~~  
 2           ~~(11) Large Compost Facility – \$500.~~  
 3           ~~(12) Land Clearing and Inert Debris Landfill – \$500.~~  
 4       (d1) A permitted solid waste management facility shall pay an annual permit fee on or  
 5 before August 1 of each year according to the following schedule:

- 6           (1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
 7 solid waste – \$7,500.  
 8           (2) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less  
 9 than 250,000 tons/year of solid waste – \$12,000.  
 10          (3) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid  
 11 waste – \$20,000.  
 12          (4) Post-Closure Municipal Solid Waste Landfill – \$1,000.  
 13          (5) Construction and Demolition Landfill accepting less than 25,000 tons/year  
 14 of solid waste – \$6,000.  
 15          (6) Construction and Demolition Landfill accepting 25,000 tons/year or more of  
 16 solid waste – \$9,250.  
 17          (7) Post-Closure Construction and Demolition Landfill – \$500.  
 18          (8) Industrial Landfill accepting less than 100,000 tons/year of solid waste –  
 19 \$7,500.  
 20          (9) Industrial Landfill accepting 100,000 tons/year or more of solid waste –  
 21 \$15,000.  
 22          (10) Post-Closure Industrial Landfill – \$500.  
 23          (11) Transfer Station accepting less than 25,000 tons/year of solid waste – \$750.  
 24          (12) Transfer Station accepting 25,000 tons/year or more of solid waste – \$1,500.  
 25          (13) Treatment and Processing Facility – \$750.  
 26          (14) Tire Monofill – \$6,000.  
 27          (15) Incinerator – \$750.  
 28          (16) Large Compost Facility – \$750.  
 29          (17) Land Clearing and Inert Debris Landfill – \$750.

30       (d2) Upon submission of an application for a new permit, an applicant shall pay an  
 31 application fee in the amount of ten percent (10%) of the annual permit fee imposed for that  
 32 type of solid waste management facility as identified in subdivisions (1) through (17) of  
 33 subsection (d1) of this section.

34       ...."

35               **SECTION 14.20.(d)** G.S. 130A-295.3 reads as rewritten:

36       "**§ 130A-295.3. Environmental compliance review requirements for applicants and**  
 37 **permit holders.**

38       ...

39       (b) The Department shall conduct an environmental compliance review of each  
 40 applicant for a new ~~permit, permit renewal, permit~~ and permit amendment under this Article.  
 41 The environmental compliance review shall evaluate the environmental compliance history of  
 42 the applicant for a period of five years prior to the date of the application and may cover a  
 43 longer period at the discretion of the Department. The environmental compliance review of an  
 44 applicant may include consideration of the environmental compliance history of the parents,  
 45 subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any  
 46 business entity or joint venturer with a direct or indirect interest in the applicant, and other  
 47 facilities owned or operated by any of them. The Department shall determine the scope of the  
 48 review of the environmental compliance history of the applicant, parents, subsidiaries, or other  
 49 affiliates of the applicant or parent, including any business entity or joint venturer with a direct  
 50 or indirect interest in the applicant, and of other facilities owned or operated by any of them.  
 51 An applicant for a permit shall provide environmental compliance history information for each

1 facility, business entity, joint venture, or other undertaking in which any of the persons listed in  
2 this subsection is or has been an owner, operator, officer, director, manager, member, or  
3 partner, or in which any of the persons listed in this subsection has had a direct or indirect  
4 interest as requested by the Department.

5 ...."

6 **SECTION 14.20.(e)** This section becomes effective August 1, 2015.  
7 G.S. 130A-294(b1)(2), as amended by subsection (a) of this section, applies to franchise  
8 agreements executed on or after August 1, 2015. The remainder of G.S. 130A-294, as amended  
9 by subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c) of this  
10 section, apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued  
11 before the date this act becomes effective, when that permit is next subject to renewal after July  
12 1, 2016, and (ii) new sanitary landfills and transfer stations, for applications submitted on or  
13 after July 1, 2016.

#### 14 **ENVIRONMENTAL REVIEW COMMISSION STUDIES**

15 **SECTION 14.21.(a)** The Environmental Review Commission shall convene a  
16 stakeholder working group to study local government authority over solid waste management  
17 matters, including (i) the authority to enact ordinances concerning collection and processing of  
18 solid waste generated within their jurisdictions, as well as their authority to charge fees for such  
19 services; (ii) an examination of costs to local governments for providing solid waste collection  
20 and processing services to citizens; (iii) whether efficiencies and cost reductions could be  
21 realized through privatization of such services, and what impacts might result from  
22 privatization, including any bearing on local government financing of currently sited solid  
23 waste management facilities; and (iv) any other issue the Commission deems relevant. In the  
24 conduct of this study, the Commission shall consult with representatives of the League of  
25 Municipalities, the Association of County Commissioners, the Local Government Commission,  
26 faculty from the School of Government at the University of North Carolina at Chapel Hill, as  
27 well as private waste management interests, at a minimum. The Division of Waste  
28 Management and the Division of Environmental Assistance and Customer Service of the  
29 Department of Environment and Natural Resources shall provide any information and  
30 personnel requested by the Commission in the conduct of a study required by this section.

31 **SECTION 14.21.(b)** The Environmental Review Commission shall study the use  
32 of new technologies and strategies, including the use of integrated and mobile aerosolization  
33 systems, to dewater leachate and other forms of wastewater for the purpose of reducing the  
34 burden and cost of disposal at the site where it is generated. The Commission shall determine  
35 the efficiency, cost-effectiveness, and environmental impact of each studied technology and  
36 strategy. The Division of Waste Management and the Division of Water Resources of the  
37 Department of Environment and Natural Resources shall provide any information and  
38 personnel requested by the Commission in the conduct of a study required by this section.  
39  
40

#### 41 **PRE-1983 LANDFILL CLEANUP PRIVATIZATION**

42 **SECTION 14.22.(a)** Legislative Findings. – The General Assembly makes the  
43 following findings:

- 44 (1) Section 5 of Article XIV of the North Carolina Constitution sets out the  
45 conservation and protection of State lands and waters as a policy of the  
46 State, and a more expeditious method for remediation and reuse of pre-1983  
47 landfill sites and other State-identified contaminated sites is in furtherance of  
48 that policy.
- 49 (2) Despite past legislative directives, a dedicated source of revenue, and a  
50 considerable fund balance, little progress has been made in active cleanup of  
51 these landfill sites.

- 1 (3) Qualified private firms should be given the opportunity to remediate  
2 pre-1983 landfills and other State-identified contamination sites.
- 3 (4) Implementation of a site assessment and remediation program based on  
4 requests for proposal from private firms for the 10 highest-priority pre-1983  
5 landfill sites will result in multiple benefits to the State, including (i)  
6 reducing known environmental hazards that are associated with the many  
7 identified sites across the State, (ii) decreasing the State's economic liability  
8 for these sites, (iii) promoting economic growth through the job creation  
9 associated with returning these sites to beneficial and productive use, and  
10 (iv) establishing an efficient, cost-effective model for other State projects.

11 **SECTION 14.22.(b)** G.S. 130A-310.6 is amended by adding a new subsection to  
12 read:

13 "(h) The Department shall implement an ongoing program that provides for the  
14 expeditious assessment and, where indicated as necessary based on assessment and other data,  
15 the conduct of site remediation by qualified private entities at no less than 10 of the pre-1983  
16 landfill sites that have been identified by the Department as being among the 100 sites rated  
17 highest in priority under subsection (c) of this section. The program shall include the following  
18 activities to be undertaken by the Department:

- 19 (1) Contract via issuance of a Request for Proposal with one or more qualified  
20 private entities who have prequalified under procedures established by the  
21 Department for (i) remaining assessment and contamination delineation  
22 activities necessary to identify those sites within the 100 highest-priority  
23 sites where completion of site remediation will yield maximum health,  
24 safety, and economic benefits based on an evaluation of potential beneficial  
25 and productive use of the site, impact of the unremediated site on uses of  
26 surrounding property, and other pertinent factors and (ii) remediation of the  
27 selected sites utilizing private sector best practices for maximizing efficacy  
28 and cost-effectiveness of the remedial alternative selected.
- 29 (2) Develop requirements for full-time monitoring of project sites to ensure that  
30 remedial activities are conducted in a safe and environmentally protective  
31 manner and performed to a health-based, predetermined risk standard based  
32 on the proposed subsequent use of the properties."

33 **SECTION 14.22.(c)** G.S. 143-64.34 reads as rewritten:  
34 **"§ 143-64.34. Exemption of certain projects.**

35 (a) State capital improvement projects under the jurisdiction of the State Building  
36 Commission, capital improvement projects of The University of North Carolina, and  
37 community college capital improvement projects, where the estimated expenditure of public  
38 money is less than five hundred thousand dollars (\$500,000), are exempt from the provisions of  
39 this Article.

40 (b) Pre-1983 landfill sites remediated pursuant to G.S. 130A-310.6 are exempt from the  
41 provisions of this Article."

42 **SECTION 14.22.(d)** The Department of Environment and Natural Resources shall  
43 seek United States Environmental Protection Agency approval for implementation of all  
44 elements of the program required by this section. On or before December 31, 2015, the  
45 Department shall develop and submit any Memoranda of Agreement, delineations of  
46 programmatic responsibility, procedure for coordination, and other information that the United  
47 States Environmental Protection Agency may require in order to effectuate the elements of the  
48 program required by this section.

49 **SECTION 14.22.(e)** If approval for implementation of all elements of the program  
50 required by this section is received by the United States Environmental Protection Agency, the  
51 Department of Environment and Natural Resources shall issue the Request for Proposal

1 required by G.S. 130A-310.6(h), as enacted by subsection (b) of this section, no later than 60  
2 days of receipt of that approval.

3 **SECTION 14.22.(f)** The Department shall review and evaluate other states'  
4 requirements, programs, and policies for remediation of sites similar to those classified as  
5 "pre-1983 landfills" as defined by the State with a focus on other states that may have  
6 implemented requirements, programs, and policies that are resulting in safe remediation of such  
7 sites and that are performed in a more cost-effective and expeditious manner than that  
8 performed in North Carolina under traditional remediation requirements, programs, and  
9 policies and report its findings, including recommendations for further legislative action, to the  
10 chairs of the House of Representatives Appropriations Committee on Agriculture and Natural  
11 and Economic Resources, the Senate Appropriations Committee on Natural and Economic  
12 Resources, and the Fiscal Research Division prior to May 15, 2016.

### 13 14 **COMPENSATORY MITIGATION REQUIREMENTS**

15 **SECTION 14.23.(a)** The Department of Environment and Natural Resources,  
16 Division of Mitigation Services, shall develop a program to increase the State's ability to utilize  
17 private mitigation banks to satisfy compensatory mitigation requirements of the State. The  
18 program shall include all of the following components:

- 19 (1) Thirty months after the effective date of this act, the Division of Mitigation  
20 Services shall cease acceptance of fees for governmental and  
21 nongovernmental entities in lieu of mitigation for stream, wetland, riparian  
22 buffer, and nutrient impacts permitted to occur in the Neuse, Cape Fear, and  
23 Tar-Pamlico River Basins.
- 24 (2) The Department, with the concurrence of the Environmental Management  
25 Commission (Commission), may cease acceptance of fees in lieu of  
26 mitigation within additional river basins after June 30, 2018, provided the  
27 public is notified at least 24 months in advance of the cessation of service.
- 28 (3) In the event of unforeseen, unique, or exigent circumstances and upon the  
29 request of the Secretary of Commerce or the Secretary of Transportation, the  
30 Department may direct the Division of Mitigation Services to accept fees in  
31 lieu of mitigation to support permits for projects owned or sponsored by  
32 those Departments.
- 33 (4) The Division of Mitigation Services shall continue to provide watershed  
34 planning statewide under a fee structure set by the Commission.
- 35 (5) The Division of Mitigation Services will manage the inventory and  
36 utilization of all existing mitigation credits held by the North Carolina  
37 Department of Transportation and shall also oversee and direct the future  
38 acquisition of mitigation credits by that Department.

39 **SECTION 14.23.(b)** No later than October 1, 2015, the Commission shall adopt  
40 temporary rules consistent with this subsection. The temporary rules shall remain in effect until  
41 permanent rules that replace the temporary rules become effective.

### 42 43 **PETITION FOR WETLANDS MITIGATION FLEXIBILITY**

44 **SECTION 14.24.(a)** No later than October 1, 2015, the Department of  
45 Environment and Natural Resources shall petition the Wilmington District, the South Atlantic  
46 District, and the Headquarters of the United States Army Corps of Engineers (the Corps  
47 Offices) to allow for greater flexibility and opportunity to perform wetlands mitigation outside  
48 of the eight-digit Hydrologic Unit Code (HUC) where development will occur. The Department  
49 shall seek this greater flexibility and opportunity for mitigation for both public and private  
50 development. The Department shall request that the Corps Offices review the flexibility and

1 opportunities for mitigation allowed by other Districts of the United States Army Corps of  
2 Engineers, both within the South Atlantic District and nationwide.

3 **SECTION 14.24.(b)** The Department shall report on its progress in petitioning the  
4 Corps Offices as required by subsection (a) of this section to the Environmental Review  
5 Commission, the chairs of the Senate Appropriations Committee on Natural and Economic  
6 Resources and the House Appropriations Committee on Agriculture and Natural and Economic  
7 Resources, and the Fiscal Research Division no later than January 1, 2016.

#### 8 9 **SECTION 404 PERMITTING PROGRAM DELEGATION**

10 **SECTION 14.25.** The funds appropriated in this act for Section 404 Program  
11 delegation application shall be used by the Department of Environment and Natural Resources  
12 to issue a Request for Proposal for a consultant to plan and prepare an application for the  
13 assumption by the State of administration of the Section 404 permitting program under the  
14 Federal Water Pollution Control Act for North Carolina from the United States Army Corps of  
15 Engineers (Corps).

#### 16 17 **REPEAL SEDIMENTATION CONTROL COMMISSION AND TRANSFER** 18 **RESPONSIBILITIES TO THE ENVIRONMENTAL MANAGEMENT** 19 **COMMISSION AND REFORM CIVIL PENALTIES UNDER THE** 20 **SEDIMENTATION POLLUTION CONTROL ACT**

21 **SECTION 14.26.(a)** Part 8 of Article 7 of Chapter 143B of the General Statutes is  
22 repealed.

23 **SECTION 14.26.(b)** G.S. 113A-52(2) reads as rewritten:

24 "(2) "Commission" means the ~~North—Carolina—Sedimentation~~  
25 ~~Control~~Environmental Management Commission."

26 **SECTION 14.26.(c)** G.S. 113A-54.1(c) reads as rewritten:

#### 27 **"§ 113A-54.1. Approval of erosion control plans.**

28 ...  
29 (c) The Commission shall disapprove an erosion and sedimentation control plan if  
30 implementation of the plan would result in a violation of rules adopted by the ~~Environmental~~  
31 ~~Management~~ Commission to protect riparian buffers along surface waters. The Director of the  
32 Division of Energy, Mineral, and Land Resources may disapprove an erosion and  
33 sedimentation control plan or disapprove a transfer of a plan under subsection (d1) of this  
34 section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

- 35 (1) Is conducting or has conducted land-disturbing activity without an approved  
36 plan, or has received notice of violation of a plan previously approved by the  
37 Commission or a local government pursuant to this Article and has not  
38 complied with the notice within the time specified in the notice;
- 39 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local  
40 ordinance adopted pursuant to this Article by the time the payment is due;
- 41 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any  
42 criminal provision of a local ordinance adopted pursuant to this Article; or
- 43 (4) Has failed to substantially comply with State rules or local ordinances and  
44 regulations adopted pursuant to this Article."

45 **SECTION 14.26.(d)** G.S. 113A-57(1) reads as rewritten:

#### 46 **"§ 113A-57. Mandatory standards for land-disturbing activity.**

47 No land-disturbing activity subject to this Article shall be undertaken except in accordance  
48 with the following mandatory requirements:

- 49 (1) No land-disturbing activity during periods of construction or improvement to  
50 land shall be permitted in proximity to a lake or natural watercourse unless a  
51 buffer zone is provided along the margin of the watercourse of sufficient

1 width to confine visible siltation within the twenty-five percent (25%) of the  
2 buffer zone nearest the land-disturbing activity. Waters that have been  
3 classified as trout waters by the ~~Environmental Management~~ Commission  
4 shall have an undisturbed buffer zone 25 feet wide or of sufficient width to  
5 confine visible siltation within the twenty-five percent (25%) of the buffer  
6 zone nearest the land-disturbing activity, whichever is greater. Provided,  
7 however, that the ~~Sedimentation Control~~ Commission may approve plans  
8 which include land-disturbing activity along trout waters when the duration  
9 of said disturbance would be temporary and the extent of said disturbance  
10 would be minimal. This subdivision shall not apply to a land-disturbing  
11 activity in connection with the construction of facilities to be located on,  
12 over, or under a lake or natural watercourse."

13 **SECTION 14.26.(e)** G.S. 113A-61(b1) reads as rewritten:

14 "(b1) A local government shall condition approval of a draft erosion and sedimentation  
15 control plan upon the applicant's compliance with federal and State water quality laws,  
16 regulations, and rules. A local government shall disapprove an erosion and sedimentation  
17 control plan if implementation of the plan would result in a violation of rules adopted by the  
18 ~~Environmental Management~~ Commission to protect riparian buffers along surface waters. A  
19 local government may disapprove an erosion and sedimentation control plan or disapprove a  
20 transfer of a plan under subsection (b3) of this section upon finding that an applicant or a  
21 parent, subsidiary, or other affiliate of the applicant:

- 22 (1) Is conducting or has conducted land-disturbing activity without an approved  
23 plan, or has received notice of violation of a plan previously approved by the  
24 Commission or a local government pursuant to this Article and has not  
25 complied with the notice within the time specified in the notice.
- 26 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local  
27 ordinance adopted pursuant to this Article by the time the payment is due.
- 28 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any  
29 criminal provision of a local ordinance adopted pursuant to this Article.
- 30 (4) Has failed to substantially comply with State rules or local ordinances and  
31 regulations adopted pursuant to this Article."

32 **SECTION 14.26.(f)** G.S. 113A-125(c) reads as rewritten:

33 "(c) Within the meaning of this section, "existing regulatory permits" include dredge and  
34 fill permits issued pursuant to G.S. 113-229; sand dune permits issued pursuant to G.S. 104B-4;  
35 air pollution control and water pollution control permits, special orders or certificates issued  
36 pursuant to G.S. 143-215.1 and 143-215.2, or any other permits, licenses, authorizations,  
37 approvals or certificates issued by the Board of Water and Air Resources pursuant to Chapter  
38 143; capacity use area permits issued pursuant to G.S. 143-215.15; final approval of dams  
39 pursuant to G.S. 143-215.30; floodway permits issued pursuant to G.S. 143-215.54; water  
40 diversion authorizations issued pursuant to G.S. 143-354(c); oil refinery permits issued  
41 pursuant to G.S. 143-215.99; mining operating permits issued pursuant to G.S. 74-51;  
42 permissions for construction of wells issued pursuant to G.S. 87-88; and rules concerning  
43 pesticide application within the coastal area issued pursuant to G.S. 143-458; approvals by the  
44 Department of Health and Human Services of plans for water supply, drainage or sewerage,  
45 pursuant to G.S. 130-161.1 and 130-161.2; standards and approvals for solid waste disposal  
46 sites and facilities, adopted by the Department of Health and Human Services pursuant to  
47 Chapter 130, Article 13B; permits relating to sanitation of shellfish, crustacea or scallops issued  
48 pursuant to Chapter 130, Articles 14A or 14B; permits, approvals, authorizations and rules  
49 issued by the Department of Health and Human Services pursuant to Articles 23 or 24 of  
50 Chapter 130 with reference to mosquito control programs or districts; any permits, licenses,  
51 authorizations, rules, approvals or certificates issued by the Department of Health and Human

1 Services relating to septic tanks or water wells; oil or gas well rules and orders issued for the  
2 protection of environmental values or resources pursuant to G.S. 113-391; a certificate of  
3 public convenience and necessity issued by the State Utilities Commission pursuant to Chapter  
4 62 for any public utility plant or system, other than a carrier of persons or property; permits,  
5 licenses, leases, options, authorization or approvals relating to the use of State forestlands, State  
6 parks or other state-owned land issued by the State Department of Administration, the State  
7 Department of Natural and Economic Resources or any other State department, agency or  
8 institution; any approvals of erosion and sedimentation control plans that may be issued by the  
9 ~~North Carolina Sedimentation Control~~ Commission pursuant to G.S. 113A-60 or 113A-61; and  
10 any permits, licenses, authorizations, rules, approvals or certificates issued by any State agency  
11 pursuant to any environmental protection legislation not specified in this subsection that may  
12 be enacted prior to the permit changeover date."

13 **SECTION 14.26.(g)** G.S. 143B-279.3(b) reads as rewritten:

14 "(b) All functions, powers, duties, and obligations previously vested in the following  
15 commissions, boards, councils, and committees of the following departments are transferred to  
16 and vested in the Department of Environment and Natural Resources by a Type II transfer, as  
17 defined in G.S. 143A-6:

- 18 (1) Repealed by Session Laws 1993, c. 501, s. 27.
- 19 (2) Radiation Protection Commission, Department of Health and Human  
20 Services.
- 21 (3) Repealed by Session Laws 1997-443, s. 11A.6.
- 22 (4) Water Treatment Facility Operators Board of Certification, Department of  
23 Health and Human Services.
- 24 (5) to (8) Repealed by Session Laws 1997-443, s. 11A.6.
- 25 (9) Coastal Resources Commission, Department of Natural Resources and  
26 Community Development.
- 27 (10) Environmental Management Commission, Department of Natural Resources  
28 and Community Development.
- 29 (11) Air Quality Council, Department of Natural Resources and Community  
30 Development.
- 31 (12) Wastewater Treatment Plant Operators Certification Commission,  
32 Department of Natural Resources and Community Development.
- 33 (13) Repealed by Session Laws 2011-145, s. 13.25(e), effective July 1, 2011.
- 34 (14) North Carolina Mining and Energy Commission, Department of Natural  
35 Resources and Community Development.
- 36 (15) Advisory Committee on Land Records, Department of Natural Resources  
37 and Community Development.
- 38 (16) Marine Fisheries Commission, Department of Natural Resources and  
39 Community Development.
- 40 (17) Parks and Recreation Council, Department of Natural Resources and  
41 Community Development.
- 42 (18) Repealed by Session Laws 2013-360, s. 14.3(j), effective August 1, 2013.
- 43 (19) North Carolina Trails Committee, Department of Natural Resources and  
44 Community Development.
- 45 ~~(20) Sedimentation Control Commission, Department of Natural Resources and  
46 Community Development.~~
- 47 (21) Repealed by Session Laws 2011-145, s. 13.22A(d), effective July 1, 2011.
- 48 (22) North Carolina Zoological Park Council, Department of Natural Resources  
49 and Community Development.
- 50 (23) Repealed by Session Laws 1997-286, s. 6."

51 **SECTION 14.26.(h)** G.S. 150B-19.3 reads as rewritten:

1 **"§ 150B-19.3. Limitation on certain environmental rules.**

2 (a) An agency authorized to implement and enforce State and federal environmental  
3 laws may not adopt a rule for the protection of the environment or natural resources that  
4 imposes a more restrictive standard, limitation, or requirement than those imposed by federal  
5 law or rule, if a federal law or rule pertaining to the same subject matter has been adopted,  
6 unless adoption of the rule is required by one of the subdivisions of this subsection. A rule  
7 required by one of the following subdivisions of this subsection shall be subject to the  
8 provisions of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more  
9 persons under G.S. 150B-21.3(b2):

- 10 (1) A serious and unforeseen threat to the public health, safety, or welfare.
- 11 (2) An act of the General Assembly or United States Congress that expressly  
12 requires the agency to adopt rules.
- 13 (3) A change in federal or State budgetary policy.
- 14 (4) A federal regulation required by an act of the United States Congress to be  
15 adopted or administered by the State.
- 16 (5) A court order.

17 (b) For purposes of this section, "an agency authorized to implement and enforce State  
18 and federal environmental laws" means any of the following:

- 19 (1) The Department of Environment and Natural Resources created pursuant to  
20 G.S. 143B-279.1.
- 21 (2) The Environmental Management Commission created pursuant to  
22 G.S. 143B-282.
- 23 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
- 24 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
- 25 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
- 26 (6) The Commission for Public Health created pursuant to G.S. 130A-29.
- 27 ~~(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.~~
- 28 (8) **(Effective until August 1, 2015)** The North Carolina Mining and Energy  
29 Commission created pursuant to G.S. 143B-293.1.
- 30 (8) **(Effective August 1, 2015)** The North Carolina Oil and Gas Commission  
31 created pursuant to G.S. 143B-293.1.
- 32 (9) The Pesticide Board created pursuant to G.S. 143-436."

33 **SECTION 14.26.(i)** G.S. 143B-282 reads as rewritten:

34 **"§ 143B-282. Environmental Management Commission – creation; powers and duties.**

35 (a) There is hereby created the Environmental Management Commission of the  
36 Department of Environment and Natural Resources with the power and duty to promulgate  
37 rules to be followed in the protection, preservation, and enhancement of the water and air  
38 resources of the State.

- 39 (1) Within the limitations of G.S. 143-215.9 concerning industrial health and  
40 safety, the Environmental Management Commission shall have all of the  
41 following powers and duties:

42 ...

43 w. To, in cooperation with the Secretary of Transportation and Highway  
44 Safety and other appropriate State and federal agencies, develop,  
45 promulgate, publicize, and administer a comprehensive State erosion  
46 and sedimentation control program pursuant to Article 4 of Chapter  
47 113A of the General Statutes.

48 x. To assist local governments in the development of erosion and  
49 sedimentation programs pursuant to G.S. 113A-60.



1 y. To assist and encourage other State agencies in the development of  
 2 erosion and sedimentation control programs pursuant to  
 3 G.S. 113A-56.

4 z. To develop recommended methods of control of sedimentation and  
 5 prepare and make available for distribution publications and other  
 6 materials dealing with sedimentation control techniques pursuant to  
 7 G.S. 113A-54.

8 (2) The Environmental Management Commission shall adopt rules:

9 ...  
 10 m. For the control of erosion and sedimentation pursuant to  
 11 G.S. 113A-54.

12 ...."

13 **SECTION 14.26.(j)** Notwithstanding G.S. 113A-54(b), the Environmental  
 14 Management Commission shall review the rules adopted by the Sedimentation Control  
 15 Commission and amend or repeal any such rules that the Environmental Management  
 16 Commission determines to be outdated, unnecessary, duplicative, or confusing. The  
 17 Environmental Management Commission shall report its findings and any actions taken  
 18 pursuant to this section to the Environmental Review Commission on or before January 1,  
 19 2016.

20 **SECTION 14.26.(k)** G.S. 113A-54 is amended by adding a new subsection to  
 21 read:

22 "(g) The Commission is authorized to make the final decision on a request for the  
 23 remission of a civil penalty under G.S. 113A-64.2."

24 **SECTION 14.26.(l)** G.S. 113A-64(a) reads as rewritten:

25 "(a) Civil Penalties. –

26 (1) Any person who violates any of the provisions of this Article or any  
 27 ordinance, rule, or order adopted or issued pursuant to this Article by the  
 28 Commission or by a local government, or who initiates or continues a  
 29 land-disturbing activity for which an erosion and sedimentation control plan  
 30 is required except in accordance with the terms, conditions, and provisions  
 31 of an approved plan, is subject to a civil penalty. The maximum civil penalty  
 32 for a violation is five thousand dollars (\$5,000). A civil penalty may be  
 33 assessed from the date of the violation. Each day of a continuing violation  
 34 shall constitute a separate violation. When the person has not been assessed  
 35 any civil penalty under this subsection for any previous violation and that  
 36 person abated continuing environmental damage resulting from the violation  
 37 within 180 days from the date of the notice of violation, the maximum  
 38 cumulative total civil penalty assessed under this subsection for all violations  
 39 associated with the land-disturbing activity for which the erosion and  
 40 sedimentation control plan is required is twenty-five thousand dollars  
 41 (\$25,000).

42 (2) The Secretary or a local government that administers an erosion and  
 43 sedimentation control program approved under G.S. 113A-60 shall  
 44 determine the amount of the civil penalty and shall notify the person who is  
 45 assessed the civil penalty of the amount of the ~~penalty and penalty~~, the reason  
 46 for assessing the ~~penalty-penalty~~, the option available to that person to  
 47 request a remission of the civil penalty under G.S. 113A-64.2, the date of the  
 48 deadline for that person to make the request regarding this particular penalty,  
 49 and, when that person has not been assessed any civil penalty under this  
 50 section for any previous violation, the date of the deadline for that person to  
 51 abate continuing environmental damage resulting from the violation in order

1 to be subject to the maximum cumulative total civil penalty under  
2 subdivision (1) of this subsection. The notice of assessment shall be served  
3 by any means authorized under G.S. 1A-1, Rule 4, and shall direct the  
4 violator to either pay the assessment or contest the assessment within 30  
5 days by filing a petition for a contested case under Article 3 of Chapter 150B  
6 of the General Statutes. If a violator does not pay a civil penalty assessed by  
7 the Secretary within 30 days after it is due, the Department shall request the  
8 Attorney General to institute a civil action to recover the amount of the  
9 assessment. If a violator does not pay a civil penalty assessed by a local  
10 government within 30 days after it is due, the local government may institute  
11 a civil action to recover the amount of the assessment. The civil action may  
12 be brought in the superior court of any county where the violation occurred  
13 or the violator's residence or principal place of business is located. A civil  
14 action must be filed within three years of the date the assessment was due.  
15 An assessment that is not contested is due when the violator is served with a  
16 notice of assessment. An assessment that is contested is due at the  
17 conclusion of the administrative and judicial review of the assessment.

18 ...."

19 **SECTION 14.26.(m)** Article 4 of Chapter 113A of the General Statutes is  
20 amended by adding a new section to read:

21 **"§ 113A-64.2. Remission of civil penalties.**

22 (a) Notwithstanding G.S. 143B-282.1(c), the Commission's Committee on Civil Penalty  
23 Remissions shall evaluate requests for remission of civil penalties assessed under this Article in  
24 accordance with this section.

25 (b) A request for remission of a civil penalty imposed under G.S. 113A-64 may be filed  
26 with the Commission within 60 days of receipt of the notice of assessment. A remission request  
27 must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter  
28 150B of the General Statutes and a stipulation of the facts on which the assessment was based.

29 (c) The following factors shall be considered in determining whether a civil penalty  
30 remission request will be approved:

31 (1) Whether one or more of the civil penalty assessment factors in  
32 G.S. 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.

33 (2) Whether the petitioner promptly abated continuing environmental damage  
34 resulting from the violation.

35 (3) Whether the violation was inadvertent or a result of an accident.

36 (4) Whether the petitioner had been assessed civil penalties for any previous  
37 violations.

38 (5) Whether payment of the civil penalty will prevent payment for necessary  
39 remedial actions or would otherwise create a significant financial hardship.

40 (6) The assessed property tax valuation of the petitioner's property upon which  
41 the violation occurred, excluding the value of any structures located on the  
42 property.

43 (d) The petitioner has the burden of providing information concerning the financial  
44 impact of a civil penalty on the petitioner and the burden of showing the petitioner's financial  
45 hardship.

46 (e) The Commission may remit the entire amount of the penalty only when the  
47 petitioner has not been assessed civil penalties for previous violations and payment of the civil  
48 penalty will prevent payment for necessary remedial actions.

49 (f) The Commission may not impose a penalty under this section that is in excess of the  
50 civil penalty imposed by the Department."

51 **SECTION 14.26.(n)** G.S. 113A-61.1(c) reads as rewritten:

1       "(c) If the Secretary, a local government that administers an erosion and sedimentation  
2 control program approved under G.S. 113A-60, or other approving authority determines that  
3 the person engaged in the land-disturbing activity has failed to comply with this Article, the  
4 Secretary, local government, or other approving authority shall immediately serve a notice of  
5 violation upon that person. The notice may be served by any means authorized under  
6 G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply  
7 with this Article and inform the person of the actions that need to be taken to comply with this  
8 Article. Any person who fails to comply within the time specified is subject to additional civil  
9 and criminal penalties for a continuing violation as provided in G.S. 113A-64. If the person  
10 engaged in the land-disturbing activity has not received a previous notice of violation under this  
11 section, the Department, local government, or other approving authority shall deliver the notice  
12 of violation in person and shall offer assistance in developing corrective measures. Assistance  
13 may be provided by referral to a technical assistance program in the Department, referral to a  
14 cooperative extension program, or by the provision of written materials such as Department  
15 guidance documents. If the Department, local government, or other approving authority is  
16 unable to deliver the notice of violation in person within 15 days following discovery of the  
17 violation, the notice of violation may be served in the manner prescribed for service of process  
18 by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing  
19 corrective measures."

20       **SECTION 14.26.(o)** Subsections (a) through (j) of this section become effective  
21 June 30, 2015. The remainder of this section is effective when this act becomes law and applies  
22 to civil penalties assessed and notices of violation issued on or after that date.  
23

## 24 ENERGY CENTERS

25       **SECTION 14.27.** Of the funds appropriated in this act for University energy  
26 centers, the sum of seven hundred ninety-four thousand one hundred forty-eight dollars  
27 (\$794,148) shall be allocated to the existing energy center at North Carolina Agricultural and  
28 Technical University and the sum of three hundred seventeen thousand ninety-four dollars  
29 (\$317,094) shall be allocated to the University of North Carolina at Charlotte for establishment  
30 of a University Energy Center. The Centers shall prioritize the use of these funds for study of  
31 the beneficial reuse of coal combustion residuals.  
32

## 33 GEOLOGICAL RESEARCH FUNDS

34       **SECTION 14.28.(a)** The funds appropriated by this act to the Department of  
35 Environment and Natural Resources for geological research related to natural gas assessment  
36 and development shall be used to fund a contract with a qualified private entity to perform a  
37 comprehensive basin analysis on all known and potential onshore natural gas resources within  
38 the State. The contract may include as part of the statewide basin analysis the digitization,  
39 analysis, or reanalysis of geologic data related to natural gas exploration or development  
40 opportunities, including utilization of existing seismic reflection data. The analysis shall  
41 include recommendations and conclusions regarding the extent of potential natural gas-bearing  
42 rocks in the State, the potential volumes of oil and gas within these basins, and additional data  
43 and data analysis necessary to better quantify geographic extent, volume, and quality of  
44 potential onshore oil and gas resources (together with cost estimates to acquire and process  
45 these data).

46       **SECTION 14.28.(b)** The Department shall transmit the consultant's report and  
47 recommendations no later than December 1, 2016, to the Environmental Review Commission;  
48 the chairs of the Senate Appropriations Committee on Natural and Economic Resources and the  
49 House Appropriations Committee on Agriculture, Natural, and Economic Resources; and the  
50 Fiscal Research Division on the results of the study and its proposed strategy as required by  
51 subsection (a) of this section, including any legislative recommendations.

**RESTRICTION ON CERTAIN FEDERAL GRANTS**

**SECTION 14.29.** The Department of Environment and Natural Resources shall not apply for funding from the following grant programs in future grant cycles:

- (1) SEP (State Energy Program) Competitive Grant.
- (2) Clean Energy and Manufacturing.

**CONSOLIDATE ALL STATE ATTRACTIONS WITHIN DEPARTMENT OF CULTURAL RESOURCES TO CREATE THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

**SECTION 14.30.(a)** The Department of Cultural Resources is renamed the Department of Natural and Cultural Resources, and all functions, powers, duties, and obligations vested in the following programs, divisions, and entities within the Department of Environment and Natural Resources are transferred to, vested in, and consolidated within the Department of Natural and Cultural Resources by a Type I transfer, as defined in G.S. 143A-6:

- (1) The Division of Parks and Recreation.
- (2) The State Parks System, including Mount Mitchell State Park.
- (3) The North Carolina Aquariums Division.
- (4) The North Carolina Zoological Park.
- (5) The Museum of Natural Sciences.

**SECTION 14.30.(b)** All functions, powers, duties, and obligations vested in the following commissions, boards, councils, and committees within the Department of Environment and Natural Resources are transferred to, vested in, and consolidated within the Department of Natural and Cultural Resources by a Type II transfer, as defined in G.S. 143A-6:

- (1) North Carolina Parks and Recreation Authority.
- (2) North Carolina Trails Committee.
- (3) North Carolina Zoological Park Council.
- (4) Advisory Commission for North Carolina State Museum of Natural Sciences.

**SECTION 14.30.(c)** The Department of Environment and Natural Resources is renamed the Department of Environmental Quality. All references to the Department of Environment and Natural Resources or the Department of Cultural Resources in acts of the 2015 General Assembly taking effect after the effective date of this section shall be construed 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:

Former Citation

Recodified Citation

1	Article 2:	Part 31:
2	G.S. 113-29	G.S. 143B-135.10
3	G.S. 113-34	G.S. 143B-135.12
4	G.S. 113-34.1	G.S. 143B-135.14
5	G.S. 113-35	G.S. 143B-135.16
6	G.S. 113-37	G.S. 143B-135.18
7	G.S. 113-39	G.S. 143B-135.20
8	G.S. 113-40	G.S. 143B-135.22
9	G.S. 113-41	G.S. 143B-135.24
10	G.S. 113-42	G.S. 143B-135.26
11	G.S. 113-43	G.S. 143B-135.28
12	G.S. 113-44	G.S. 143B-135.30
13	Article 2C:	Part 32:
14	G.S. 113-44.7	G.S. 143B-135.40
15	G.S. 113-44.8	G.S. 143B-135.42
16	G.S. 113-23	G.S. 143B-135.43
17	G.S. 113-44.9	G.S. 143B-135.44
18	G.S. 113-44.10	G.S. 143B-135.46
19	G.S. 113-44.11	G.S. 143B-135.48
20	G.S. 113-44.12	G.S. 143B-135.50
21	G.S. 113-44.13	G.S. 143B-135.52
22	G.S. 113-44.14	G.S. 143B-135.54
23	G.S. 113-44.15	G.S. 143B-135.56

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**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:

Former CitationRecodified Citation

## 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

G.S. 113A-76

G.S. 143B-135.78

G.S. 113A-77

G.S. 143B-135.80

## Article 6:

## Part 34:

G.S. 113A-83

G.S. 143B-135.90

G.S. 113A-84

G.S. 143B-135.92

G.S. 113A-85

G.S. 143B-135.94

G.S. 113A-86

G.S. 143B-135.96

G.S. 113A-87

G.S. 143B-135.98

G.S. 113A-87.1

G.S. 143B-135.100

G.S. 113A-88

G.S. 143B-135.102

G.S. 113A-89

G.S. 143B-135.104

G.S. 113A-90

G.S. 143B-135.106

G.S. 113A-91

G.S. 143B-135.108

G.S. 113A-92

G.S. 143B-135.110

G.S. 113A-92.1

G.S. 143B-135.112

G.S. 113A-93

G.S. 143B-135.114

G.S. 113A-94

G.S. 143B-135.116

1	G.S. 113A-95	G.S. 143B-135.118
2	Part 21:	Part 35:
3	G.S. 143B-333	G.S. 143B-135.130
4	G.S. 143B-334	G.S. 143B-135.132
5	Article 3:	Part 36:
6	G.S. 113A-30	G.S. 143B-135.140
7	G.S. 113A-31	G.S. 143B-135.142
8	G.S. 113A-32	G.S. 143B-135.144
9	G.S. 113A-33	G.S. 143B-135.146
10	G.S. 113A-34	G.S. 143B-135.148
11	G.S. 113A-35	G.S. 143B-135.150
12	G.S. 113A-35.1	G.S. 143B-135.152
13	G.S. 113A-35.2	G.S. 143B-135.154
14	G.S. 113A-36	G.S. 143B-135.156
15	G.S. 113A-37	G.S. 143B-135.158
16	G.S. 113A-38	G.S. 143B-135.160
17	G.S. 113A-39	G.S. 143B-135.162
18	G.S. 113A-40	G.S. 143B-135.164
19	G.S. 113A-41	G.S. 143B-135.166
20	G.S. 113A-42	G.S. 143B-135.168
21	G.S. 113A-43	G.S. 143B-135.170
22	G.S. 113A-44	G.S. 143B-135.172

23  
24           **SECTION 14.30.(g)** Part 5C of Article 7 of Chapter 143B of the General Statutes  
25 is recodified as Part 37 of Article 2 of Chapter 143B of the General Statutes as set forth in the  
26 table below:

27	<u>Former Citation</u>	<u>Recodified Citation</u>
28	Part 5C:	Part 37:
29	G.S. 143B-289.40	G.S. 143B-135.180
30	G.S. 143B-289.41	G.S. 143B-135.182
31	G.S. 143B-289.42	G.S. 143B-135.184
32	G.S. 143B-289.43	G.S. 143B-135.186
33	G.S. 143B-289.44	G.S. 143B-135.188
34	G.S. 143B-289.45	G.S. 143B-135.190

35  
36           **SECTION 14.30.(h)** Part 13A of Article 7 of Chapter 143B of the General Statutes  
37 is recodified as Part 38 of Article 2 of Chapter 143B of the General Statutes as set forth in the  
38 table below:

39	<u>Former Citation</u>	<u>Recodified Citation</u>
40	Part 13A:	Part 38:
41	G.S. 143B-313.1	G.S. 143B-135.200
42	G.S. 143B-313.2	G.S. 143B-135.202

43  
44           **SECTION 14.30.(i)** Part 22 of Article 7 of Chapter 143B of the General Statutes is  
45 recodified as Part 39 of Article 2 of Chapter 143B of the General Statutes as set forth in the  
46 table below:

47	<u>Former Citation</u>	<u>Recodified Citation</u>
48	Part 22:	Part 39:
49	G.S. 143B-335	G.S. 143B-135.205
50	G.S. 143B-336	G.S. 143B-135.207
51	G.S. 143B-336.1	G.S. 143B-135.209

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2           **SECTION 14.30.(j)** Article 14 of Chapter 143 of the General Statutes, consisting  
3 of G.S. 143-177 through G.S. 143-177.3, is recodified into Part 39 of Article 2 of Chapter 143B  
4 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

10  
11           **SECTION 14.30.(k)** Part 29 of Article 7 of Chapter 143B of the General Statutes  
12 is recodified as Part 40 of Article 2 of Chapter 143B of the General Statutes as set forth in the  
13 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

## 23 REVISIONS OF RECODIFIED STATUTES

24           **SECTION 14.30.(l)** Parts 31 and 32 of Article 2 of Chapter 143B of the General  
25 Statutes, as recodified by subsection (e) of this section, reads as rewritten:

26                           "Part 31. Acquisition and Control of State Parks.

### 27 "§ 143B-135.10. Definitions.

28           (a) In this ~~Article, Part,~~ unless the context requires otherwise, "Department" means the  
29 Department of ~~Environment and Natural Resources;~~ Natural and Cultural Resources, and  
30 "Secretary" means the Secretary of ~~Environment and Natural Resources.~~ Natural and Cultural  
31 Resources.

32           (b) ~~Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011."~~

### 34 "§ 143B-135.14. Power to acquire conservation lands not included in the State Parks 35 System.

36           The Department of Administration may acquire and allocate to the Department of  
37 ~~Environment and Natural Resources~~ Natural and Cultural Resources for management by the  
38 Division of Parks and Recreation lands that the Department of ~~Environment and Natural~~  
39 ~~Resources~~ Natural and Cultural Resources finds are important for conservation purposes but  
40 which are not included in the State Parks System. Lands acquired pursuant to this section are  
41 not subject to ~~Article 2C of Chapter 113~~ Part 32 of Article 2 of Chapter 143B of the General  
42 Statutes and may be traded or transferred as necessary to protect, develop, and manage the  
43 Mountains to Sea State Park Trail, other State parks, or other conservation lands. This section  
44 does not expand the power granted to the Department of ~~Environment and Natural Resources~~  
45 Natural and Cultural Resources under ~~G.S. 113-34(a)~~ G.S. 143B-135.12(a) to acquire land by  
46 condemnation.

### 47 "§ 143B-135.16. Control over State parks; operation of public service facilities; 48 concessions to private concerns; authority to charge fees and adopt rules.

49           (a) The Department shall make reasonable rules governing the use by the public of  
50 State parks and State lakes under its charge. These rules shall be posted in conspicuous places  
51 on and adjacent to the properties of the State and at the courthouse of the county or counties in

1 which the properties are located. A violation of these rules is punishable as a Class 3  
2 misdemeanor.

3 ~~(a1)~~(b) The Department may adopt rules under which the Secretary may issue a special-use  
4 permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions.  
5 The rules shall require that experts supervise the use of pyrotechnics and that written  
6 authorization for the use of pyrotechnics be obtained from the board of commissioners of the  
7 county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may  
8 impose any conditions on a permit that the Secretary determines to be necessary to protect  
9 public health, safety, and welfare. These conditions shall include a requirement that the  
10 permittee execute an indemnification agreement with the Department and obtain general  
11 liability insurance covering personal injury and property damage that may result from the use  
12 of pyrotechnics with policy limits determined by the Secretary.

13 ~~(b)~~(c) The Department may construct, operate, and maintain within the State parks, State  
14 lakes, and other areas under its charge suitable public service facilities and conveniences, and  
15 may charge and collect reasonable fees for the use of these facilities and conveniences. The  
16 Department may also charge and collect reasonable fees for each of the following:

- 17 (1) The erection, maintenance, and use of docks, piers, and any other structures  
18 permitted in or on State lakes under rules adopted by the Department.
- 19 (2) Fishing privileges in State parks and State lakes, provided that these  
20 privileges shall be extended only to holders of State hunting and fishing  
21 licenses who comply with all State game and fish laws.
- 22 (3) Vehicle access for off-road driving at the beach at Fort Fisher State  
23 Recreation Area.
- 24 (4) The erection, maintenance, and use of a marina at Carolina Beach.

25 ~~(b1)~~(d) Members of the public who pay a fee under subsection ~~(b)~~(c) of this section for  
26 access to Fort Fisher State Recreation Area may have 24-hour access to Fort Fisher State  
27 Recreation Area from September 15 through March 15 of each year.

28 ~~(e)~~(e) The Department may make reasonable rules for the operation and use of boats or  
29 other craft on the surface of the waters under its charge. The Department may charge and  
30 collect reasonable fees for the use of boats and other watercraft that are purchased and  
31 maintained by the Department; however, the Department shall not charge a fee for the use or  
32 operation of any other boat or watercraft on these waters.

33 ~~(d)~~(f) The Department may grant to private individuals or companies concessions for  
34 operation of public service facilities for such periods and upon such conditions as the  
35 Department deems to be in the public interest. The Department may adopt reasonable rules for  
36 the regulation of the use by the public of the lands and waters under its charge and of the public  
37 service facilities and conveniences authorized under this section. A violation of these rules is  
38 punishable as a Class 3 misdemeanor.

39 ~~(d1)~~(g) The Department shall ~~implement the following recommendations:~~ validate no less  
40 frequently than every five years the number of visitors per car used in the calculation of visitor  
41 counts at State Parks.

42 ~~(e)~~(h) The authority granted to the Department under this section is in addition to any  
43 authority granted to the Department under any other provision of law.

44 "**§ 143B-135.18. Legislative authority necessary for payment.**

45 Nothing in this ~~Article-Part~~ shall operate or be construed as authority for the payment of  
46 any money out of the State treasury for the purchase of lands or for other purposes unless by  
47 appropriation for said purpose by the General Assembly.

48 ...."

49 "Part 32. State Parks Act.

50 "**§ 143B-135.40. Short title.**

51 This ~~Article-Part~~ shall be known as the State Parks Act.



1 **"§ 143B-135.42. Declaration of policy and purpose.**

2 (a) The State of North Carolina offers unique archaeological, geologic, biological, scenic,  
3 and recreational resources. These resources are part of the heritage of the people of this State.  
4 The heritage of a people should be preserved and managed by the people for their use and for  
5 the use of their visitors and descendants.

6 (b) The General Assembly finds it appropriate to establish the State Parks System. This  
7 system shall consist of parks which include representative examples of the resources sought to  
8 be preserved by this ~~Article, Part~~, together with such surrounding lands as may be appropriate.  
9 Park lands are to be used by the people of this State and their visitors in order to promote  
10 understanding of and pride in the natural heritage of this State.

11 (c) The tax dollars of the people of the State should be expended in an efficient and  
12 effective manner for the purpose of assuring that the State Parks System is adequate to  
13 accomplish the goals as defined in this ~~Article, Part~~.

14 (d) The purpose of this ~~Article, Part~~ is to establish methods and principles for the  
15 planned acquisition, development, and operation of State parks.

16 **"§ 143B-135.44. Definitions.**

17 As used in this ~~Article, Part~~, unless the context requires otherwise:

- 18 (1) "Department" means the Department of ~~Environment and Natural~~ and  
19 Cultural Resources.
- 20 (2) "Park" means any tract of land or body of water comprising part of the State  
21 Parks System under this ~~Article, Part~~, including existing State parks, State  
22 natural areas, State recreation areas, State trails, State rivers, and State lakes.
- 23 (3) "Plan" means State Parks System Plan.
- 24 (4) "Secretary" means the Secretary of ~~Environment and Natural~~ and Cultural  
25 Resources.
- 26 (5) "State Parks System" or "system" mean all those lands and waters which  
27 comprise the parks system of the State as established under this ~~Article, Part~~.

28 **"§ 143B-135.46. Powers of the Secretary.**

29 The Secretary shall implement the provisions of this ~~Article, Part~~ and shall be responsible  
30 for the administration of the State Parks System.

31 **"§ 143B-135.48. Preparation of a System Plan.**

32 (a) The Secretary shall prepare and adopt a State Parks System Plan by December 31,  
33 1988. The Plan, at a minimum, shall:

- 34 (1) Outline a method whereby the mission and purposes of the State Parks  
35 System as defined in ~~G.S. 113-44.8~~ G.S. 143B-135.42 can be achieved in a  
36 reasonable, timely, and cost-effective manner;
- 37 (2) Evaluate existing parks against these standards to determine their statewide  
38 significance;
- 39 (3) Identify duplications and deficiencies in the current State Parks System and  
40 make recommendations for correction;
- 41 (4) Describe the resources of the existing State Parks System and their current  
42 uses, identify conflicts created by those uses, and propose solutions to them;  
43 and
- 44 (5) Describe anticipated trends in usage of the State Parks System, detail what  
45 impacts these trends may have on the State Parks System, and recommend  
46 means and methods to accommodate those trends successfully.

47 (b) The Plan shall be developed with full public participation, including a series of  
48 public meetings held on adequate notice under rules which shall be adopted by the Secretary.  
49 The purpose of the public meetings and other public participation shall be to obtain from the  
50 public:

- 1 (1) Views and information on the needs of the public for recreational resources  
2 in the State Parks System;  
3 (2) Views and information on the manner in which these needs should be  
4 addressed;  
5 (3) Review of the draft plan prepared by the Secretary before he adopts the Plan.

6 (c) The Secretary shall revise the Plan at intervals not exceeding five years. Revisions  
7 to the Plan shall be made consistent with and under the rules providing public participation in  
8 adoption of the Plan.

9 (d) No later than October 1 of each year, the Department shall submit electronically the  
10 State Parks System Plan to the Environmental Review Commission, the Senate and the House  
11 of Representatives ~~Appropriations Subcommittees on Natural and Economic Resources,~~  
12 appropriations committees with jurisdiction over natural and cultural resources, and the Fiscal  
13 Research Division. Concurrently, the Department shall submit a summary of each change to the  
14 Plan that was made during the previous fiscal year.

15 **"§ 143B-135.50. Classification of parks resources.**

16 After adopting the Plan, the Secretary shall identify and classify the major resources of each  
17 of the parks in the State Parks System, in order to establish the major purpose or purposes of  
18 each of the parks, consistent with the Plan and the purposes of this ~~Article.~~Part.

19 **"§ 143B-135.52. General management plans.**

20 Every park classified pursuant to ~~G.S. 113-44.12~~ G.S. 143B-135.50 shall have a general  
21 management plan. The plan shall include a statement of purpose for the park based upon its  
22 relationship to the System Plan and its classification. An analysis of the major resources and  
23 facilities on hand to achieve those purposes shall be completed along with a statement of  
24 management direction. The general management plan shall be revised as necessary to comply  
25 with the System Plan and to achieve the purposes of this ~~Article.~~Part.

26 **"§ 143B-135.54. Additions to and deletions from the State Parks System.**

27 (a) If, in the course of implementing ~~G.S. 113-44.12~~ G.S. 143B-135.50 the Secretary  
28 determines that the major purposes of a park are not consistent with the purposes of this ~~Article~~  
29 Part and the Plan, the Secretary may propose to the General Assembly the deletion of that park  
30 from the State Parks System. On a majority vote of each house of the General Assembly, the  
31 General Assembly may remove the park from the State Parks System. No other agency or  
32 governmental body of the State shall have the power to remove a park or any part from the  
33 State Parks System.

34 (b) New parks shall be added to the State Parks System by the Department after  
35 authorization by the General Assembly. Each additional park shall be authorized only by an act  
36 of the General Assembly. Additions shall be consistent with and shall address the needs of the  
37 State Parks System as described in the Plan. All additions shall be accompanied by adequate  
38 authorization and appropriations for land acquisition, development, and operations.

39 **"§ 143B-135.56. Parks and Recreation Trust Fund.**

40 ...

41 (c) Reports. – The North Carolina Parks and Recreation Authority shall report no later  
42 than October 1 of each year to the Joint Legislative Commission on Governmental Operations,  
43 the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the  
44 Fiscal Research Division, and the Environmental Review Commission on allocations from the  
45 Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under  
46 ~~subdivision~~ subsection (b1) of this section, this report shall include the operating expenses  
47 determined under subdivisions (1) and (2) of subsection (b3) of this section.

48 ...."

49 **SECTION 14.30.(m)** Parts 33-36 of Article 2 of Chapter 143B of the General  
50 Statutes, as recodified by subsection (f) of this section, read as rewritten:

51 "Part 33. North Carolina Appalachian Trails System Act.

1 **"§ 143B-135.70. Short title.**

2 This ~~Article-Part~~ may be cited as the North Carolina Appalachian Trails System Act.

3 **"§ 143B-135.72. Policy and purpose.**

4 (a) In order to provide for the ever-increasing outdoor recreation needs of an expanded  
5 population and in order to promote public access to, travel within, and enjoyment and  
6 appreciation of the open-air, outdoor areas of the State, the Appalachian Trail should be  
7 protected in North Carolina as a segment of the National Scenic Trails System.

8 (b) The purpose of this ~~Article-Part~~ is to provide the means for attaining these  
9 objectives by instituting a North Carolina Appalachian Trail System, designating the  
10 Appalachian Trail lying or located in the North Carolina Counties of Avery, Mitchell, Yancey,  
11 Madison, Haywood, Swain, Graham, Macon, and Clay, as defined in the Federal Register of  
12 the National Trails Act as the basic component of that System, and by prescribing the methods  
13 by which, and standards according to which, additional connecting trails may be added to the  
14 System.

15 **"§ 143B-135.74. Appalachian Trails System; connecting or side trails; coordination with  
16 the National Trails System Act.**

17 Connecting or side trails may be established, designated and marked as components of the  
18 Appalachian Trail System by the Department of ~~Environment and~~ Natural and Cultural  
19 Resources in consultation with the federal agencies charged with the responsibility for the  
20 administration and management of the Appalachian Trail in North Carolina. Criteria and  
21 standards of establishment will coincide with those set forth in the National Trails System Act  
22 (PL 90-543).

23 **"§ 143B-135.76. Assistance under this ~~Article-Part~~ with the National Trails System Act  
24 (PL 90-543).**

25 (a) The Department of Administration in cooperation with other appropriate State  
26 departments shall consult with the federal agencies charged with the administration of the  
27 Appalachian Trail in North Carolina and develop a mutually agreeable plan for the orderly and  
28 coordinated acquisition of Appalachian Trail right-of-way and the associated tracts, as needed,  
29 to provide a suitable environment for the Appalachian Trail in North Carolina.

30 (b) The Department of ~~Environment and~~ Natural and Cultural Resources and the federal  
31 agencies charged with the responsibility of the administration of the Appalachian Trail in North  
32 Carolina shall give due consideration to the conservation of the environment of the  
33 Appalachian Trail and, in accordance with the National Trails System Act, may obtain advice  
34 and assistance from local governments, Carolina Mountain Club, Nantahala Hiking Club,  
35 Piedmont Appalachian Trail Hikers, Appalachian Trail Conference, other interested  
36 organizations and individuals, landowners and land users concerned.

37 (c) The Board of Transportation shall cooperate and assist in carrying out the purposes  
38 of this ~~Article-Part~~ and the National Trails System Act where their highway projects cross or  
39 may be adjacent to any component of the Appalachian Trail System.

40 (d) Lands acquired by the State of North Carolina within the 200-foot right-of-way of  
41 the Appalachian Trail and within the exterior boundaries of the Pisgah or Nantahala National  
42 Forests, will be conveyed to the United States Forest Service as the federal agency charged  
43 with the responsibility for the administration and management of the Appalachian Trail within  
44 these specific areas.

45 (e) Lands acquired by the State of North Carolina outside of the boundaries of the  
46 Appalachian Trail right-of-way will be administered by the appropriate State department in  
47 such a manner as to preserve and enhance the environment of the Appalachian Trail.

48 (f) In consultation with the Department of ~~Environment and~~ Natural and Cultural  
49 Resources, the federal agency charged with the responsibility of the administration of the  
50 Appalachian Trail in North Carolina shall establish use regulations in accordance with the  
51 National Trails System Act.

1 (g) The use of motor vehicles on the trails of the North Carolina Appalachian Trail  
2 System may be authorized when such use is necessary to meet emergencies or to enable  
3 adjacent landowners to have reasonable access to their lands and timber rights provided that the  
4 granting of this access is in accordance with limitations and conditions of such use set forth in  
5 the National Trails System Act.

6 **"§ 143B-135.78. Acquisition of rights-of-way and lands; manner of acquiring.**

7 The State of North Carolina may use lands for trail purposes within the boundaries of areas  
8 under its administration that are included in the rights-of-way selected for the Appalachian  
9 Trail System. The Department of Administration may acquire lands or easements by donation  
10 or purchase with funds donated or appropriated for such purpose.

11 **"§ 143B-135.80. Expenditures authorized.**

12 The Department is authorized to spend any federal, State, local or private funds available  
13 for this purpose to the Department for acquisition and development of the Appalachian Trail  
14 System.

15 "Part 34. North Carolina Trails System.

16 **"§ 143B-135.90. Short title.**

17 This ~~Article-Part~~ shall be known and may be cited as the "North Carolina Trails System  
18 Act."

19 **"§ 143B-135.92. Declaration of policy and purpose.**

20 (a) In order to provide for the ever-increasing outdoor recreation needs of an expanded  
21 population and in order to promote public access to, travel within, and enjoyment and  
22 appreciation of the outdoor, natural and remote areas of the State, trails should be established in  
23 natural, scenic areas of the State, and in and near urban areas.

24 (b) The purpose of this ~~Article-Part~~ is to provide the means for attaining these  
25 objectives by instituting a State system of scenic and recreation trails, coordinated with and  
26 complemented by existing and future local trail segments or systems, and by prescribing the  
27 methods by which, and standards according to which, components may be added to the State  
28 trails system.

29 **"§ 143B-135.94. Definitions.**

30 Except as otherwise required by context, the following terms when used in this ~~Article-Part~~  
31 shall be construed respectively to mean:

- 32 (1) "Department" means the North Carolina Department of ~~Environment and~~  
33 Natural and Cultural Resources.
- 34 (2) "Political subdivision" means any county, any incorporated city or town, or  
35 other political subdivision.
- 36 (3) "Scenic easement" means a perpetual easement in land which  
37 a. Is held for the benefit of the people of North Carolina,  
38 b. Is specifically enforceable by its holder or beneficiary, and  
39 c. Limits or obligates the holder of the servient estate, his heirs, and  
40 assigns with respect to their use and management of land and  
41 activities conducted thereon, the object of such limitations and  
42 obligations being the maintenance or enhancement of the natural  
43 beauty of the land in question or of areas affected by it.
- 44 (4) "Secretary" means the Secretary of ~~Environment and Natural~~ and Cultural  
45 Resources, except as otherwise specified in this ~~Article-Part~~.
- 46 (5) "State trails system" means the trails system established in this ~~Article-Part~~  
47 or pursuant to the State Parks Act, ~~Article 2C of Chapter 113 of the General~~  
48 Statutes, Part 32 of this Article, and including all trails and trail segments,  
49 together with their rights-of-way, added by any of the procedures described  
50 in this ~~Article or Article 2C of Chapter 113 of the General Statutes.~~ Part or  
51 Part 32 of this Article.

- 1 (6) "Trail" means:
- 2 a. Park trail. – A trail designated and managed as a unit of the North
- 3 Carolina State Parks System under ~~Article 2C of Chapter 113 of the~~
- 4 ~~General Statutes.~~ Part 32 of this Article.
- 5 b. Designated trail. – A trail designated by the Secretary pursuant to this
- 6 ~~Article~~ Part as a component of the State trails system and that is
- 7 managed by another governmental agency or by a corporation listed
- 8 with the Secretary of State.
- 9 c. A State scenic trail, State recreation trail, or State connecting trail
- 10 under ~~G.S. 113A-86~~ G.S. 143B-135.96 when the intended primary
- 11 use of the trail is to serve as a park trail or designated trail.
- 12 d. Any other trail that is open to the public and that the owner, lessee,
- 13 occupant, or person otherwise in control of the land on which the
- 14 trail is located allows to be used as a trail without compensation,
- 15 including a trail that is not designated by the Secretary as a
- 16 component of the State trails system.
- 17 (7) "Trails Committee" means the North Carolina Trails Committee established
- 18 by Part 35 of this Article.

19 **"§ 143B-135.96. Composition of State trails system.**

20 The State trails system shall be composed of designated:

- 21 (1) State scenic trails, which are defined as extended trails so located as to
- 22 provide maximum potential for the appreciation of natural areas and for the
- 23 conservation and enjoyment of the significant scenic, historic, natural,
- 24 ecological, geological or cultural qualities of the areas through which such
- 25 trails may pass.
- 26 (2) State recreation trails, which are defined as trails planned principally for
- 27 recreational value and may include trails for foot travel, horseback,
- 28 nonmotorized bicycles, nonmotorized water vehicles, and two-wheel-and
- 29 four-wheel-drive motorized vehicles. More than one of the aforesaid types of
- 30 travel may be permitted on a single trail in the discretion of the Secretary.
- 31 (3) Connecting or side trails, which will provide additional points of public
- 32 access to State recreation or State scenic trails or which will provide
- 33 connections between such trails.

34 **"§ 143B-135.98. Authority to designate trails.**

35 The Department may establish and designate trails on:

- 36 (1) Lands administered by the Department,
- 37 (2) Lands under the jurisdiction of a State department, political subdivision, or
- 38 federal agency, or
- 39 (3) Private lands provided, fee-simple title, lesser estates, scenic easements,
- 40 easements of surface ingress and egress running with the land, leases, or
- 41 other written agreements are obtained from landowners through which a
- 42 State trail may pass.

43 **"§ 143B-135.100. Use of State land for bicycling; creation of trails by volunteers.**

44 (a) Any land held in fee simple by this State, any agency of this State, or any land

45 purchased or leased with funds provided by this State may be open and available for use by

46 bicyclists upon establishment of a usage agreement. The usage agreement shall be established

47 between the land manager and any local cycling group or organization intending to use the land

48 and shall specify the terms and conditions for use of the land. The land manager shall designate

49 a representative with knowledge of off-road bicycle trail building to negotiate the agreement.

50 Upon establishment of the usage agreement, any bicyclist may use the land pursuant to the

51 agreement.

1 The land manager shall not be required to create, maintain, or make available any special  
2 trails, paths, or other accommodations to any user of the land for cycling purposes. However,  
3 once a usage agreement has been established, any local cycling group or organization may  
4 create and maintain special trails for cycling purposes. Any trails created for the purpose of  
5 off-road cycling shall be created and maintained using commonly accepted best practices.

6 (b) Notwithstanding the provisions of subsection (a) of this section, any land may be  
7 restricted or removed from use by bicyclists if it is determined by the State, an agency of the  
8 State, or the holder of land purchased or leased with State funds that the use would cause  
9 substantial harm to the land or the environment or that the use would violate another State or  
10 federal law. Before restricting or removing land from use by bicyclists, the State, the agency of  
11 the State, or the holder of the land purchased or leased with State funds must show why the  
12 lands should not be open for use by bicyclists. Local cycling groups or organizations shall be  
13 notified of the intent to restrict or remove the land from use by bicyclists and provided an  
14 opportunity to show why cycling should be allowed on the land. Notice of any land restricted  
15 or removed from use by bicyclists pursuant to this subsection shall be filed with the Division of  
16 Bicycle and Pedestrian Transportation of the Department of Transportation.

17 (c) The Division of Bicycle and Pedestrian Transportation of the Department of  
18 Transportation shall keep a record of all lands made open and available for use by bicyclists  
19 pursuant to this section and shall make the information available to the public upon request.

20 (d) Any land open and available for use by bicyclists, pursuant to subsection (a) of this  
21 section, shall also be available to members of the public for hiking and walking. Persons using  
22 the land pursuant to this subsection shall yield the right-of-way to bicyclists when hiking or  
23 walking on any trails created and maintained for the purpose of off-road cycling and so  
24 designated along that trail.

25 (e) Notwithstanding any other provision of this section, any hiking, walking, or use of  
26 bicycles on game lands administered by the Wildlife Resources Commission shall be restricted  
27 to roads and trails designated for vehicular use. Hiking, walking, or bicycle use by persons not  
28 hunting shall be restricted to days closed to hunting. The Wildlife Resources Commission may  
29 restrict the use of bicycles on game lands where necessary to protect sensitive wildlife habitat  
30 or species and shall file notice of any restrictions with the Division of Bicycle and Pedestrian  
31 Transportation of the Department of Transportation.

32 "~~§ 143B-135.102. North Carolina Trails Committee; composition; meetings and~~  
33 ~~functions.~~ **Trails Committee duties.**

34 (a) ~~Repealed by Session Laws 1973, c. 1262, s. 82.~~

35 ~~(b)~~(a) The Committee shall meet in various sections of the State not less than two times  
36 annually to advise the Department on all matters directly or indirectly pertaining to trails, their  
37 use, extent, location, and the other objectives and purposes of this ~~Article~~.Part.

38 ~~(c)~~(b) The Committee shall coordinate trail development among local governments, and  
39 shall assist local governments in the formation of their trail plans and advise the Department  
40 quarterly of its findings.

41 ~~(d)~~(c) The Secretary, with advice of the Committee, shall study trail needs and potentials,  
42 and make additions to the State Trails System as needed. He shall submit an annual report to  
43 the Governor and General Assembly on trail activities by the Department, including  
44 rights-of-way that have been established and on the program for implementing this ~~Article~~.  
45 Part. Each report shall include a short statement on the significance of the various trails to the  
46 System. The Secretary shall make such rules as to trail development, management, and use that  
47 are necessary for the proper implementation of this ~~Article~~.Part.

48 "**§ 143B-135.104. Location of trails.**

49 The process of locating routes of designated trails to be added to the system shall be as  
50 follows:

1 For State scenic trails, the Secretary or a designee, after consulting with the Committee,  
2 shall recommend a route. For State recreation trails and for connecting or side trails, the  
3 Secretary or a designee, after consulting with the Committee, shall select the route. The  
4 Secretary may provide technical assistance to political subdivisions or private, nonprofit  
5 organizations that develop, construct, or maintain designated trails or other public trails that  
6 complement the State trails system. When a route shall traverse land within the jurisdiction of a  
7 governmental unit or political subdivision, the Department shall consult with such unit or such  
8 subdivision prior to its final determination of the location of the route. The selected route shall  
9 be compatible with preservation or enhancement of the environment it traverses. Reasonable  
10 effort shall be made to minimize any adverse effects upon adjacent landowners and users.  
11 Notice of the selected route shall be published by the Department in a newspaper of general  
12 circulation in the area in which the trail is located, together with appropriate maps and  
13 descriptions to be conspicuously posted at the appropriate courthouse. Such publication shall be  
14 prior to the designation of the trail by the Secretary.

15 **"§ 143B-135.106. Scenic easements within right-of-way.**

16 Within the boundaries of the right-of-way, the Secretary of the North Carolina Department  
17 of Administration may acquire, on behalf of the State of North Carolina, lands in fee title, or  
18 interest in land in the form of scenic easements, cooperative agreements, easements of surface  
19 ingress and egress running with the land, leases, or less than fee estates. Acquisition of land or  
20 of interest therein may be by gift, purchased with donated funds or funds appropriated by the  
21 governmental agencies for this purpose, proceeds from the sale of bonds or exchange. Any  
22 change in value of land resulting from the grant of an easement shall be taken into  
23 consideration in the assessment of the land for tax purposes.

24 **"§ 143B-135.108. Trails within parks; conflict of laws.**

25 Any component of the System that is or shall become a part of any State park, recreation  
26 area, wildlife management area, or similar area shall be subject to the provisions of this ~~Article~~  
27 Part as well as any other laws under which the other areas are administered, and in the case of  
28 conflict between the provisions the more restrictive provisions shall apply.

29 **"§ 143B-135.110. Uniform trail markers.**

30 The Department, in consultation with the Committee, shall establish a uniform marker for  
31 trails contained in the System. An additional appropriate symbol characterizing specific trails  
32 may be included on the marker. The markers shall be placed at all access points, together with  
33 signs indicating the modes of locomotion that are prohibited for the trail, provided that where  
34 the trail constitutes a portion of a national scenic trail, use of the national scenic trail uniform  
35 marker shall be considered sufficient. The route of the trail and the boundaries of the  
36 right-of-way shall be adequately marked.

37 **"§ 143B-135.112. Adopt-A-Trail Program.**

38 The Department shall establish an Adopt-A-Trail Program to coordinate with the Trails  
39 Committee and local groups or persons on trail development and maintenance. Local  
40 involvement shall be encouraged, and interested groups are authorized to "adopt-a-trail" for  
41 such purposes as placing trail markers, trail building, trail blazing, litter control, resource  
42 protection, and any other activities related to the policies and purposes of this ~~Article~~Part.

43 **"§ 143B-135.114. Administrative policy.**

44 The North Carolina Trails System shall be administered by the Department according to the  
45 policies and criteria set forth in this ~~Article~~Part. The Department shall, in addition, have or  
46 designate the responsibility for maintaining the trails, building bridges, campsites, shelters, and  
47 related public-use facilities where required.

48 **"§ 143B-135.116. Incorporation in National Trails System.**

49 Nothing in this ~~Article~~Part shall preclude a component of the State Trails System from  
50 becoming a part of the National Trails System. The Secretary shall coordinate the State Trails  
51 System with the National Trails System and is directed to encourage and assist any federal

1 studies for inclusion of North Carolina trails in the National Trails System. The Department  
2 may enter into written cooperative agreements for joint federal-State administration of a North  
3 Carolina component of the National Trails System, provided such agreements for  
4 administration of land uses are not less restrictive than those set forth in this ~~Article-Part~~.

5 **"§ 143B-135.118. Trail use liability.**

6 (a) Any person, as an owner, lessee, occupant, or otherwise in control of land, who  
7 allows without compensation another person to use the land for designated trail or other public  
8 trail purposes or to construct, maintain, or cause to be constructed or maintained a designated  
9 trail or other public trail owes the person the same duty of care he owes a trespasser.

10 (b) Any person who without compensation has constructed, maintained, or caused to be  
11 constructed or maintained a designated trail or other public trail pursuant to a written agreement  
12 with any person who is an owner, lessee, occupant, or otherwise in control of land on which a  
13 trail is located shall owe a person using the trail the same duty of care owed a trespasser.

14 (c) ~~Repealed by Session Laws 1993, c. 184, s. 6.~~

15 "Part 35. North Carolina Trails Committee.

16 **"§ 143B-135.130. North Carolina Trails Committee – creation; powers and duties.**

17 There is hereby created the North Carolina Trails Committee of the Department of  
18 ~~Environment and Natural~~ and Cultural Resources. The Committee shall have the following  
19 functions and duties:

20 (1) To meet not less than two times annually to advise the Department on all  
21 matters directly or indirectly pertaining to trails, their use, extent, location,  
22 and the other objectives and purposes of ~~G.S. 113A-88~~. G.S. 143B-135.102.

23 (2) To coordinate trail development among local governments, and to assist  
24 local governments in the formation of their trail plans and advise the  
25 Department of its findings.

26 (3) To advise the Secretary of trail needs and potentials pursuant to  
27 ~~G.S. 113A-88~~. G.S. 143B-135.102.

28 **"§ 143B-135.132. North Carolina Trails Committee – members; selection; removal;  
29 compensation.**

30 The North Carolina Trails Committee shall consist of seven members appointed by the  
31 Secretary of ~~Environment and Natural~~ and Cultural Resources. Two members shall be from the  
32 mountain section, two from the Piedmont section, two from the coastal plain, and one at large.  
33 They shall as much as possible represent various trail users.

34 ~~The initial members of the North Carolina Trails Committee shall be the members of the~~  
35 ~~current North Carolina Trails Committee who shall serve for a period equal to the remainder of~~  
36 ~~their current term on the North Carolina Trails Committee. At the end of the respective terms of~~  
37 ~~office of the initial members of the Committee, the appointment of their successors shall be for~~  
38 Committee members shall serve staggered terms of four years and until their successors are  
39 appointed and qualify. Any appointment to fill a vacancy on the Committee created by the  
40 resignation, dismissal, death or disability of a member shall be for the balance of the unexpired  
41 term.

42 The Governor shall have the power to remove any member of the Committee from office in  
43 accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

44 The Secretary of ~~Environment and Natural~~ and Cultural Resources shall designate a  
45 member of the Committee to serve as chairman at the pleasure of the Governor.

46 Members of the Committee shall receive per diem and necessary travel and subsistence  
47 expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive  
48 Organization Act of 1973.

49 "Part 36. Natural and Scenic Rivers System.

50 **"§ 143B-135.140. Short title.**



1 This ~~Article-Part~~ shall be known and may be cited as the "Natural and Scenic Rivers Act of  
2 1971."

3 **"§ 143B-135.142. Declaration of policy.**

4 The General Assembly finds that certain rivers of North Carolina possess outstanding  
5 natural, scenic, educational, geological, recreational, historic, fish and wildlife, scientific and  
6 cultural values of great present and future benefit to the people. The General Assembly further  
7 finds as policy the necessity for a rational balance between the conduct of man and the  
8 preservation of the natural beauty along the many rivers of the State. This policy includes  
9 retaining the natural and scenic conditions in some of the State's valuable rivers by maintaining  
10 them in a free-flowing state and to protect their water quality and adjacent lands by retaining  
11 these natural and scenic conditions. It is further declared that the preservation of certain rivers  
12 or segments of rivers in their natural and scenic condition constitutes a beneficial public  
13 purpose.

14 **"§ 143B-135.144. Declaration of purpose.**

15 The purpose of this ~~Article-Part~~ is to implement the policy as set out in ~~G.S. 113A-31~~  
16 G.S. 143B-135.142 by instituting a North Carolina natural and scenic rivers system, and by  
17 prescribing methods for inclusion of components to the system from time to time.

18 **"§ 143B-135.146. Definitions.**

19 As used in this ~~Article-Part~~, unless the context requires otherwise:

- 20 (1) "Department" means the Department of ~~Environment and~~ Natural and  
21 Cultural Resources.
- 22 (2) "Free-flowing," as applied to any river or section of a river, means existing  
23 or flowing in natural condition without substantial impoundment, diversion,  
24 straightening, rip-rapping, or other modification of the waterway. The  
25 existence of low dams, diversion works, and other minor structures at the  
26 time any river is proposed for inclusion in the North Carolina natural and  
27 scenic rivers system shall not automatically bar its consideration for such  
28 inclusion: Provided, that this shall not be construed to authorize, intend, or  
29 encourage future construction of such structures within components of the  
30 system.
- 31 (3) "River" means a flowing body of water or estuary or a section, portion, or  
32 tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small  
33 lakes.
- 34 (4) "Road" means public or private highway, hard-surface road, dirt road, or  
35 railroad.
- 36 (5) "Scenic easement" means a perpetual easement in land which (i) is held for  
37 the benefit of the people of North Carolina, (ii) is specifically enforceable by  
38 its holder or beneficiary, and (iii) limits or obligates the holder of the  
39 servient estate, his heirs, and assigns with respect to their use and  
40 management of the land and activities conducted thereon. The object of such  
41 limitations and obligations is the maintenance or enhancement of the natural  
42 beauty of the land in question or of the areas affected by it.
- 43 (6) "Secretary" means the Secretary of ~~Environment and~~ Natural and Cultural  
44 Resources.

45 **"§ 143B-135.148. Types of scenic rivers.**

46 The following types of rivers are eligible for inclusion in the North Carolina natural and  
47 scenic rivers system:

48 Class I. Natural river areas. Those free-flowing rivers or segments of rivers and adjacent  
49 lands existing in a natural condition. Those rivers or segments of rivers that are free of  
50 man-made impoundments and generally inaccessible except by trail, with the lands within the

1 boundaries essentially primitive and the waters essentially unpolluted. These represent vestiges  
2 of primitive America.

3 Class II. Scenic river areas. Those rivers or segments of rivers that are largely free of  
4 impoundments, with the lands within the boundaries largely primitive and largely undeveloped,  
5 but accessible in places by roads.

6 Class III. Recreational river areas. Those rivers or segments of rivers that offer outstanding  
7 recreation and scenic values and that are largely free of impoundments. They may have some  
8 development along their shorelines and have more extensive public access than natural or  
9 scenic river segments. Recreational river segments may also link two or more natural and/or  
10 scenic river segments to provide a contiguous designated river area. No provision of this  
11 section shall interfere with flood control measures; provided that recreational river users can  
12 continue to travel the river.

13 **"§ 143B-135.150. Criteria for system.**

14 For the inclusion of any river or segment of river in the natural and scenic river system, the  
15 following criteria must be present:

- 16 (1) River segment length – must be no less than one mile.
- 17 (2) Boundaries – of the system shall be the visual horizon or such distance from  
18 each shoreline as may be determined to be necessary by the Secretary, but  
19 shall not be less than 20 feet.
- 20 (3) Water quality – shall not be less than that required for Class "C" waters as  
21 established by the North Carolina Environmental Management Commission.
- 22 (4) Water flow – shall be sufficient to assure a continuous flow and shall not be  
23 subjected to withdrawal or regulation to the extent of substantially altering  
24 the natural ecology of the stream.
- 25 (5) Public access – shall be limited, but may be permitted to the extent deemed  
26 proper by the Secretary, and in keeping with the property interest acquired  
27 by the Department and the purpose of this ~~Article~~.Part.

28 **"§ 143B-135.152. Components of system; management plan; acquisition of land and  
29 easements; inclusion in national system.**

30 ~~(a)~~ That segment of the south fork of the New River extending from its confluence with  
31 Dog Creek in Ashe County downstream through Ashe and Alleghany Counties to its  
32 confluence with the north fork of the New River and the main fork of the New River in Ashe  
33 and Alleghany Counties downstream to the Virginia State line shall be a scenic river area and  
34 shall be included in the North Carolina Natural and Scenic Rivers System.

35 The Department shall prepare and implement a management plan for this river section. This  
36 management plan shall recognize and provide for the protection of the existing undeveloped  
37 scenic and pastoral features of the river. Furthermore, it shall specifically provide for continued  
38 use of the lands adjacent to the river for normal agricultural activities, including, but not limited  
39 to, cultivation of crops, raising of cattle, growing of trees and other practices necessary to these  
40 agricultural pursuits.

41 For purposes of implementing this section and the management plan, the Department may  
42 acquire lands or interests in lands, provide for protection of scenic values as described in  
43 ~~G.S. 113A-38, G.S. 143B-135.160,~~ and provide for public access. Easements obtained for the  
44 purpose of implementing this section and the management plan shall not abridge the water  
45 rights being exercised on May 26, 1975.

46 Should the Governor seek inclusion of this river segment in the National System of Wild  
47 and Scenic Rivers by action of the Secretary of Interior, such inclusion shall be at no cost to the  
48 federal government, as prescribed in the National Wild and Scenic Rivers Act, and therefore  
49 shall be under the terms described in this section of the North Carolina Wild and Scenic Rivers  
50 Act and in the management plan developed pursuant thereto.

51 ~~(b) Repealed by Session Laws 2012-200, s. 24, effective August 1, 2012.~~

1 **"§ 143B-135.154. Additional components.**

2 That segment of the Linville River beginning at the State Highway 183 bridge over the  
3 Linville River and extending approximately 13 miles downstream to the boundary between the  
4 United States Forest Service lands and lands of Duke Power Company (latitude 35° 50' 20")  
5 shall be a natural river area and shall be included in the North Carolina Natural and Scenic  
6 River System.

7 That segment of the Horsepasture River in Transylvania County extending downstream  
8 from Bohaynee Road (N.C. 281) to Lake Jocassee shall be a natural river and shall be included  
9 in the North Carolina Natural and Scenic Rivers System.

10 That segment of the Lumber River extending from county road 1412 in Scotland County  
11 downstream to the North Carolina-South Carolina state line, a distance of approximately 102  
12 river miles, shall be included in the Natural and Scenic Rivers System and classified as follows:  
13 from county road 1412 in Scotland County downstream to the junction of the Lumber River  
14 and Back Swamp shall be classified as scenic; from the junction of the Lumber River and Back  
15 Swamp downstream to the junction of the Lumber River and Jacob Branch and the river within  
16 the Fair Bluff town limits shall be classified as recreational; and from the junction of the  
17 Lumber River and Jacob Branch downstream to the North Carolina-South Carolina state line,  
18 excepting the Fair Bluff town limits, shall be classified as natural.

19 **"§ 143B-135.156. Administrative agency; federal grants; additions to the system;  
20 regulations.**

21 (a) The Department is the agency of the State of North Carolina with the duties and  
22 responsibilities to administer and control the North Carolina natural and scenic rivers system.

23 (b) The Department shall be the agency of the State with the authority to accept federal  
24 grants of assistance in planning, developing (which would include the acquisition of land or an  
25 interest in land), and administering the natural and scenic rivers system.

26 (c) The Secretary of the Department shall study and from time to time submit to the  
27 Governor and to the General Assembly proposals for the additions to the system of rivers and  
28 segments of rivers which, in his judgment, fall within one or more of the categories set out in  
29 ~~G.S. 113A-34.~~ G.S. 143B-135.148. Each proposal shall specify the category of the proposed  
30 addition and shall be accompanied by a detailed report of the facts which, in the Secretary's  
31 judgment, makes the area a worthy addition to the system.

32 Before submitting any proposal to the Governor or the General Assembly for the addition to  
33 the system of a river or segment of a river, the Secretary or his authorized representative, shall  
34 hold a public hearing in the county or counties where said river or segment of river is situated.  
35 Notice of such public hearing shall be given by publishing a notice once each week for two  
36 consecutive weeks in a newspaper having general circulation in the county where said hearing  
37 is to be held, the second of said notices appearing not less than 10 days before said hearing.  
38 Any person attending said hearing shall be given an opportunity to be heard. Notwithstanding  
39 the provisions of the foregoing, no public hearing shall be required with respect to a river  
40 bounded solely by the property of one owner, who consents in writing to the addition of such  
41 river to the system.

42 The Department shall also conduct an investigation on the feasibility of the inclusion of a  
43 river or a segment of river within the system and file a written report with the Governor when  
44 submitting a proposal.

45 The Department shall also, before submitting such a proposal to the Governor or the  
46 General Assembly, notify in writing the owner, lessee, or tenant of any lands adjoining said  
47 river or segment of river of its intention to make such proposal. In the event the Department,  
48 after due diligence, is unable to determine the owner or lessee of any such land, the Department  
49 may publish a notice for four successive weeks in a newspaper having general circulation in the  
50 county where the land is situated of its intention to make a proposal to the Governor or General  
51 Assembly for the addition of a river or segment of river to the system.

1       ~~(c1)~~(d) Upon receipt of a request in the form of a resolution from the commissioners of the  
2 county or counties in which a river segment is located and upon studying the segment and  
3 determining that it meets the criteria set forth in ~~G.S. 113A-35, G.S. 143B-135.150,~~ the  
4 Secretary may designate the segment a potential component of the natural and scenic rivers  
5 system. The designation as a potential component shall be transmitted to the Governor and all  
6 appropriate State agencies. Any segment so designated is subject to the provisions of this  
7 ~~Article-Part~~ applicable to designated rivers, except for acquisition by condemnation or  
8 otherwise, and to any rules adopted pursuant to this ~~Article-Part~~. The Secretary shall make a  
9 full report and, if appropriate, a proposal for an addition to the natural and scenic rivers system  
10 to the General Assembly within 90 days after the convening of the next session following  
11 issuance of the designation, and the General Assembly shall determine whether to designate the  
12 segment as a component of the natural and scenic rivers system. If the next session of the  
13 General Assembly fails to take affirmative action on the designation, the designation as a  
14 potential component shall expire.

15       ~~(d)~~(e) The Department may adopt rules to implement this ~~Article-Part~~.

16       **"§ 143B-135.158. Raising the status of an area.**

17       Whenever in the judgment of the Secretary of the Department a scenic river segment has  
18 been sufficiently restored and enhanced in its natural scenic and recreational qualities, such  
19 segment may be reclassified with the approval of the Department, to a natural river area status  
20 and thereafter administered accordingly.

21       **"§ 143B-135.160. Land acquisition.**

22       (a) The Department of Administration is authorized to acquire for the Department,  
23 within the boundaries of a river or segment of river as set out in ~~G.S. 113A-35~~  
24 G.S. 143B-135.150 on behalf of the State of North Carolina, lands in fee title or a lesser interest  
25 in land, preferably "scenic easements." Acquisition of land or interest therein may be by  
26 donation, purchase with donated or appropriated funds, exchange or otherwise.

27       (b) The Department of Administration in acquiring real property or a property interest  
28 therein as set out in this ~~Article-Part~~ shall have and may exercise the power of eminent domain  
29 in accordance with Article 3 of Chapter 40A of the General Statutes.

30       **"§ 143B-135.162. Claim and allowance of charitable deduction for contribution or gift of  
31 easement.**

32       The contribution or donation of a "scenic easement," right-of-way or any other easement or  
33 interest in land to the State of North Carolina, as provided in this ~~Article-Part~~, shall be deemed  
34 a contribution to the State of North Carolina within the provisions of G.S. 105-130.9 and  
35 section 170(c)(1) of the Internal Revenue Code. The value of the contribution or donation shall  
36 be the fair market value of the easement or other interest in land when the contribution or  
37 donation is made.

38       **"§ 143B-135.164. Component as part of State park, wildlife refuge, etc.**

39       Any component of the State natural and scenic rivers system that is or shall become a part  
40 of any State park, wildlife refuge, or state-owned area shall be subject to the provisions of this  
41 ~~Article-Part~~ and the ~~Articles-laws~~ under which the other areas may be administered, and in the  
42 case of conflict between the provisions of these ~~Articles-laws~~, the more restrictive provisions  
43 shall apply.

44       **"§ 143B-135.166. Component as part of national wild and scenic river system.**

45       Nothing in this ~~Article-Part~~ shall preclude a river or segment of a river from becoming part  
46 of the national wild and scenic river system. The Secretary ~~of the Department~~ is directed to  
47 encourage and assist any federal studies for the inclusion of North Carolina rivers in the  
48 national system. The Secretary may enter into cooperative agreements for joint federal-state  
49 administration of a North Carolina river or segment of river: Provided, that such agreements  
50 relating to water and land use are not less restrictive than the requirements of this ~~Article-Part~~.

51       **"§ 143B-135.168. Violations.**

1 (a) Civil Action. – Whoever violates, fails, neglects or refuses to obey any provision of  
2 this ~~Article-Part~~ or rule or order of the Secretary may be compelled to comply with or obey the  
3 same by injunction, mandamus, or other appropriate remedy.

4 (b) Penalties. – Whoever violates, fails, neglects or refuses to obey any provision of this  
5 ~~Article-Part~~ or rule or order of the Secretary is guilty of a Class 3 misdemeanor and may be  
6 punished only by a fine of not more than fifty dollars (\$50.00) for each violation, and each day  
7 such person shall fail to comply, where feasible, after having been officially notified by the  
8 Department shall constitute a separate offense subject to the foregoing penalty.

9 **"§ 143B-135.170. Authorization of advances.**

10 The Department of Administration is hereby authorized to advance from land-purchase  
11 appropriations necessary amounts for the purchase of land in those cases where reimbursement  
12 will be later effected by the Bureau of Outdoor Recreation of the United States Department of  
13 the Interior.

14 **"§ 143B-135.172. Restrictions on project works on natural or scenic river.**

15 The State Utilities Commission may not permit the construction of any dam, water conduit,  
16 reservoir, powerhouse transmission line, or any other project works on or directly affecting any  
17 river that is designated as a component or potential component of the State Natural and Scenic  
18 Rivers System. No department or agency of the State may assist by loan, grant, license, permit,  
19 or otherwise in the construction of any water resources project that would have a direct and  
20 adverse effect on any river that is designated as a component or potential component of the  
21 State Natural and Scenic Rivers System. This section shall not, however, preclude licensing of  
22 or assistance to a development below or above a designated or potential component. No  
23 department or agency of the State may recommend authorization of any water resources project  
24 that would have a direct and adverse effect on any river that is designated as a component or  
25 potential component of the State Natural and Scenic Rivers System, or request appropriations  
26 to begin construction of any such project, regardless of when authorized, without advising the  
27 Secretary in writing of its intention to do so at least 60 days in advance. Such department or  
28 agency making such recommendation or request shall submit a written impact statement to the  
29 General Assembly to accompany the recommendation or request specifically describing how  
30 construction of the project would be in conflict with the purposes of this act and how it would  
31 affect the component or potential component."

32 **SECTION 14.30.(n)** Part 37 of Article 2 of Chapter 143B of the General Statutes,  
33 as recodified by subsection (g) of this section, reads as rewritten:

34 "Part 37. Division of North Carolina Aquariums.

35 **"§ 143B-135.180. Division of North Carolina Aquariums – creation.**

36 The Division of North Carolina Aquariums is created in the Department of ~~Environment~~  
37 ~~and-Natural and Cultural Resources~~.

38 **"§ 143B-135.182. Division of North Carolina Aquariums – organization; powers and**  
39 **duties.**

40 (a) The Division of North Carolina Aquariums shall be organized as prescribed by the  
41 Secretary of ~~Environment and-Natural and Cultural Resources~~ and shall exercise the following  
42 powers and duties:

43 ~~(1) Repealed by Session Laws 1991, c. 320, s. 3.~~

44 ~~(1a)~~(1) Establish and maintain the North Carolina Aquariums.

45 ~~(1b)~~(2) Administer the operations of the North Carolina Aquariums, such  
46 administrative duties to include, but not be limited to the following:

47 a. Adopt goals and objectives for the Aquariums and review and revise  
48 these goals and objectives periodically.

49 b. Review and approve requests for use of the Aquarium facilities and  
50 advise the Secretary of ~~Environment and-Natural and Cultural~~

- 1 Resources on the most appropriate use consistent with the goals and  
 2 objectives of the Aquariums.
- 3 c. Continually review and evaluate the types of projects and programs  
 4 being carried out in the Aquarium facilities and determine if the  
 5 operation of the facilities is in compliance with the established goals  
 6 and objectives.
- 7 d. Recommend to the Secretary of ~~Environment and~~ Natural and  
 8 Cultural Resources any policies and procedures needed to assure  
 9 effective staff performance and proper liaison among Aquarium  
 10 facilities in carrying out the overall purposes of the Aquarium  
 11 programs.
- 12 e. Review Aquarium budget submissions to the Secretary of  
 13 Environment and Natural Resources.
- 14 f. Recruit and recommend to the Secretary of ~~Environment and~~ Natural  
 15 and Cultural Resources candidates for the positions of directors of  
 16 the Aquariums.
- 17 g. Create local advisory committees in accordance with the provisions  
 18 of ~~G.S. 143B-289.43~~ G.S. 143B-135.186.
- 19 ~~(4e)~~(3) Notwithstanding Article 3A of Chapter 143 of the General Statutes, and  
 20 G.S. 143-49(4), dispose of any exhibit, exhibit component, or object from  
 21 the collections of the North Carolina Aquariums by sale, lease, or trade. A  
 22 sale, lease, or trade under this subdivision shall be conducted in accordance  
 23 with generally accepted practices for zoos and aquariums that are accredited  
 24 by the American Association of Zoos and Aquariums. After deducting the  
 25 expenses attributable to the sale or lease, the net proceeds of any sale or  
 26 lease shall be credited to the North Carolina Aquariums Fund.
- 27 ~~(2);~~ ~~(3) Repealed by Session Laws 1993, c. 321, s. 28(e).~~  
 28 ~~(4) through (6) Repealed by Session Laws 1991, c. 320, s. 3.~~  
 29 ~~(7)~~ Assume any other powers and duties assigned to it by the Secretary.
- 30 (b) The Secretary may adopt any rules and procedures necessary to implement this  
 31 section.

32 **"§ 143B-135.184. North Carolina Aquariums; purpose.**

33 The purpose of establishing and maintaining the North Carolina Aquariums is to promote  
 34 an awareness, understanding, and appreciation of the diverse natural and cultural resources  
 35 associated with North Carolina's oceans, estuaries, rivers, streams, and other aquatic  
 36 environments.

37 **"§ 143B-135.186. Local advisory committees; duties; membership.**

38 Local advisory committees created pursuant to ~~G.S. 143B-289.41(a)(1b)~~  
 39 G.S. 143B-135.182(a)(2) shall assist each North Carolina Aquarium in its efforts to establish  
 40 projects and programs and to assure adequate citizen-consumer input into those efforts.  
 41 Members of these committees shall be appointed by the Secretary of ~~Environment and~~ Natural  
 42 and Cultural Resources for three-year terms from nominations made by the Director of the  
 43 Office of Marine Affairs. Each committee shall select one of its members to serve as  
 44 chairperson. Members of the committees shall serve without compensation for services or  
 45 expenses.

46 **"§ 143B-135.188. North Carolina Aquariums; fees; fund.**

47 (a) Fees. – The Secretary of ~~Environment and~~ Natural and Cultural Resources may  
 48 adopt a schedule of fees for the aquariums and piers operated by the North Carolina  
 49 Aquariums, including:

- 50 (1) Gate admission fees.  
 51 (2) Facility rental fees.

1 (3) Educational programs.  
 2 (b) Fund. – The North Carolina Aquariums Fund is hereby created as a special ~~and~~  
 3 ~~nonreverting~~ fund. The North Carolina Aquariums Fund shall be used for the following:

4 (1) ~~repair, Repair, renovation, expansion, maintenance, and educational exhibit~~  
 5 ~~construction, and operational expenses~~ construction at existing ~~aquariums,~~  
 6 aquariums.

7 (2) ~~to pay~~ Payment of the debt service and lease payments related to the  
 8 financing of expansions of ~~aquariums,~~ aquariums.

9 (3) ~~and to match~~ Matching of private funds that are raised for these purposes.

10 (c) Disposition of Fees. – All entrance fee receipts shall be credited to the ~~North~~  
 11 ~~Carolina Aquariums Fund. Receipts so credited that are necessary to support the personnel and~~  
 12 ~~operational expenses of the aquariums shall be transferred to the aquariums' General Fund~~  
 13 ~~operating budget on a monthly basis.~~ budget. In each fiscal year, the Secretary may transfer the  
 14 receipts from the North Carolina aquariums' General Fund to the North Carolina Aquariums  
 15 Fund in an amount not to exceed the sum of the following:

16 (1) One million dollars (\$1,000,000).

17 (2) The amount needed to cover the expenses described by subdivision (2) of  
 18 subsection (b) this section.

19 (d) Approval. – The Secretary may approve the use of the North Carolina Aquariums  
 20 Fund for repair and renovation projects at the aquariums related facilities that comply with the  
 21 following:

22 (1) The total project cost is less than two hundred fifty thousand dollars  
 23 (\$250,000).

24 (2) The project meets the requirements of G.S. 143C-4-3(b).

25 (d)(e) Report. – The Division of North Carolina Aquariums shall submit to the Joint  
 26 Legislative Commission on Governmental Operations, the House and Senate Appropriations  
 27 Subcommittees on Natural and Economic Resources, appropriations committees with  
 28 jurisdiction over natural and economic resources, and the Fiscal Research Division by  
 29 September 30 of each year a report on the North Carolina Aquariums Fund that shall include  
 30 the source and amounts of all funds credited to the Fund and the purpose and amount of all  
 31 expenditures from the Fund during the prior fiscal year.

32 ...."

33 **SECTION 14.30.(o)** Part 38 of Article 2 of Chapter 143B of the General Statutes,  
 34 as recodified by subsection (h) of this section, reads as rewritten:

35 "Part 38. North Carolina Parks and Recreation Authority.

36 "**§ 143B-135.200. North Carolina Parks and Recreation Authority; creation; powers and**  
 37 **duties.**

38 The North Carolina Parks and Recreation Authority is created, to be administered by the  
 39 Department of ~~Environment and~~ Natural and Cultural Resources. The North Carolina Parks and  
 40 Recreation Authority shall have at least the following powers and duties:

41 (1) To receive public and private donations, appropriations, grants, and revenues  
 42 for deposit into the Parks and Recreation Trust Fund.

43 (2) To allocate funds for land acquisition from the Parks and Recreation Trust  
 44 Fund.

45 (3) To allocate funds for repairs, renovations, improvements, construction, and  
 46 other capital projects from the Parks and Recreation Trust Fund.

47 (4) To solicit financial and material support from public and private sources.

48 (5) To develop effective public and private support for the programs and  
 49 operations of the parks and recreation areas.

1 (6) To consider and to advise the Secretary of ~~Environment and Natural and~~  
2 Cultural Resources on any matter the Secretary may refer to the North  
3 Carolina Parks and Recreation Authority.

4 **"§ 143B-135.202. North Carolina Parks and Recreation Authority; members; selection;  
5 compensation; meetings.**

6 (a) Membership. – The North Carolina Parks and Recreation Authority shall consist of  
7 nine members. The members shall include persons who are knowledgeable about park and  
8 recreation issues in North Carolina or with expertise in finance. In making appointments, each  
9 appointing authority shall specify under which subdivision of this subsection the person is  
10 appointed. Members shall be appointed as follows:

11 (1) One member appointed by the Governor.

12 (2) One member appointed by the Governor.

13 (3) One member appointed by the Governor.

14 ~~(3a) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

15 ~~(3b) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

16 (4) One member appointed by the General Assembly upon the recommendation  
17 of the Speaker of the House of Representatives, as provided in G.S. 120-121.

18 (5) One member appointed by the General Assembly upon the recommendation  
19 of the Speaker of the House of Representatives, as provided in G.S. 120-121.

20 (6) One member appointed by the General Assembly upon the recommendation  
21 of the Speaker of the House of Representatives, as provided in G.S. 120-121.

22 ~~(7) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

23 ~~(7a) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

24 ~~(8)~~(7) One member appointed by the General Assembly upon the recommendation  
25 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

26 ~~(9)~~(8) One member appointed by the General Assembly upon the recommendation  
27 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

28 ~~(10)~~(9) One member appointed by the General Assembly upon the recommendation  
29 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

30 ~~(11) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

31 ~~(12) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

32 (b) Terms. – Members shall serve staggered terms of office of three years. Members  
33 shall serve no more than two consecutive three-year terms. After serving two consecutive  
34 three-year terms, a member is not eligible for appointment to the Authority for at least one year  
35 after the expiration date of that member's most recent term. Upon the expiration of a three-year  
36 term, a member may continue to serve until a successor is appointed and duly qualified as  
37 provided by G.S. 128-7. The terms of members appointed under subdivision (1), (5), or ~~(9)~~(8)  
38 of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by three.  
39 The terms of members appointed under subdivision (2), (4), or ~~(8)~~(7) of subsection (a) of this  
40 section shall expire on July 1 of years that follow by one year those years that are evenly  
41 divisible by three. The terms of members appointed under subdivision (3), (6), or ~~(10)~~(9) of  
42 subsection (a) of this section shall expire on July 1 of years that precede by one year those  
43 years that are evenly divisible by three.

44 (c) Chair. – The Governor shall appoint one member of the North Carolina Parks and  
45 Recreation Authority to serve as Chair.

46 (d) Vacancies. – A vacancy on the North Carolina Parks and Recreation Authority shall  
47 be filled by the appointing authority responsible for making the appointment to that position as  
48 provided in subsection (a) of this section. An appointment to fill a vacancy shall be for the  
49 unexpired balance of the term.

50 (e) Removal. – The Governor may remove, as provided in Article 10 of Chapter 143C  
51 of the General Statutes any member of the North Carolina Parks and Recreation Authority



1 appointed by the Governor for misfeasance, malfeasance, or nonfeasance. The General  
2 Assembly may remove any member of the North Carolina Parks and Recreation Authority  
3 appointed by the General Assembly for misfeasance, malfeasance, or nonfeasance.

4 (f) Compensation. – The members of the North Carolina Parks and Recreation  
5 Authority shall receive per diem and necessary travel and subsistence expenses according to the  
6 provisions of G.S. 138-5.

7 (g) Meetings. – The North Carolina Parks and Recreation Authority shall meet at least  
8 quarterly at a time and place designated by the Chair.

9 (h) Quorum. – A majority of the North Carolina Parks and Recreation Authority shall  
10 constitute a quorum for the transaction of business.

11 (i) Staff. – All clerical and other services required by the North Carolina Parks and  
12 Recreation Authority shall be provided by the Secretary of ~~Environment and Natural~~ and  
13 Cultural Resources."

14 **SECTION 14.30.(p)** Part 39 of Article 2 of Chapter 143B of the General Statutes,  
15 as recodified by subsection (i) of this section, reads as rewritten:

16 "Part 39. North Carolina Zoological Park Council.

17 "**§ 143B-135.205. North Carolina Zoological Park Council – creation; powers and duties.**

18 There is hereby created the North Carolina Zoological Park Council of the Department of  
19 ~~Environment and Natural~~ and Cultural Resources. The North Carolina Zoological Park Council  
20 shall have the following functions and duties:

21 (1) To advise the Secretary on the basic concepts of and for the Zoological Park,  
22 approve conceptual plans for the Zoological Park and its ~~buildings;~~buildings.

23 (2) To advise on the construction, furnishings, equipment and operations of the  
24 North Carolina Zoological ~~Park;~~Park.

25 ~~(2a)~~(3) To establish and set admission fees with the approval of the Secretary of  
26 ~~Environment and Natural~~ and Cultural Resources as provided in  
27 ~~G.S. 143-177.3(b);~~G.S. 143B-135.213.

28 ~~(3)~~(4) To recommend programs to promote public appreciation of the North  
29 Carolina Zoological ~~Park;~~Park.

30 ~~(4)~~(5) To disseminate information on animals and the park as deemed  
31 ~~necessary;~~necessary.

32 ~~(5)~~(6) To develop effective public support of the North Carolina Zoological Park  
33 through whatever means are desirable and ~~necessary;~~necessary.

34 ~~(6)~~(7) To solicit financial and material support from various private sources within  
35 and without the State of North ~~Carolina;~~ and Carolina.

36 ~~(7)~~(8) To advise the Secretary of ~~Environment and Natural~~ and Cultural Resources  
37 upon any matter the Secretary may refer to it.

38 "**§ 143B-135.207. North Carolina Zoological Park Council – members; selection;  
39 removal; chairman; compensation; quorum; services.**

40 The North Carolina Zoological Park Council of the Department of ~~Environment and~~  
41 Natural and Cultural Resources shall consist of 15 members appointed by the Governor, one of  
42 whom shall be the Chairman of the Board of Directors of the North Carolina Zoological  
43 Society.

44 ~~The initial members of the Council shall be the members of the Board of Directors of the~~  
45 ~~North Carolina Zoo Authority who shall serve for a period equal to the remainder of their~~  
46 ~~current terms on the Board of Directors of the North Carolina Zoological Authority, all of~~  
47 ~~whose terms expire July 15, 1975.~~ At the end of the respective terms of office of the initial  
48 members of the Council, the Governor, to achieve staggered terms, shall appoint five members  
49 for terms of two years, five members for terms of four years and five members for terms of six  
50 years. Thereafter, the appointment of their successors shall be for terms of six years and until  
51 their successors are appointed and qualify. Any appointment to fill a vacancy on the Council

1 created by the resignation, dismissal, death or disability of a member shall be for the balance of  
2 the unexpired term.

3 The Governor shall have the power to remove any member of the Council from office in  
4 accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

5 The Governor shall designate a member of the Council to serve as chairman at his pleasure.

6 Members of the Council shall receive per diem and necessary travel and subsistence  
7 expenses in accordance with the provisions of G.S. 138-5.

8 A majority of the Council shall constitute a quorum for the transaction of business.

9 All clerical and other services required by the Council shall be supplied by the Secretary of  
10 ~~Environment and Natural and Cultural Resources.~~

11 "**§ 143B-135.209. Special North Carolina Zoo Fund.**

12 ~~A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created.  
13 The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal  
14 year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be  
15 used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor  
16 services facilities, construction of visitor services facilities and support facilities such as  
17 greenhouses and temporary animal holding areas, for the replacement of tram equipment as  
18 required to maintain adequate service to the public, and for marketing the Zoological Park. The  
19 Special Zoo Fund may also be used to match private funds that are raised for these purposes.  
20 Funds may be expended for these purposes by the Department of Environment and Natural  
21 Resources on the advice of the North Carolina Zoological Park Council and with the approval  
22 of the Office of State Budget and Management. The Department of Environment and Natural  
23 Resources shall provide a report on or before October 1 of each year to the Office of State  
24 Budget and Management, the Fiscal Research Division of the General Assembly, and to the  
25 Joint Legislative Commission on Governmental Operations on the use of fees collected  
26 pursuant to this section.~~

27 (a) Fund. – The North Carolina Zoo Fund is created as a special fund. The North  
28 Carolina Zoo Fund shall be used for the following types of projects at the North Carolina  
29 Zoological Park and to match private funds raised for these types of projects:

30 (1) Repair, renovation, expansion, maintenance, and educational exhibit  
31 construction.

32 (2) Renovations of exhibits in habitat clusters, visitor services facilities, and  
33 support facilities (including greenhouses and temporary animal holding  
34 areas).

35 (3) The acquisition, maintenance, or replacement of tram equipment as required  
36 to maintain adequate service to the public.

37 (b) Disposition of Fees. – All fee receipts shall be credited to the North Carolina  
38 Zoological Park's General Fund operating budget. In each fiscal year, the Secretary may  
39 transfer fee receipts from the North Carolina Zoological Park's General Fund to the North  
40 Carolina Zoo Fund in an amount not to exceed one million dollars (\$1,000,000).

41 (c) Approval. – The Secretary may approve the use of the North Carolina Zoo Fund for  
42 repair and renovation projects at the North Carolina Zoological Park recommended by the  
43 Council that comply with the following:

44 (1) The total project cost is less than two hundred fifty thousand dollars  
45 (\$250,000).

46 (2) The project meets the requirements of G.S. 143C-4-3(b).

47 (d) Report. – The Department shall submit to the House and Senate appropriations  
48 committees with jurisdiction over natural and economic resources and the Fiscal Research  
49 Division by September 30 of each year a report on the North Carolina Zoo Fund that shall  
50 include the source and amounts of all funds credited to the Fund and the purpose and amount of  
51 all expenditures from the Fund during the prior fiscal year."

1           **SECTION 14.30.(q)** G.S. 143B-135.210 through G.S. 143B-135.213, as recodified  
2 by subsection (j) of this section, read as rewritten:

3 **"§ 143-135.210. Right to receive gifts.**

4           In order to carry out the purposes of this ~~Article, Part~~, the ~~Board-Council~~ is authorized to  
5 acquire by gift or will, absolutely or in trust, from individuals, corporations, or any other source  
6 money or other property, or any interests in property, which may be retained, sold or otherwise  
7 used to promote the purposes of this ~~Article-Part~~. The use of gifts shall be subject to such  
8 limitations as may be imposed thereon by donors, notwithstanding any other provisions of this  
9 ~~Article-Part~~.

10 **"§ 143-135.211. Tax exemption for gifts to North Carolina Zoological Park-Fund-Park.**

11           All gifts made to the North Carolina Zoological Park for the purposes of this ~~Article-Part~~  
12 shall be exempt from every form of taxation including, but not by the way of limitation, ad  
13 valorem, intangible, gift, inheritance and income taxation. Proceeds from the sale of any  
14 property acquired under the provisions of this ~~Article-Part~~ shall be deposited in the North  
15 Carolina State treasury and shall be credited to the North Carolina Zoological Park.

16 **"§ 143-135.212. Cities and counties.**

17           Cities and counties are hereby authorized to expend funds derived from nontax sources and  
18 to make gifts of surplus property, to assist in carrying out the purposes of this ~~Article-Part~~.

19 **"§ 143-135.213. Sources of funds.**

20           (a) It is the intent of this ~~Article-Part~~ that the funds for the creation, establishment,  
21 construction, operation and maintenance of the North Carolina Zoological Park shall be  
22 obtained primarily from private sources; however, the Council under the supervision and  
23 approval and with the assistance of the Secretary of ~~Environment and Natural~~ and Cultural  
24 Resources is hereby authorized to receive and expend such funds as may from time to time  
25 become available by appropriation or otherwise from the State of North Carolina; provided,  
26 that the ~~North Carolina Zoological Park-Council~~ shall not in any manner pledge the faith and  
27 credit of the State of North Carolina for any of its purposes.

28           (b) The Council with the approval of the Secretary of ~~Environment and Natural~~ and  
29 Cultural Resources is authorized to establish and set admission fees which are reasonable and  
30 consistent with the purpose and function of the North Carolina Zoological Park."

31           **SECTION 14.30.(r)** Part 40 of Article 2 of Chapter 143B of the General Statutes,  
32 as recodified by subsection (k) of this section, reads as rewritten:

33           "Part 40. ~~Advisory Commission for~~ North Carolina State Museum of Natural Sciences.

34 **"§ 143B-135.215. Commission created; membership.**

35           There is created an Advisory Commission for the North Carolina State Museum of Natural  
36 Sciences which shall determine its own organization. It shall consist of at least nine members,  
37 which shall include the Director of the North Carolina State Museum of Natural Sciences, the  
38 Commissioner of Agriculture, the State Geologist and Secretary of ~~Environment and Natural~~  
39 and Cultural Resources, the Director of the Institute of Fisheries Research of the University of  
40 North Carolina, the Director of the Wildlife Resources Commission, the Superintendent of  
41 Public Instruction, or qualified representative of any or all of the above-named members, and at  
42 least three persons representing the East, the Piedmont, and the Western areas of the State.  
43 Members appointed by the Governor shall serve for four-year staggered terms. Terms shall  
44 begin on 1 September. Members appointed by the Governor shall not serve more than three  
45 consecutive four-year terms. Any member may be removed by the Governor for cause.

46 ...

47 **"§ 143B-135.221. Reports to General Assembly.**

48           The Commission shall prepare and submit a report outlining the needs of the North  
49 Carolina State Museum of Natural Sciences and recommendations for improvement of the  
50 effectiveness of the North Carolina State Museum of Natural Sciences for the purpose  
51 hereinabove set forth to ~~the 1995 General Assembly, and to each succeeding the~~ General

1 Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint  
2 Legislative Commission on Governmental Operations on or before October 1 of each year.

3 **"§ 143B-135.223. Museum of Natural Sciences; disposition of objects.**

4 Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any  
5 other law pertaining to surplus State property, the Department of ~~Environment and~~ Natural and  
6 Cultural Resources may sell or exchange any object from the collection of the Museum of  
7 Natural Sciences when it would be in the best interest of the Museum to do so. Sales or  
8 exchanges shall be conducted in accordance with generally accepted practices for accredited  
9 museums. If an object is sold, the net proceeds of the sale shall be deposited in the State  
10 treasury to the credit of a special fund to be used for the improvement of the Museum's  
11 collections or exhibits.

12 **"§ 143B-135.225. Museum of Natural Sciences; fees; fund.**

13 (a) Fund. – The North Carolina Museum of Natural Sciences Fund is created as a  
14 special fund. The North Carolina Museum of Natural Sciences Fund shall be used for repair,  
15 renovation, expansion, maintenance, and educational exhibit construction at the North Carolina  
16 Museum of Natural Sciences and to match private funds raised for these projects.

17 (b) Disposition of Fees. – All fee receipts shall be credited to the North Carolina  
18 Museum of Natural Sciences' General Fund operating budget. In each fiscal year, the Secretary  
19 may transfer fee receipts from the North Carolina Museum of Natural Sciences' General Fund  
20 to the North Carolina Museum Fund in an amount not to exceed one million dollars  
21 (\$1,000,000).

22 (c) Approval. – The Secretary may approve the use of the North Carolina Museum of  
23 Natural Sciences Fund for repair and renovation projects at the North Carolina Museum of  
24 Natural Sciences recommended by the Advisory Council that comply with the following:

25 (1) The total project cost is less than two hundred fifty thousand dollars  
26 (\$250,000).

27 (2) The project meets the requirements of G.S. 143C-4-3(b).

28 (d) Report. – The Department shall submit to the House and Senate appropriations  
29 committees with jurisdiction over natural and economic resources and the Fiscal Research  
30 Division by September 30 of each year a report on the North Carolina Museum Fund that shall  
31 include the source and amounts of all funds credited to the Fund and the purpose and amount of  
32 all expenditures from the Fund during the prior fiscal year.

33 **"§ 143B-135.229. ~~North Carolina Museum of Forestry;~~ Museum of Natural Sciences at**  
34 **Whiteville; satellite museum.**

35 The Department of ~~Environment and~~ Natural and Cultural Resources shall establish and  
36 administer the North Carolina Museum of ~~Forestry~~ Museum of Natural Sciences at Whiteville  
37 in Columbus County as a satellite museum of the North Carolina State Museum of Natural  
38 Sciences."  
39

40 **CHANGES TO STATUTORY REFERENCES TO DEPARTMENTS**

41 **SECTION 14.30.(s)** The following statutes are amended by deleting the language  
42 "Department of Cultural Resources" wherever it appears and substituting "Department of  
43 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,  
44 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,  
45 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,  
46 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,  
47 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,  
48 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,  
49 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,  
50 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,  
51 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,

1 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,  
2 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,  
3 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,  
4 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,  
5 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,  
6 G.S. 143-138, G.S. 143-268, G.S. 143-300, G.S. 143-406, G.S. 143-410, G.S. 143-411,  
7 G.S. 143-431, G.S. 143-432, G.S. 143-640, G.S. 143-641, G.S. 143-642, G.S. 143-675,  
8 G.S. 143-676, G.S. 143-677, G.S. 143B-2, G.S. 143B-6, G.S. 143B-49, G.S. 143B-51,  
9 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,  
10 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,  
11 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,  
12 G.S. 143B-111, G.S. 143B-121, G.S. 143B-123, G.S. 143B-124, G.S. 143B-125,  
13 G.S. 143B-126, G.S. 143B-127, G.S. 143B-131.1, G.S. 143B-131.2, G.S. 143B-131.8A,  
14 G.S. 143B-131.9, G.S. 143B-133, G.S. 143B-135, G.S. 143B-181, G.S. 143B-417,  
15 G.S. 143B-948, G.S. 150B-1, G.S. 153A-266, G.S. 153A-373, G.S. 160A-400.4,  
16 G.S. 160A-400.6, G.S. 160A-433, G.S. 161-11.5, G.S. 163-82.10, G.S. 163-278.22,  
17 G.S. 163-278.30. In any other instances in the General Statutes in which there is a reference to  
18 the Department of Cultural Resources or a derivative thereof, the Revisor of Statutes may  
19 replace that reference with a reference to the Department of Natural and Cultural Resource, as  
20 appropriate.

21 **SECTION 14.30.(t)** The following statutes are amended by deleting the language  
22 "Secretary of Cultural Resources" wherever it appears and substituting "Secretary of Natural  
23 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,  
24 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,  
25 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,  
26 G.S. 143-675, G.S. 143-676, G.S. 143B-52, G.S. 143B-62, G.S. 143B-63, G.S. 143B-72,  
27 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,  
28 G.S. 143B-87, G.S. 143B-88, G.S. 143B-90, G.S. 143B-91, G.S. 143B-97, G.S. 143B-98,  
29 G.S. 143B-99, G.S. 143B-101, G.S. 143B-102, G.S. 143B-105, G.S. 143B-106,  
30 G.S. 143B-109, G.S. 143B-110, G.S. 143B-114, G.S. 143B-115, G.S. 143B-131.2,  
31 G.S. 143B-133, G.S. 143B-135, G.S. 147-54.3, G.S. 153A-267. In any other instances in the  
32 General Statutes in which there is a reference to the Secretary of Cultural Resources or a  
33 derivative thereof, the Revisor of Statutes may replace that reference with a reference to the  
34 Secretary of Natural and Cultural Resources, as appropriate.

35 **SECTION 14.30.(u)** The following statutes are amended by deleting the language  
36 "Department of Environment and Natural Resources" wherever it appears and substituting  
37 "Department of Environmental Quality": G.S. 14-86.2, G.S. 14-137, G.S. 15A-1343,  
38 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,  
39 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,  
40 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,  
41 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,  
42 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,  
43 G.S. 104E-15, G.S. 104E-24, G.S. 105-122, G.S. 105-129.81, G.S. 105-130.10,  
44 G.S. 105-187.24, G.S. 105-187.63, G.S. 105-259, G.S. 105-275, G.S. 105-277.13,  
45 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,  
46 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,  
47 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,  
48 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,  
49 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,  
50 G.S. 113-425, G.S. 113A-52, G.S. 113A-103, G.S. 113A-104, G.S. 113A-113, G.S. 113A-118,  
51 G.S. 113A-129.2, G.S. 113A-134.11, G.S. 113A-134.12, G.S. 113A-153, G.S. 113A-164.12,

1 G.S. 113A-167, G.S. 113A-168, G.S. 113A-169, G.S. 113A-170, G.S. 113A-221,  
2 G.S. 113A-230, G.S. 113A-231, G.S. 113A-232, G.S. 113A-235, G.S. 113A-253,  
3 G.S. 113A-255, G.S. 113B-2, G.S. 113B-6, G.S. 113B-11, G.S. 113B-30, G.S. 115C-522,  
4 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,  
5 G.S. 130A-4, G.S. 130A-24, G.S. 130A-26.1, G.S. 130A-33.50, G.S. 130A-47,  
6 G.S. 130A-131.7, G.S. 130A-290, G.S. 130A-295.9, G.S. 130A-301, G.S. 130A-309.14,  
7 G.S. 130A-309.140, G.S. 130A-310.60, G.S. 130A-313, G.S. 130A-336, G.S. 130A-481,  
8 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,  
9 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,  
10 G.S. 143-64.12, G.S. 143-64.17F, G.S. 143-64.17G, G.S. 143-64.17H, G.S. 143-138,  
11 G.S. 143-166.13, G.S. 143-211, G.S. 143-212, G.S. 143-214.7A, G.S. 143-214.8,  
12 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,  
13 G.S. 143-215.73A, G.S. 143-215.77, G.S. 143-215.94I, G.S. 143-215.94L,  
14 G.S. 143-215.94HH, G.S. 143-215.107B, G.S. 143-215.107C, G.S. 143-228.10, G.S. 143-240,  
15 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,  
16 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,  
17 G.S. 143B-6, G.S. 143B-131.2, G.S. 143B-181, G.S. 143B-279.1, G.S. 143B-279.2,  
18 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,  
19 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,  
20 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,  
21 G.S. 143B-282, G.S. 143B-282.1, G.S. 143B-283, G.S. 143B-284, G.S. 143B-285,  
22 G.S. 143B-285.22, G.S. 143B-289.50, G.S. 143B-289.51, G.S. 143B-289.52,  
23 G.S. 143B-289.61, G.S. 143B-290, G.S. 143B-293.1, G.S. 143B-298, G.S. 143B-299,  
24 G.S. 143B-300, G.S. 143B-301, G.S. 143B-301.1, G.S. 143B-301.10, G.S. 143B-324.1,  
25 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,  
26 G.S. 143B-344.38, G.S. 143B-344.44, G.S. 143B-344.50, G.S. 143B-344.55, G.S. 143B-417,  
27 G.S. 143B-431.01, G.S. 143B-437, G.S. 143B-437.01, G.S. 146-8, G.S. 147-33.104A,  
28 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,  
29 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,  
30 G.S. 159G-70, G.S. 159I-3, G.S. 162A-23, G.S. 162A-24, G.S. 162A-25, G.S. 162A-29,  
31 G.S. 162A-30, G.S. 162A-33, G.S. 162A-35, G.S. 166A-19.3, G.S. 166A-26. In any other  
32 instances in the General Statutes in which there is a reference to the Department of  
33 Environment and Natural Resources or a derivative thereof, the Revisor of Statutes may replace  
34 that reference with a reference to the Department of Environmental Quality, as appropriate.

35 **SECTION 14.30.(v)** The following statutes are amended by deleting the language  
36 "Secretary of Environment and Natural Resources" wherever it appears and substituting  
37 "Secretary of Environmental Quality": G.S. 7A-29, G.S. 20-79.5, G.S. 47C-3-122,  
38 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,  
39 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,  
40 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,  
41 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,  
42 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,  
43 G.S. 113-300.7, G.S. 113A-24, G.S. 113A-52, G.S. 113A-103, G.S. 113A-107,  
44 G.S. 113A-115.1, G.S. 113A-164.3, G.S. 113A-166, G.S. 113A-208, G.S. 113A-212,  
45 G.S. 113A-221, G.S. 113A-234, G.S. 113A-241, G.S. 113A-258, G.S. 113A-259, G.S. 113B-2,  
46 G.S. 113B-3, G.S. 120-150, G.S. 130A-4, G.S. 130A-17, G.S. 130A-18, G.S. 130A-19,  
47 G.S. 130A-20, G.S. 130A-22, G.S. 130A-23, G.S. 130A-27, G.S. 130A-47, G.S. 130A-290,  
48 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,  
49 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,  
50 G.S. 143-215.77, G.S. 143-215.86, G.S. 143-215.94HH, G.S. 143-215.107D,  
51 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,

1 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,  
2 G.S. 143B-282.1, G.S. 143B-283, G.S. 143B-285.23, G.S. 143B-289.50, G.S. 143B-289.53,  
3 G.S. 143B-291, G.S. 143B-293.2, G.S. 143B-300, G.S. 143B-301, G.S. 143B-324.1,  
4 G.S. 143B-407, G.S. 143B-411.1, G.S. 143B-426.25, G.S. 143B-431.01, G.S. 148-26,  
5 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,  
6 G.S. 162A-35. In any other instances in the General Statutes in which there is a reference to the  
7 Secretary of Environment and Natural Resources or a derivative thereof, the Revisor of Statutes  
8 may replace that reference with a reference to the Secretary of Environmental Quality, as  
9 appropriate.

10 **SECTION 14.30.(w)** The following statutes are amended by deleting the language  
11 "Department of Environment and Natural Resources" wherever it appears and substituting  
12 "Department of Natural and Cultural Resources": G.S. 100-11, G.S. 100-12, G.S. 100-13,  
13 G.S. 100-14, G.S. 146-30. In any other instances in the General Statutes in which there is a  
14 reference to the Department of Environment and Natural Resources or a derivative thereof, the  
15 Revisor of Statutes may replace that reference with a reference to the Department of Natural  
16 and Cultural Resources, as appropriate.

17 **SECTION 14.30.(x)** The following statutes are amended by deleting the language  
18 "Secretary of the Department of Cultural Resources" wherever it appears and substituting  
19 "Secretary of Natural and Cultural Resources": G.S. 70-1, G.S. 70-3, G.S. 70-4,  
20 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,  
21 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  
22 any other instances in the General Statutes in which there is a reference to the Secretary of the  
23 Department of Cultural Resources or a derivative thereof, the Revisor of Statutes may replace  
24 that reference with a reference to the Secretary of Natural and Cultural Resources, as  
25 appropriate.

26 **SECTION 14.30.(y)** The following statutes are amended by deleting the language  
27 "Secretary of the Department of Environment and Natural Resources" wherever it appears and  
28 substituting "Secretary of Environmental Quality": G.S. 113-173.1, G.S. 127C-2. In any other  
29 instances in the General Statutes in which there is a reference to the Secretary of the  
30 Department of Environment and Natural Resources or a derivative thereof, the Revisor of  
31 Statutes may replace that reference with a reference to the Secretary of Environmental Quality,  
32 as appropriate.

### 33 CONFORMING CHANGES

34 **SECTION 14.30.(z)** The following statutes are amended by deleting the language  
35 "Article 2C of Chapter 113" wherever it appears and substituting "Part 32 of Article 7 of  
36 Chapter 143B": G.S. 20-81.12, G.S. 143-260.10, G.S. 143B-260.10C, G.S. 143B-260.10D,  
37 G.S. 143B-260.10E.

38 **SECTION 14.30.(aa)** The following statutes are amended by deleting the language  
39 "G.S. 113-44.14" wherever it appears and substituting "G.S. 143B-135.54": G.S. 143-260.10,  
40 G.S. 143B-260.10C, G.S. 143B-260.10D, G.S. 143B-260.10G.

41 **SECTION 14.30.(bb)** G.S. 14-131 reads as rewritten:

#### 42 **"§ 14-131. Trespass on land under option by the federal government.**

43 On lands under option which have formally or informally been offered to and accepted by  
44 either the North Carolina Department of ~~Environment and Natural and Cultural~~ Resources or  
45 the Department of Environmental Quality by the acquiring federal agency and tentatively  
46 accepted by ~~said a~~ Department for administration as State forests, State parks, State game  
47 refuges or for other public purposes, it shall be unlawful to cut, dig, break, injure or remove any  
48 timber, lumber, firewood, trees, shrubs or other plants; or any fence, house, barn or other  
49 structure; or to pursue, trap, hunt or kill any bird or other wild animals or take fish from streams  
50

1 or lakes within the boundaries of such areas without the written consent of the local official of  
2 the United States having charge of the acquisition of such lands.

3 Any person, firm or corporation convicted of the violation of this section shall be guilty of a  
4 Class 3 misdemeanor.

5 The Department of ~~Environment and Natural Resources~~ Environmental Quality through its  
6 legally appointed forestry, fish and game wardens is hereby authorized and empowered to assist  
7 the county law-enforcement officers in the enforcement of this section."

8 **SECTION 14.30.(cc)** G.S. 14-415.11(c1) reads as rewritten:

9 "(c1) Any person who has a concealed handgun permit may carry a concealed handgun on  
10 the grounds or waters of a park within the State Parks System as defined in  
11 ~~G.S. 113-44.9~~ G.S. 143B-135.44."

12 **SECTION 14.30.(dd)** G.S. 20-79.7(b) reads as rewritten:

13 "(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate  
14 and Cultural Attraction Plate Account are established within the Highway Fund. The Division  
15 must credit the additional fee imposed for the special registration plates listed in subsection (a)  
16 of this section among the Special Registration Plate Account (SRPA), the Collegiate and  
17 Cultural Attraction Plate Account (CCAPA), the Clean Water Management Trust Fund  
18 (CWMTF), which is established under G.S. 113A-253, and the Parks and Recreation Trust  
19 Fund, which is established under ~~G.S. 113-44.15~~, G.S. 143B-135.56, as follows:

20 ...."

21 **SECTION 14.30.(ee)** G.S. 20-125(b) reads as rewritten:

22 "(b) Every vehicle owned or operated by a police department or by the Department of  
23 Public Safety including the State Highway Patrol or by the Wildlife Resources Commission or  
24 the Division of Marine ~~Fisheries~~, Fisheries of the Department of Environmental Quality, or by  
25 the Division of Parks and Recreation of the Department of ~~Environment and Natural~~ and  
26 Cultural Resources, or by the North Carolina Forest Service of the Department of Agriculture  
27 and Consumer Services, and used exclusively for law enforcement, firefighting, or other  
28 emergency response purposes, or by the Division of Emergency Management, or by a fire  
29 department, either municipal or rural, or by a fire patrol, whether such fire department or patrol  
30 be a paid organization or a voluntary association, vehicles used by an organ procurement  
31 organization or agency for the recovery and transportation of human tissues and organs for  
32 transplantation, and every ambulance or emergency medical service emergency support vehicle  
33 used for answering emergency calls, shall be equipped with special lights, bells, sirens, horns or  
34 exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

35 The operators of all such vehicles so equipped are hereby authorized to use such equipment  
36 at all times while engaged in the performance of their duties and services, both within their  
37 respective corporate limits and beyond.

38 In addition to the use of special equipment authorized and required by this subsection, the  
39 chief and assistant chiefs of any police department or of any fire department, whether the same  
40 be municipal or rural, paid or voluntary, county fire marshals, assistant fire marshals, transplant  
41 coordinators, and emergency management coordinators, are hereby authorized to use such  
42 special equipment on privately owned vehicles operated by them while actually engaged in the  
43 performance of their official or semiofficial duties or services either within or beyond their  
44 respective corporate limits.

45 And vehicles driven by law enforcement officers of the North Carolina Division of Motor  
46 Vehicles shall be equipped with a bell, siren, or exhaust whistle of a type approved by the  
47 Commissioner, and all vehicles owned and operated by the State Bureau of Investigation for  
48 the use of its agents and officers in the performance of their official duties may be equipped  
49 with special lights, bells, sirens, horns or exhaust whistles of a type approved by the  
50 Commissioner of Motor Vehicles.



1 Every vehicle used or operated for law enforcement purposes by the sheriff or any salaried  
2 deputy sheriff or salaried rural policeman of any county, whether owned by the county or not,  
3 may be, but is not required to be, equipped with special lights, bells, sirens, horns or exhaust  
4 whistles of a type approved by the Commissioner of Motor Vehicles. Such special equipment  
5 shall not be operated or activated by any person except by a law enforcement officer while  
6 actively engaged in performing law enforcement duties.

7 In addition to the use of special equipment authorized and required by this subsection, the  
8 chief and assistant chiefs of each emergency rescue squad which is recognized or sponsored by  
9 any municipality or civil preparedness agency, are hereby authorized to use such special  
10 equipment on privately owned vehicles operated by them while actually engaged in their  
11 official or semiofficial duties or services either within or beyond the corporate limits of the  
12 municipality which recognizes or sponsors such organization."

13 **SECTION 14.30.(ff)** G.S. 20-130.1(b)(18) reads as rewritten:

14 "(b) The provisions of subsection (a) of this section do not apply to the following:

15 ...

16 (18) A vehicle operated by the Division of Marine Fisheries of the Department of  
17 Environmental Quality or the Division of Parks and Recreation of the  
18 Department of ~~Environment and~~ Natural and Cultural Resources that is used  
19 for law enforcement, firefighting, or other emergency response purpose."

20 **SECTION 14.30.(gg)** G.S. 20-145 reads as rewritten:

21 "**§ 20-145. When speed limit not applicable.**

22 The speed limitations set forth in this Article shall not apply to vehicles when operated with  
23 due regard for safety under the direction of the police in the chase or apprehension of violators  
24 of the law or of persons charged with or suspected of any such violation, nor to fire department  
25 or fire patrol vehicles when traveling in response to a fire alarm, nor to public or private  
26 ambulances and rescue squad emergency service vehicles when traveling in emergencies, nor  
27 to vehicles operated by county fire marshals and civil preparedness coordinators when traveling  
28 in the performances of their duties, nor to any of the following when either operated by a law  
29 enforcement officer in the chase or apprehension of violators of the law or of persons charged  
30 with or suspected of any such violation, when traveling in response to a fire alarm, or for other  
31 emergency response purposes: (i) a vehicle operated by the Division of Marine Fisheries of the  
32 Department of Environmental Quality or the Division of Parks and Recreation of the  
33 Department of ~~Environment and~~ Natural and Cultural Resources or (ii) a vehicle operated by  
34 the North Carolina Forest Service of the Department of Agriculture and Consumer Services.  
35 This exemption shall not, however, protect the driver of any such vehicle from the consequence  
36 of a reckless disregard of the safety of others."

37 **SECTION 14.30.(hh)** G.S. 20-156(b) reads as rewritten:

38 "(b) The driver of a vehicle upon the highway shall yield the right-of-way to police and  
39 fire department vehicles and public and private ambulances, vehicles used by an organ  
40 procurement organization or agency for the recovery or transportation of human tissues and  
41 organs for transplantation or a vehicle operated by a transplant coordinator who is an employee  
42 of an organ procurement organization or agency when the transplant coordinator is responding  
43 to a call to recover or transport human tissues or organs for transplantation, and to rescue squad  
44 emergency service vehicles and vehicles operated by county fire marshals and civil  
45 preparedness coordinators, and to a vehicle operated by the Division of Marine Fisheries of the  
46 Department of Environmental Quality or the Division of Parks and Recreation of the  
47 Department of ~~Environment and~~ Natural and Cultural Resources when used for law  
48 enforcement, firefighting, or other emergency response purpose, and to a vehicle operated by  
49 the North Carolina Forest Service of the Department of Agriculture and Consumer Services  
50 when used for a law enforcement, firefighting, or other emergency response purpose, when the  
51 operators of said vehicles are giving a warning signal by appropriate light and by bell, siren or

1 exhaust whistle audible under normal conditions from a distance not less than 1,000 feet. When  
 2 appropriate warning signals are being given, as provided in this subsection, an emergency  
 3 vehicle may proceed through an intersection or other place when the emergency vehicle is  
 4 facing a stop sign, a yield sign, or a traffic light which is emitting a flashing strobe signal or a  
 5 beam of steady or flashing red light. This provision shall not operate to relieve the driver of a  
 6 police or fire department vehicle, or a vehicle owned or operated by the Department of  
 7 Environment and Natural Resources, or the Department of Agriculture and Consumer Services,  
 8 or public or private ambulance or vehicles used by an organ procurement organization or  
 9 agency for the recovery or transportation of human tissues and organs for transplantation or a  
 10 vehicle operated by a transplant coordinator who is an employee of an organ procurement  
 11 organization or agency when the transplant coordinator is responding to a call to recover or  
 12 transport human tissues or organs for transplantation, or rescue squad emergency service  
 13 vehicle or county fire marshals or civil preparedness coordinators from the duty to drive with  
 14 due regard for the safety of all persons using the highway, nor shall it protect the driver of any  
 15 such vehicle or county fire marshal or civil preparedness coordinator from the consequence of  
 16 any arbitrary exercise of such right-of-way."

17 **SECTION 14.30.(ii)** G.S. 20-157(a) reads as rewritten:

18 "(a) Upon the approach of any law enforcement or fire department vehicle or public or  
 19 private ambulance or rescue squad emergency service vehicle, or a vehicle operated by the  
 20 Division of Marine ~~Fisheries~~, Fisheries of the Department of Environmental Quality, or the  
 21 Division of Parks and Recreation of the Department of ~~Environment and Natural~~ and Cultural  
 22 Resources, or the North Carolina Forest Service of the Department of Agriculture and  
 23 Consumer Services when traveling in response to a fire alarm or other emergency response  
 24 purpose, giving warning signal by appropriate light and by audible bell, siren or exhaust  
 25 whistle, audible under normal conditions from a distance not less than 1000 feet, the driver of  
 26 every other vehicle shall immediately drive the same to a position as near as possible and  
 27 parallel to the right-hand edge or curb, clear of any intersection of streets or highways, and  
 28 shall stop and remain in such position unless otherwise directed by a law enforcement or traffic  
 29 officer until the law enforcement or fire department vehicle, or the vehicle operated by the  
 30 Division of Marine ~~Fisheries~~, Fisheries of the Department of Environmental Quality, or the  
 31 Division of Parks and Recreation of the Department of ~~Environment and Natural~~ and Cultural  
 32 Resources, or the North Carolina Forest Service of the Department of Agriculture and  
 33 Consumer Services, or the public or private ambulance or rescue squad emergency service  
 34 vehicle shall have passed. Provided, however, this subsection shall not apply to vehicles  
 35 traveling in the opposite direction of the vehicles herein enumerated when traveling on a  
 36 four-lane limited access highway with a median divider dividing the highway for vehicles  
 37 traveling in opposite directions, and provided further that the violation of this subsection shall  
 38 be negligence per se. Violation of this subsection is a Class 2 misdemeanor."

39 **SECTION 14.30.(jj)** G.S. 66-58 reads as rewritten:

40 **"§ 66-58. Sale of merchandise or services by governmental units.**

41 ...  
 42 (b) The provisions of subsection (a) of this section shall not apply to:

43 ...  
 44 (9) The Department of ~~Environment and Natural Resources~~, ~~except that the~~  
 45 ~~Department shall not construct, maintain, operate or lease a hotel or tourist~~  
 46 ~~inn in any park over which it has jurisdiction.~~ Environmental Quality. The  
 47 North Carolina Wildlife Resources Commission may sell wildlife  
 48 memorabilia as a service to members of the public interested in wildlife  
 49 conservation.

50 ...

(9b) The Department of Natural and Cultural Resources for the sale of food pursuant to G.S. 111-47.2 and the sale of books, crafts, gifts, and other tourism-related items and revenues from public and private special events, activities, and programming at historic sites and museums administered by the Department, provided that the resulting profits are used to support the operation of historic sites or ~~museums~~museums and provided further that the Department shall not construct, maintain, operate, or lease a hotel or tourist inn in any park over which it has jurisdiction.

...

(c) The provisions of subsection (a) shall not prohibit:

...

(2) The sale of learned journals, works of art, books or publications of the Department of Natural and Cultural Resources or other agencies, or the Supreme Court Reports or Session Laws of the General Assembly.

...

(9b) The Department of Natural and Cultural Resources for the sale of food pursuant to G.S. 111-47.2 and the sale of books, crafts, gifts, and other tourism-related items and revenues from public and private special events, activities, and programming at historic sites and museums administered by the Department, provided that the resulting profits are used to support the operation of historic sites or ~~museums~~museums and provided further that the Department shall not construct, maintain, operate, or lease a hotel or tourist inn in any park over which it has jurisdiction.

...."

**SECTION 14.30.(kk)** G.S. 74-50(b3) reads as rewritten:

"(b3) When the Department receives an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the Department shall send a notice of the application to each of the following agencies with a request that each agency review and provide written comment on the application within 30 days of the date on which the request is made:

- (1) Division of Air Quality, Department of ~~Environment and Natural Resources~~Environmental Quality.
- (2) Division of Parks and Recreation, Department of ~~Environment and Natural Resources~~and Cultural Resources.
- (3) Repealed by Session Laws 2013-413, s. 57(b), effective August 23, 2013.
- (4) Division of Water Resources, Department of ~~Environment and Natural Resources~~Environmental Quality.
- (5) North Carolina Geological Survey, Division of Energy, Mineral, and Land Resources, Department of ~~Environment and Natural Resources~~Environmental Quality.
- (6) Wildlife Resources Commission, Department of ~~Environment and Natural Resources~~Environmental Quality.
- (7) Office of Archives and History, Department of Cultural Resources.
- (8) United States Fish and Wildlife Service, United States Department of the Interior.
- (9) Any other federal or State agency that the Department determines to be appropriate, including the Division of Coastal Management, ~~Department of Environment and Natural Resources;~~ the Division of Marine Fisheries, ~~Department of Environment and Natural Resources;~~ and the Division of Waste ~~Management,~~ Management of the Department of Environment and

1 ~~Natural Resources; Environmental Quality;~~ and the Department of  
2 Transportation."

3 **SECTION 14.30.(II)** G.S. 106-202.17(b) reads as rewritten:

4 "(b) The Scientific Committee shall consist of the Directors of The University of North  
5 Carolina at Chapel Hill Herbarium, the North Carolina State University Herbarium, the North  
6 Carolina Botanical Garden of The University of North Carolina at Chapel Hill, the North  
7 Carolina State Museum of Natural Sciences of the Department of Natural and Cultural  
8 Resources, and the North Carolina Natural Heritage Program of the Department of  
9 ~~Environment and Natural Resources~~Environmental Quality or their designees, a representative  
10 of the North Carolina Association of Nurserymen, Inc., appointed by the Commissioner, and a  
11 representative of a conservation organization, appointed by the Commissioner. Members shall  
12 serve for three-year terms and may succeed themselves."

13 **SECTION 14.30.(mm)** G.S. 106-803(a) reads as rewritten:

14 "**§ 106-803. Siting requirements for swine houses, lagoons, and land areas onto which**  
15 **waste is applied at swine farms.**

16 (a) A swine house or a lagoon that is a component of a swine farm shall be located:

17 (1) At least 1,500 feet from any occupied residence.

18 (2) At least 2,500 feet from any school; hospital; church; outdoor recreational  
19 facility; national park; State Park, as defined in ~~G.S. 113-44.9;~~  
20 G.S. 143B-135.44; historic property acquired by the State pursuant to  
21 G.S. 121-9 or listed in the North Carolina Register of Historic Places  
22 pursuant to G.S. 121-4.1; or child care center, as defined in G.S. 110-86, that  
23 is licensed under Article 7 of Chapter 110 of the General Statutes.

24 (3) At least 500 feet from any property boundary.

25 (4) At least 500 feet from any well supplying water to a public water system, as  
26 defined in G.S. 130A-313.

27 (5) At least 500 feet from any other well that supplies water for human  
28 consumption. This subdivision does not apply to a well located on the same  
29 parcel or tract of land on which the swine house or lagoon is located and that  
30 supplies water only for use on that parcel or tract of land or for use on  
31 adjacent parcels or tracts of land all of which are under common ownership  
32 or control."

33 **SECTION 14.30.(nn)** G.S. 113-8 reads as rewritten:

34 "**§ 113-8. Powers and duties of the Department.**

35 The Department shall make investigations of the natural resources of the State, and take  
36 such measures as it may deem best suited to promote the conservation and development of such  
37 resources.

38 It shall have the protection of lands and water supplies; it shall also have the care of ~~State~~  
39 ~~parks, and other~~ recreational areas now owned or to be acquired by the State, including the  
40 lakes referred to in G.S. 146-7.

41 It shall make such examination, survey and mapping of the geology, mineralogy and  
42 topography of the State, including their industrial and economic utilization, as it may consider  
43 necessary; make investigations of water supplies and water powers, prepare and maintain a  
44 general inventory of the water resources of the State, and take such measures as it may consider  
45 necessary to promote their development.

46 It shall have the duty of enforcing all laws relating to the conservation of marine and  
47 estuarine resources.

48 The Department may take such other measures as it may deem advisable to obtain and  
49 make public a more complete knowledge of the State and its resources, and it is authorized to  
50 cooperate with other departments and agencies of the State in obtaining and making public such  
51 information.

1 The Department may acquire such real and personal property as may be found desirable and  
2 necessary for the performance of the duties and functions of the Department and pay for same  
3 out of any funds appropriated for the Department or available unappropriated revenues of the  
4 Department, when such acquisition is approved by the Governor and Council of State. The title  
5 to any real estate acquired shall be in the name of the State of North Carolina for the use and  
6 benefit of the Department."

7 **SECTION 14.30.(oo)** G.S. 113-28.1 reads as rewritten:

8 "**§ 113-28.1. Designated employees commissioned special peace officers by Governor.**

9 Upon application by either the Secretary of ~~Environment and Natural Resources, Natural~~  
10 ~~and Cultural Resources~~ or the Secretary of Environmental Quality, the Governor is hereby  
11 authorized and empowered to commission as special peace officers such of the employees of  
12 the ~~Department of Environment and Natural Resources~~ Departments as the Secretary may  
13 designate for the purpose of enforcing the laws and rules enacted or adopted for the protection,  
14 preservation and government of State parks, lakes, reservations and other lands or waters under  
15 the control or supervision of the ~~Department of Environment and Natural Resources~~ respective  
16 Departments."

17 **SECTION 14.30.(pp)** G.S. 113-28.2 reads as rewritten:

18 "**§ 113-28.2. Powers of arrest.**

19 Any employee of either the Department of ~~Environment and Natural~~ and Cultural  
20 Resources or the Department of Environmental Quality commissioned as a special peace  
21 officer shall have the right to arrest with warrant any person violating any law or rule on or  
22 relating to the State parks, lakes, reservations and other lands or waters under the control or  
23 supervision of the ~~Department of Environment and Natural Resources~~ employee's respective  
24 Department, and shall have the power to pursue and arrest without warrant any person violating  
25 in his presence any law or rule on or relating to said parks, lakes, reservations and other lands  
26 or waters under the control or supervision of the ~~Department of Environment and Natural~~  
27 ~~Resources~~ employee's respective Department."

28 **SECTION 14.30.(qq)** G.S. 113-28.2A reads as rewritten:

29 "**§ 113-28.2A. Cooperation between law enforcement agencies.**

30 Special peace officers employed by either the Department of ~~Environment and Natural~~ and  
31 Cultural Resources or the Department of Environmental Quality are officers of a "law  
32 enforcement agency" for purposes of G.S. 160A-288, and ~~the each~~ Department shall have the  
33 same authority as a city or county governing body to approve cooperation between law  
34 enforcement agencies under that section."

35 **SECTION 14.30.(rr)** G.S. 113-28.4 reads as rewritten:

36 "**§ 113-28.4. Oaths required.**

37 Before 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 exercise any power of arrest under this ~~Article~~ Article, ~~the employee~~ shall take  
40 the oaths required of public officers before an officer authorized to administer oaths."

41 **SECTION 14.30.(ss)** G.S. 113-307.1(a) reads as rewritten:

42 "(a) The consent of the General Assembly of North Carolina is hereby given to the  
43 making by the Congress of the United States, or under its authority, of all such rules and  
44 regulations as the federal government shall determine to be needful in respect to game animals,  
45 game and nongame birds, and fish on such lands in the western part of North Carolina as shall  
46 have been, or may hereafter be, purchased by the United States under the terms of the act of  
47 Congress of March 1, 1911, entitled "An act to enable any state to cooperate with any other  
48 state or states, or with the United States, for the protection of the watersheds of navigable  
49 streams, and to appoint a commission for the acquisition of lands for the purposes of  
50 conserving the navigability of navigable rivers" (36 Stat. 961), and acts of Congress  
51 supplementary thereto and amendatory thereof, and in or on the waters thereon.

1 Nothing in this subsection shall be construed as conveying the ownership of wildlife from  
2 the State of North Carolina or permit the trapping, hunting, or transportation of any game  
3 animals, game or nongame birds, or fish by any person, including any agency, department, or  
4 instrumentality of the United States or agents thereof, on the lands in North Carolina, as shall  
5 have been or may hereafter be purchased by the United States under the terms of any act of  
6 Congress, except in accordance with the provisions of this Subchapter and its implementing  
7 regulations. Provided, that the provisions of ~~G.S. 143-39~~ G.S. 143B-135.20 apply with respect  
8 to licenses.

9 Any person, including employees or agents of any department or instrumentality of the  
10 United States, violating the provisions of this subsection is guilty of a Class 1 misdemeanor."

11 **SECTION 14.30.(tt)** G.S. 120-306(a)(1)c. is repealed.

12 **SECTION 14.30.(uu)** G.S. 121-7.7(c) reads as rewritten:

13 "(c) Reports. – The Department of Natural and Cultural Resources must submit to the  
14 Joint Legislative Commission on Governmental Operations, the chairs of the House of  
15 Representatives and Appropriations Committee on Agriculture and Natural and Environmental  
16 Resources, the Chairs of the Senate Appropriations Subcommittees Committee on General  
17 Government, Natural and Economic Resources, and the Fiscal Research Division by September  
18 30 of each year a report on the Fund that includes the source and amounts of all funds credited  
19 to the Fund and the purpose and amount of all expenditures from the Fund during the prior  
20 fiscal year."

21 **SECTION 14.30.(vv)** G.S. 121-21.1(c) reads as rewritten:

22 "(c) The Tryon Palace Commission shall submit to the Joint Legislative Commission on  
23 Governmental Operations, the House ~~and of Representatives Appropriations Committee on~~  
24 Agriculture and Natural and Economic Resources, the Senate Appropriations Subcommittees  
25 Committee on General Government, Natural and Economic Resources, and the Fiscal Research  
26 Division by September 30 of each year a report on the Tryon Palace Historic Sites and Gardens  
27 Fund that shall include the source and amounts of all funds credited to the Fund and the  
28 purpose and amount of all expenditures from the Fund during the prior fiscal year."

29 **SECTION 14.30.(ww)** G.S. 136-44.12 reads as rewritten:

30 **"§ 136-44.12. Maintenance of roads and parking lots in areas administered by the**  
31 **Division of Parks and Recreation.**

32 The Department of Transportation shall maintain all roads and parking lots which are not  
33 part of the State Highway System, leading into and located within the boundaries of all areas  
34 administered by the Division of Parks and Recreation of the Department of ~~Environment and~~  
35 Natural and Cultural Resources.

36 All such roads and parking lots shall be planned, designed, and engineered through joint  
37 action between the Department of Transportation and the Division of Parks and Recreation of  
38 the Department of ~~Environment and~~ Natural and Cultural Resources. This joint action shall  
39 encompass all accepted park planning and design principles. Particular concern shall be given  
40 to traffic counts and vehicle weight, minimal cutting into or through any natural and scenic  
41 areas, width of shoulders, the cutting of natural growth along roadways, and the reduction of  
42 any potential use of roads or parking lots for any purpose other than by park users. All State  
43 park roads and parking lots shall conform to the standards regarding width and other roadway  
44 specifications as agreed upon by the Division of Parks and Recreation of the Department of  
45 ~~Environment and~~ Natural and Cultural Resources and the Department of Transportation.

46 The State park road systems may be closed to the public in accordance with approved park  
47 practices that control the use of State areas so as to protect these areas from overuse and abuse  
48 and provide for functional use of the park areas, or for any other purpose considered in the best  
49 interest of the public by the Division of Parks and Recreation of the Department of  
50 ~~Environment and~~ Natural and Cultural Resources.

1 Nothing herein shall be construed to include the transfer to the Department of  
2 Transportation the powers now vested in the Division of Parks and Recreation of the  
3 Department of ~~Environment and Natural~~ and Cultural Resources relating to the patrol and  
4 safeguarding of State park roads or State park parking lots."

5 **SECTION 14.30.(xx)** G.S. 143-116.8 reads as rewritten:

6 **"§ 143-116.8. Motor vehicle laws applicable to State parks and forests road system.**

7 (a) Except as otherwise provided in this section, all the provisions of Chapter 20 of the  
8 General Statutes relating to the use of highways and public vehicular areas of the State and the  
9 operation of vehicles thereon are made applicable to the State parks and forests road system.  
10 For the purposes of this section, the term "State parks and forests road system" shall mean the  
11 streets, alleys, roads, public vehicular areas and driveways of the State parks, State forests,  
12 State recreation areas, State lakes, and all other lands administered by the Department of  
13 ~~Environment and Natural~~ and Cultural Resources or the Department of Agriculture and  
14 Consumer Services. This term shall not be construed, however, to include streets that are a part  
15 of the State highway system. Any person violating any of the provisions of Chapter 20 of the  
16 General Statutes hereby made applicable in the State parks and forests road system shall, upon  
17 conviction, be punished in accordance with Chapter 20 of the General Statutes. Nothing herein  
18 contained shall be construed as in any way interfering with the ownership and control of the  
19 State parks road system by the Department of ~~Environment and Natural~~ and Cultural Resources  
20 and the forests road system by the Department of Agriculture and Consumer Services.

21 (b) (1) It shall be unlawful for a person to operate a vehicle in the State parks road  
22 system at a speed in excess of twenty-five miles per hour (25 mph). When  
23 the Secretary of ~~Environment and Natural~~ and Cultural Resources  
24 determines that this speed is greater than reasonable and safe under the  
25 conditions found to exist in the State parks road system, the Secretary may  
26 establish a lower reasonable and safe speed limit. No speed limit established  
27 by the Secretary pursuant to this provision shall be effective until posted in  
28 the part of the system where the limit is intended to apply.

29 ...  
30 (c) The Secretary of ~~Environment and Natural~~ and Cultural Resources may, by rule,  
31 regulate parking and establish parking areas, and provide for the removal of illegally parked  
32 motor vehicles on the State parks road system, and the Commissioner of Agriculture may, by  
33 rule, regulate and establish parking areas and provide for the removal of illegally parked motor  
34 vehicles on the State forests road system. Any rule of the Secretary or the Commissioner shall  
35 be consistent with the provisions of G.S. 20-161, 20-161.1, and 20-162. Any removal of  
36 illegally parked motor vehicles shall be in compliance with Article 7A of Chapter 20 of the  
37 General Statutes.

38 (d) A violation of the rules issued by the Secretary of ~~Environment and Natural~~ and  
39 Cultural Resources or the Commissioner of Agriculture under subsection (c) of this section is  
40 an infraction pursuant to G.S. 20-162.1, and shall be punished as therein provided. These rules  
41 may be enforced by the Commissioner of Motor Vehicles, the Highway Patrol, forest law  
42 enforcement officers, or other law enforcement officers of the State, counties, cities or other  
43 municipalities having authority under Chapter 20 of the General Statutes to enforce laws or  
44 rules on travel or use or operation of vehicles or the use or protection of the highways of the  
45 State.

46 ...  
47 (f) Notwithstanding any other provision of this section, a person may petition the  
48 Department of ~~Environment and Natural~~ and Cultural Resources for a waiver authorizing the  
49 person to operate a vehicle in the State parks road system at a speed in excess of 25 miles per  
50 hour in connection with a special event. The Secretary may impose any conditions on a waiver  
51 that the Secretary determines to be necessary to protect public health, safety, welfare, and the

1 natural resources of the State park. These conditions shall include a requirement that the person  
2 receiving the waiver execute an indemnification agreement with the Department and obtain  
3 general liability insurance in an amount not to exceed three million dollars (\$3,000,000)  
4 covering personal injury and property damage that may result from driving in excess of 25  
5 miles per hour in the State parks road system subject to the conditions determined by the  
6 Secretary.

7 ...."

8 **SECTION 14.30.(yy)** G.S. 143-129.8A(a) reads as rewritten:

9 "(a) Exemption. – The North Carolina Zoological Park is a State entity whose primary  
10 purpose is the attraction of, interaction with, and education of the public regarding issues of  
11 global conservation, ecological preservation, and scientific exploration, and that purpose  
12 presents unique challenges requiring greater flexibility and faster responsiveness in meeting the  
13 needs of and creating the attractions for the Park. Accordingly, the Department of ~~Environment~~  
14 ~~and Natural~~ and Cultural Resources may use the procedure set forth in this section, in addition  
15 to or instead of any other procedure available under North Carolina law, to contract with a  
16 non-State entity on behalf of the Park for the acquisition of goods and services where: (i) the  
17 contract directly results in the generation of revenue for the State of North Carolina or (ii) the  
18 use of the acquired goods and services by the Park results in increased revenue or decreased  
19 expenditures for the State of North Carolina."

20 **SECTION 14.30.(zz)** G.S. 143-135.9(e) reads as rewritten:

21 "(e) North Carolina Zoological Park. – The acquisition of goods and services under a  
22 contract entered pursuant to the exemption of G.S. 143-129.8A(a) by the Department of  
23 ~~Environment and Natural~~ and Cultural Resources on behalf of the North Carolina Zoological  
24 Park may be conducted using the Best Value procurement method. For acquisitions which the  
25 procuring agency deems to be highly complex, the use of Government-Vendor partnership is  
26 authorized."

27 **SECTION 14.30.(aaa)** G.S. 143-215.31(e) reads as rewritten:

28 "(e) The minimum streamflow in the length of the stream affected by a dam to which  
29 subsections (c) and (d) of this section do not apply shall be established as provided in  
30 subsection (b) of this section. Subsections (c) and (d) of this section do not apply if the length  
31 of the stream affected:

- 32 (1) Receives a discharge of waste from a treatment works for which a permit is  
33 required under Part 1 of this Article; or
- 34 (2) Includes any part of a river or stream segment that:
  - 35 a. Is designated as a component of the State Natural and Scenic Rivers  
36 System by ~~G.S. 113A-35.1~~ G.S. 143B-135.152 or  
37 ~~G.S. 113A-35.2~~ G.S. 143B-135.154.
  - 38 b. Is designated as a component of the national Wild and Scenic Rivers  
39 System by 16 U.S.C. § 1273 and 1274."

40 **SECTION 14.30.(bbb)** G.S. 143-215.73F reads as rewritten:

41 "**§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake Maintenance**  
42 **Fund.**

43 The Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund is  
44 established as a special revenue fund. The Fund consists of fees credited to it under G.S. 75A-3,  
45 75A-38, and 105-449.126. Revenue in the Fund may only be used to provide the State's share  
46 of the costs associated with any dredging project designed to keep shallow draft navigation  
47 channels located in State waters or waters of the state located within lakes navigable and safe,  
48 or for aquatic weed control projects in waters of the State located within lakes under Article 15  
49 of Chapter 113A of the General Statutes. Funding for aquatic weed control projects is limited to  
50 five hundred thousand dollars (\$500,000) in each fiscal year. Any project funded by revenue  
51 from the Fund must be cost-shared with non-State dollars on a one-to-one basis, provided that



1 the cost-share for a lake located within a component of the State Parks System shall be  
2 provided by the Division of Parks and Recreation of the Department of ~~Environment and~~  
3 ~~Natural and Cultural Resources~~. The Division of Parks and Recreation may use funds allocated  
4 to the State Parks System for capital projects under ~~G.S. 113-44.15~~ G.S. 143B-135.56 for the  
5 cost-share. For purposes of this section, "shallow draft navigation channel" means (i) a  
6 waterway connection with a maximum depth of 16 feet between the Atlantic Ocean and a bay  
7 or the Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean through which  
8 tidal and other currents flow, or (iii) other interior coastal waterways. "Shallow draft navigation  
9 channel" includes the Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor,  
10 Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout Back, channels  
11 connected to federal navigation channels, Lockwoods Folly River, Manteo/Shallowbag Bay,  
12 including Oregon Inlet, Masonboro Inlet, New River, New Topsail Inlet, Rodanthe, Rollinson,  
13 Shallotte River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and Beaufort  
14 Harbor."

15 **SECTION 14.30.(ccc)** G.S. 147-12(b) reads as rewritten:

16 "(b) The Department of Transportation, the Division of Adult Correction of the  
17 Department of Public Safety, the State Highway Patrol, the Wildlife Resources Commission,  
18 the Division of Parks and Recreation in the Department of ~~Environment and~~ Natural and  
19 Natural Resources, and the Division of Marine Fisheries in the Department of ~~Environment and~~  
20 ~~Natural Resources~~ Environmental Quality shall deliver to the Governor by February 1 of each  
21 year detailed information on the agency's litter enforcement, litter prevention, and litter removal  
22 efforts. The Administrative Office of the Courts shall deliver to the Governor, by February 1 of  
23 each year, detailed information on the enforcement of the littering laws of the State, including  
24 the number of charges and convictions under the littering laws of the State. The Governor shall  
25 gather the information submitted by the respective agencies and deliver a consolidated annual  
26 report, on or before March 1 of each year, to the Environmental Review Commission, the Joint  
27 Legislative Transportation Oversight Committee, and the House of Representatives and the  
28 Senate ~~Appropriations Subcommittees on Natural and Economic Resources~~ appropriations  
29 committees with jurisdiction over natural and economic resources."

30 **SECTION 14.30.(ddd)** The title of Article 2 of Chapter 143B of the General  
31 Statutes reads as rewritten:

32 "Article 2.

33 Department of Natural and Cultural Resources."

34 **SECTION 14.30.(eee)** The title of Article 7 of Chapter 143B of the General  
35 Statutes is rewritten to read:

36 "Article 7.

37 Department of Environmental Quality."

38 **SECTION 14.30.(fff)** G.S. 143B-50 reads as rewritten:

39 **"§ 143B-50. Duties of the Department.**

40 It shall be the duty of the Department to do the following:

41 (1) To provide the necessary management, development of policy and  
42 establishment and enforcement of standards for the furtherance of resources,  
43 services and programs involving the arts and the historical and cultural  
44 aspects of the lives of the citizens of North Carolina.

45 (2) To provide and keep a museum or collection of the natural history of the  
46 State and to maintain the North Carolina Biological Survey."

47 **SECTION 14.30.(ggg)** G.S. 143B-53 reads as rewritten:

48 **"§ 143B-53. Organization of the Department.**

49 (a) The Department of Cultural Resources shall be organized initially to include the Art  
50 Commission, the Art Museum Building Commission, the North Carolina Historical  
51 Commission, the Tryon Palace Commission, the U.S.S. North Carolina Battleship Commission,

1 the Sir Walter Raleigh Commission, the Executive Mansion Fine Arts Committee, the  
2 American Revolution Bicentennial Committee, the North Carolina Awards Committee, the  
3 America's Four Hundredth Anniversary Committee, the North Carolina Arts Council, the  
4 Public Librarian Certification Commission, the State Library Commission, the North Carolina  
5 Symphony Society, Inc., and the Division of the State Library, the Division of Archives and  
6 History, the Division of the Arts, and such other divisions as may be established under the  
7 provisions of the Executive Organization Act of 1973.

8 (b) The Department of Natural and Cultural Resources shall include the currently  
9 existing entities listed in subsection (a) of this section and the following additional entities:

10 (1) The Parks and Recreation Division.

11 (2) The State Parks System, including Mount Mitchell State Park.

12 (3) The North Carolina Aquariums Division.

13 (4) The North Carolina Zoological Park.

14 (5) The Museum of Natural Sciences.

15 (6) North Carolina Parks and Recreation Authority.

16 (7) North Carolina Trails Committee.

17 (8) North Carolina Zoological Park Council.

18 (9) Advisory Commission for North Carolina State Museum of Natural  
19 Sciences."

20 **SECTION 14.30.(hhh)** G.S. 143B-53.3(c) reads as rewritten:

21 "(c) Reports. – The Department of Natural and Cultural Resources shall submit a report  
22 by September 30 of each year to the Joint Legislative Commission on Governmental  
23 Operations, the chairs of the House of Representatives Appropriations Subcommittee  
24 Committee on General Government, Agriculture and Natural and Economic Resources, the  
25 chairs of the Senate Appropriations Committee on General Government and Information  
26 Technology, Natural and Economic Resources, and the Fiscal Research Division. This report  
27 shall include the source and amount of all funds credited to the Fund and the purpose and  
28 amount of all expenditures from the Fund during the prior fiscal year."

29 **SECTION 14.30.(iii)** G.S. 143B-87.2(c) reads as rewritten:

30 "(c) Reports. – The Department shall submit a report to the Joint Legislative  
31 Commission on Governmental Operations, the House of Representatives Appropriations  
32 Subcommittee Committee on General Government, Agriculture and Natural and Economic  
33 Resources, the Senate Appropriations Committee on General Government and Information  
34 Technology, Natural and Economic Resources, and the Fiscal Research Division by September  
35 30 of each year that includes the source and amount of all funds credited to the Fund and the  
36 purpose and amount of all expenditures from the Fund during the prior fiscal year."

37 **SECTION 14.30.(jjj)** G.S. 143B-131.4 reads as rewritten:

38 "**§ 143B-131.4. Commission reports.**

39 The Commission shall submit a quarterly report to the Chairs of the House of  
40 Representatives Appropriations Subcommittee Committee on General Government and  
41 Agriculture and Natural and Economic Resources, the Chairs of the Senate Appropriations  
42 Committee on General Government and Information Technology Natural and Economic  
43 Resources, and to the Fiscal Research Division of the General Assembly. The report shall  
44 include:

45 (1) A summary of actions taken by the Commission consistent with the powers  
46 and duties of the Commission set forth in G.S. 143B-131.2.

47 (2) Recommendations for legislation and administrative action to promote and  
48 develop the Elizabeth II State Historic Site and Visitor Center.

49 (3) An accounting of funds received and expended."

50 **SECTION 14.30.(kkk)** G.S. 143B-279.2(2a) is repealed.

1           **SECTION 14.30.(III)** Subdivisions (9) and (12) of subsection (a) and subdivisions  
2 (17), (19), and (22) of subsection (b) of G.S. 143B-279.3 are repealed.

3           **SECTION 14.30.(mmm)** G.S. 143B-344.49 reads as rewritten:

4   "**§ 143B-344.49. Definitions.**

5       The following definitions apply to this Part:

- 6           (1) Applicant. – A member of the family residing in the dwelling unit, the  
7           owner, or designated agent of the owner of a dwelling unit applying for  
8           program services.
- 9           (2) Department. – The ~~Environment and Natural Resources~~Department of  
10           Environmental Quality.
- 11           (3) Secretary. – The Secretary of the ~~Department of Environment and Natural~~  
12           ResourcesEnvironmental Quality.
- 13           (4) Subgrantee. – An entity managing a weatherization project that receives a  
14           federal grant of funds awarded pursuant to 10 C.F.R. § 440 (1 January 2006  
15           edition) from this State or other entity named in the Notification of Grant  
16           Award and otherwise referred to as the grantee.
- 17           (5) Weatherization. – The modification of homes and home heating and cooling  
18           systems to improve heating and cooling efficiency by caulking and weather  
19           stripping, as well as insulating ceilings, attics, walls, and floors."

20           **SECTION 14.30.(nnn)** G.S. 146-29.2(e) reads as rewritten:

21       "(e) Land in the State Parks System, as defined in ~~G.S. 113-449.9~~, G.S. 143B-135.44,  
22       may only be leased or conveyed for the purposes of this section upon the approval of the  
23       Secretary of the ~~Department of Environment and Natural~~ and Cultural Resources. Lease or  
24       conveyance of land in the State Parks System for the purposes of this section shall comply with  
25       the requirements of ~~Articles 2 and 2C of Chapter 113~~ Parts 31 and 32 of Article 7 of Chapter  
26       143B of the General Statutes. When selecting a location for a communications tower or antenna  
27       in the State Parks System, the State shall choose a location that minimizes the visual impact on  
28       the surrounding landscape. No land acquired or developed using funds from the Federal Land  
29       and Water Conservation Fund shall be leased or conveyed for the purposes of this section."  
30

### 31 **LIMITED AUTHORITY TO RECLASSIFY AND ELIMINATE CERTAIN POSITIONS**

32           **SECTION 14.30.(ooo)** Notwithstanding any other provision of law, subject to the  
33       approval of the Director of the Budget, the Office of State Budget and Management or the  
34       Secretary of the Department of Natural and Cultural Resources may reclassify or eliminate  
35       existing administrative positions that are not specifically addressed in this act as needed for the  
36       efficient operation of the Department.  
37

### 38 **BUDGETARY TRANSITION PROVISIONS**

39           **SECTION 14.30.(ppp)** The Office of State Budget and Management shall ensure  
40       that future budget documents show the Department of Natural and Cultural Resources, as  
41       renamed and reorganized by this section, in the Natural and Economic Resources section of the  
42       budget.

43           **SECTION 14.30.(qqq)** The Department of Natural and Cultural Resources shall  
44       transfer to the Department of Environmental Quality any funds necessary to cover outstanding  
45       liabilities of the attractions, divisions, or entities transferred by this section that come due to the  
46       Department of Environmental Quality on or after August 1, 2016.

47           **SECTION 14.30.(rrr)** The Department of Environmental Quality shall transfer to  
48       the Department of Natural and Cultural Resources any funds remaining after covering  
49       outstanding liabilities of the attractions, divisions, or entities transferred by this section.  
50

### 51 **REPORTING AND EFFECTIVE DATE**

1           **SECTION 14.30.(sss)** The Office of State Budget and Management, in  
2 consultation with the Department of Environment and Natural Resources and the Department  
3 of Cultural Resources, shall make the following reports on progress implementing this section  
4 to the Environmental Review Commission, the Senate and the House of Representatives  
5 appropriations committees with jurisdiction over natural and cultural resources, and the Fiscal  
6 Research Division:

7           (1) An interim report on or before October 1, 2015.

8           (2) A final report on or before January 15, 2016.

9           These reports shall include (i) the proposed new organization structure, including  
10 proposed movement of positions or funds between fund codes, and (ii) information about any  
11 reclassifications of positions or reductions in force pursuant to subsection (ooo) of this section,  
12 and may include any recommendations for changes to the statutes revised or recodified by this  
13 section.

14           **SECTION 14.30.(ttt)** Other than subsection (sss) of this section, this section  
15 becomes effective August 1, 2015. Any references in this act to any program, office, section,  
16 division, council, or committee transferred under this section shall be construed to be consistent  
17 with the transfers under this section.

18  
19 **STUDY FURTHER EFFICIENCIES IN ORGANIZATION OF DEPARTMENT OF**  
20 **NATURAL AND CULTURAL RESOURCES AND DEPARTMENT OF**  
21 **ENVIRONMENTAL QUALITY**

22           **SECTION 14.31.(a)** The Department of Cultural Resources, in consultation with  
23 the Department of Environment and Natural Resources and the Wildlife Resources  
24 Commission, shall study and report on the potential for efficiency, cost savings, and alignment  
25 of core mission and values that would be created from the transfer of the following agencies,  
26 divisions, or programs to the reorganized Department of Natural and Cultural Resources  
27 created by Section 14.30 of this act:

28           (1) Albemarle-Pamlico National Estuary Partnership.

29           (2) Coastal Reserves Program.

30           (3) Office of Land and Water Stewardship.

31           (4) All or a portion of the Office of Environmental Education and Public  
32 Affairs.

33           (5) Division of Marine Fisheries.

34           (6) Wildlife Resources Commission.

35           **SECTION 14.31.(b)** The Department shall report as required by subsection (a) of  
36 this section no later than April 1, 2016, to the chairs of the Senate Appropriations Committee  
37 on Natural and Economic Resources, the chairs of the House Appropriations Committee on  
38 Agriculture and Natural and Economic Resources, and the Fiscal Research Division.

39  
40 **TECHNICAL CORRECTION RELATING TO ROANOKE ISLAND COMMISSION**  
41 **LEGAL COUNSEL**

42           **SECTION 14.33.** G.S. 143B-131.7 is repealed.

43  
44 **PART XV. DEPARTMENT OF COMMERCE**

45  
46 **EDPNC STATE BUDGET ACT EXEMPTION**

47           **SECTION 15.1.** G.S. 143B-431.01(b) reads as rewritten:

48           "(b) Contract. – The Department of Commerce is authorized to contract with a North  
49 Carolina nonprofit corporation to perform one or more of the Department's functions, powers,  
50 duties, and obligations set forth in G.S. 143B-431, except as provided in this subsection. The  
51 contract entered into pursuant to this section between the Department and the Economic

1 Development Partnership of North Carolina is exempt from Articles 3 and 3C of Chapter 143  
2 of the General Statutes. ~~Statutes and~~ G.S. 143C-6-23. If the Department contracts with a North  
3 Carolina nonprofit corporation to promote and grow the travel and tourism industries, then all  
4 funds appropriated to the Department for tourism marketing purposes shall be used for a  
5 research-based, comprehensive marketing program directed toward consumers in key markets  
6 most likely to travel to North Carolina and not for ancillary activities, such as statewide  
7 branding and business development marketing. The Department may not contract with a North  
8 Carolina nonprofit corporation regarding any of the following:

- 9 (1) The obligation or commitment of funds under this Article, such as the One  
10 North Carolina Fund, the Job Development Investment Grant Program, the  
11 Industrial Development Fund, or the Job Maintenance and Capital  
12 Development Fund.
- 13 (2) The Division of Employment Security, including the administration of  
14 unemployment insurance.
- 15 (3) The functions set forth in G.S. 143B-431(a)(2).
- 16 (4) The administration of funds or grants received from the federal government  
17 or its agencies."

#### 18 19 **COMMERCE STUDY TIME SPENT ADMINISTERING PROGRAMS SUPPORTED** 20 **BY FEDERAL FUNDS**

21 **SECTION 15.3.(a)** The Department of Commerce shall study the amount of time  
22 all persons in General Fund-supported positions spend performing duties related to the  
23 operation and administration of programs that receive federal funds, including the Division of  
24 Employment Security and the Division of Workforce Solutions, to determine whether some or  
25 all of the costs related to the performance of these duties should be supported by federal  
26 indirect cost receipts and, therefore, should be paid for with federal funds instead of General  
27 Fund appropriations.

28 **SECTION 15.3.(b)** No later than March 1, 2016, the Department of Commerce  
29 shall report the findings of the study required under subsection (a) of this section to the chairs  
30 of the House of Representatives Appropriations Committee on Agriculture and Natural and  
31 Economic Resources, the Senate Appropriations Committee on Natural and Economic  
32 Resources, and the Fiscal Research Division.

#### 33 34 **DEPARTMENT OF COMMERCE/CONFORMING STATUTORY CHANGES**

35 **SECTION 15.4.(a)** G.S. 20-81.12 reads as rewritten:

36 **"§ 20-81.12. Collegiate insignia plates and certain other special plates.**

37 ...

38 (b124) Travel and Tourism. – The Division must receive 300 or more applications for the  
39 "Travel and Tourism" plate before the plate may be developed. The Division shall transfer  
40 quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the  
41 sale of "Travel and Tourism" plates to the ~~Division of Tourism, Film, and Sports~~  
42 ~~Development~~Department of Commerce to be used for programs in support of travel and  
43 tourism in North Carolina.

44 ...."

45 **SECTION 15.4.(b)** G.S. 143B-434.2 reads as rewritten:

46 **"§ 143B-434.2. Travel and Tourism Policy Act.**

47 ...

48 (d) The Department of Commerce, and the ~~Division of Tourism, Film, and Sports~~  
49 ~~Development~~ within that Department, nonprofit corporation with whom the Department  
50 contracts pursuant to G.S. 143B-431.01(b) to promote and market tourism, shall implement the  
51 policies set forth in this section. The ~~Division of Tourism, Film, and Sports~~

1 ~~Development~~nonprofit corporation shall make an annual report to the General Assembly  
 2 regarding the status of the travel and tourism industry in North Carolina; the report shall be  
 3 submitted to the General Assembly by October 15 of each year beginning ~~October 15,~~  
 4 ~~2011.~~October 15, 2015. The duties and responsibilities of the ~~Department of Commerce~~  
 5 ~~through the Division of Tourism, Film, and Sports Development~~ nonprofit corporation shall be  
 6 to:

- 7 (1) Organize and coordinate programs designed to promote tourism within the  
 8 State and to the State from other states and foreign countries.
- 9 (2) Measure and forecast tourist volume, receipts, and impact, both social and  
 10 economic.
- 11 (3) Develop a comprehensive plan to promote tourism to the State.
- 12 (4) Encourage the development of the State's tourism infrastructure, facilities,  
 13 services, and attractions.
- 14 (5) Cooperate with neighboring states and the federal government to promote  
 15 tourism to the State from other countries.
- 16 (6) Develop opportunities for professional education and training in the tourism  
 17 industry.
- 18 (7) Provide advice and technical assistance to local public and private tourism  
 19 organizations in promoting tourism to the State.
- 20 (8) Encourage cooperation between State agencies and private individuals and  
 21 organizations to advance the State's tourist interests and seek the views of  
 22 these agencies and the private sector in the development of State tourism  
 23 programs and policies.
- 24 (9) Give leadership to all concerned with tourism in the State.
- 25 (10) Perform other functions necessary to the orderly growth and development of  
 26 tourism.
- 27 (11) Develop informational materials for visitors which, among other things,  
 28 shall:
  - 29 a. Describe the State's travel and tourism resources and the State's  
 30 history, economy, political institutions, cultural resources, outdoor  
 31 recreational facilities, and principal festivals.
  - 32 b. Urge visitors to protect endangered species, natural resources,  
 33 archaeological artifacts, and cultural treasures.
  - 34 c. Instill the ethic of stewardship of the State's natural resources.
- 35 (12) Foster an understanding among State residents and civil servants of the  
 36 economic importance of hospitality and tourism to the State.
- 37 (13) Work with local businesses, including banks and hotels, with educational  
 38 institutions, and with the United States Travel and Tourism Administration,  
 39 to provide special services for international visitors, such as currency  
 40 exchange facilities.
- 41 (14) Encourage the reduction of architectural and other barriers which impede  
 42 travel by physically handicapped persons."

43 **SECTION 15.4.(c)** G.S. 143B-472.35 reads as rewritten:

44 "**§ 143B-472.35. Establishment of fund; use of funds; application for grants; disbursal;**  
 45 **repayment; inspections; rules; reports.**

46 ...

47 (a2) Definitions. – For purposes of this section, the following definitions shall apply:

48 ...

49 (9) Main Street Center. – The agency within the North Carolina Department of  
 50 ~~Commerce, Office of Urban Development,~~Commerce which receives

1 applications and makes decisions with respect to Main Street Solutions Fund  
 2 grant applications from eligible local governments.

3 ...."

4 **SECTION 15.4.(d)** The Department of Commerce shall, in accordance with  
 5 Article 2A of Chapter 150B of the General Statutes, amend its rules to reflect the division name  
 6 changes provided for in this section.

7 **SECTION 15.4.(e)** The Revisor of Statutes may conform names and titles changed  
 8 by this section, and may correct statutory references as required by this section, throughout the  
 9 General Statutes. In making the changes authorized by this section, the Revisor may also adjust  
 10 subject and verb agreement and the placement of conjunctions.

11  
 12 **NER BLOCK GRANTS/2016 AND 2017 PROGRAM YEARS**

13 **SECTION 15.5.(a)** Appropriations from federal block grant funds are made for the  
 14 fiscal years ending June 30, 2016, and June 30, 2017, according to the following schedule:

15 **COMMUNITY DEVELOPMENT BLOCK GRANT**

16		
17	01. State Administration	\$ 1,037,500
18		
19	02. Economic Development	15,737,500
20		
21	03. Infrastructure	26,725,000
22		

23 **TOTAL COMMUNITY DEVELOPMENT**

24 **BLOCK GRANT – 2016 Program Year** **\$ 43,500,000**

25 **2017 Program Year** **\$ 43,500,000**

26 **SECTION 15.5.(b)** Decreases in Federal Fund Availability. – If federal funds are  
 27 reduced below the amounts specified in this section after the effective date of this act, then  
 28 every program in each of these federal block grants shall be reduced by the same percentage as  
 29 the reduction in federal funds.

30 **SECTION 15.5.(c)** Increases in Federal Fund Availability. – Any block grant  
 31 funds appropriated by the Congress of the United States in addition to the funds specified in  
 32 this section shall be expended as follows: each program category under the Community  
 33 Development Block Grant shall be increased by the same percentage as the increase in federal  
 34 funds.

35 **SECTION 15.5.(d)** Limitations on Community Development Block Grant Funds. –  
 36 Of the funds appropriated in this section for the Community Development Block Grant, the  
 37 following shall be allocated in each category for each program year: up to one million  
 38 thirty-seven thousand five hundred dollars (\$1,037,500) may be used for State Administration;  
 39 up to fifteen million seven hundred thirty-seven thousand five hundred dollars (\$15,737,500)  
 40 may be used for Economic Development; and up to twenty-six million seven hundred  
 41 twenty-five thousand dollars (\$26,725,000) may be used for Infrastructure. If federal block  
 42 grant funds are reduced or increased by the Congress of the United States after the effective  
 43 date of this act, then these reductions or increases shall be allocated in accordance with  
 44 subsection (b) or (c) of this section, as applicable.

45 **SECTION 15.5.(e)** The Department of Commerce shall consult with the Joint  
 46 Legislative Commission on Governmental Operations prior to reallocating Community  
 47 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever  
 48 the Director of the Budget finds that:

- 49 (1) A reallocation is required because of an emergency that poses an imminent  
 50 threat to public health or public safety, the Director of the Budget may  
 51 authorize the reallocation without consulting the Commission. The

1 Department of Commerce shall report to the Commission on the reallocation  
2 no later than 30 days after it was authorized and shall identify in the report  
3 the emergency, the type of action taken, and how it was related to the  
4 emergency.

- 5 (2) The State will lose federal block grant funds or receive less federal block  
6 grant funds in the next fiscal year unless a reallocation is made, the  
7 Department of Commerce shall provide a written report to the Commission  
8 on the proposed reallocation and shall identify the reason that failure to take  
9 action will result in the loss of federal funds. If the Commission does not  
10 hear the issue within 30 days of receipt of the report, the Department may  
11 take the action without consulting the Commission.

12 **SECTION 15.5.(f)** By September 1, 2015, and September 1, 2016, the Department  
13 of Commerce shall report to the Joint Legislative Commission on Governmental Operations  
14 and the Fiscal Research Division on the use of Community Development Block Grant Funds  
15 appropriated in the prior fiscal year. The report shall include the following:

- 16 (1) A discussion of each of the categories of funding and how the categories  
17 were selected, including information on how a determination was made that  
18 there was a statewide need in each of the categories.
- 19 (2) Information on the number of applications that were received in each  
20 category and the total dollar amount requested in each category.
- 21 (3) A list of grantees, including the grantee's name, county, category under  
22 which the grant was funded, the amount awarded, and a narrative description  
23 of the project.

24 **SECTION 15.5.(g)** For purposes of this section, eligible activities under the  
25 category of Infrastructure in subsection (a) of this section shall be defined as provided in the  
26 HUD State Administered Community Development Block Grant definition of the term  
27 "infrastructure". Notwithstanding the provisions of subsection (e) of this section, funds  
28 allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated  
29 to any other category.

## 30 31 **USE OF DEOBLIGATED COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS** 32 **AND SURPLUS FEDERAL ADMINISTRATIVE FUNDS**

33 **SECTION 15.6.(a)** Throughout each year, deobligated funds arise in the various  
34 funding categories and program years of the Community Development Block Grant (CDBG)  
35 program as a result of (i) projects coming in under budget, (ii) projects being cancelled, or (iii)  
36 projects being required to repay funds. Surplus federal administrative funds in the CDBG  
37 program may vary from year-to-year based upon the amount of State-appropriated funds  
38 allocated and the amount of eligible in-kind funds identified.

39 **SECTION 15.6.(b)** To allow the Department of Commerce and the Department of  
40 Environment and Natural Resources to quickly deploy deobligated CDBG funds and surplus  
41 federal administrative funds as they are identified throughout the program year, the following  
42 shall apply to the use of deobligated CDBG funds and surplus federal administrative funds:

- 43 (1) The Department of Commerce may use the sum of five million nine hundred  
44 eight thousand four hundred ninety-seven dollars (\$5,908,497) in  
45 deobligated CDBG funds as follows:
- 46 a. Four million nine hundred eight thousand four hundred ninety-seven  
47 dollars (\$4,908,497) for:
- 48 1. Providing public services and public facilities. The category  
49 of public services includes providing substance abuse  
50 services and employment services, including job training for  
51 veterans in high unemployment areas in the State.



- 1 2. If House Bill 108, 2015 Regular Session, becomes law,  
2 providing up to one million dollars (\$1,000,000) in the  
3 2016-2017 fiscal year to be used to fund a loan fund for site,  
4 infrastructure, and building development. Program income  
5 generated from awards made from the loan fund shall be  
6 captured in the existing CDBG revolving loan fund.
- 7 b. Five hundred thousand dollars (\$500,000) for existing CDBG  
8 programs that encounter cost overruns.
- 9 c. Five hundred thousand dollars (\$500,000) for providing training and  
10 guidance to local governments relative to the CDBG program, its  
11 management, and administration requirements.
- 12 (2) All deobligated CDBG funds remaining after the provisions of subdivision  
13 (1) of this subsection have been met and all surplus federal administrative  
14 funds shall be divided equally between the Department of Commerce and  
15 the Department of Environment and Natural Resources and shall be used as  
16 provided in subdivisions (3) and (4) of this subsection.
- 17 (3) The Department of Commerce may use the funds provided for in subdivision  
18 (2) of this subsection for the following:
  - 19 a. To issue grants in the CDBG economic development program  
20 category.
  - 21 b. For providing training and guidance to local governments relative to  
22 the CDBG program, its management, and administrative  
23 requirements.
- 24 (4) The Department of Environment and Natural Resources may use the funds  
25 provided for in subdivision (2) of this subsection to issue grants in the  
26 CDBG infrastructure program category.

## 28 RURAL INFRASTRUCTURE AUTHORITY/ECONOMIC DEVELOPMENT GRANTS 29 & LOANS

30 SECTION 15.6A. G.S. 143B-472.127 reads as rewritten:

### 31 "§ 143B-472.127. Programs administered.

32 (a) The Rural Economic Development Division shall be responsible for administering  
33 the program whereby economic development grants or loans are awarded by the Rural  
34 Infrastructure Authority as provided in G.S. 143B-472.128 to local government units. The  
35 Rural Infrastructure Authority shall, in awarding economic development grants or loans under  
36 the provisions of this subsection, give priority to (i) local government units of the counties that  
37 have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment of that  
38 section ~~section~~ and (ii) local government units located in a rural census tract in a development  
39 tier three area. For purposes of this section, the term "rural census tract" means a census tract  
40 having a population density of less than 500 people per square mile according to the most  
41 recent decennial federal census. The development tier designation of a county shall be  
42 determined as provided in G.S. 143B-437.08. The funds available for grants or loans under this  
43 program may be used as follows:

- 44 (1) To construct critical water and wastewater facilities or to provide other  
45 infrastructure needs, including, but not limited to, natural gas, broadband,  
46 and rail to sites where these facilities will generate private job-creating  
47 investment. The grants under this subdivision shall not be subject to the  
48 provisions of G.S. 143-355.4.
- 49 (2) To provide matching grants or loans to local government units ~~located in~~  
50 ~~either (i) a development tier one or tier two area or (ii) a rural census tract in~~  
51 ~~a development tier three area~~ that will productively reuse or demolish

buildings and properties or construct or expand rural health care facilities, with priority given to towns or communities with populations of less than 5,000. ~~The development tier designation of a county shall be determined as provided in G.S. 143B-437.08. For purposes of this section, the term "rural census tract" means a census tract having a population density of less than 500 people per square mile according to the most recent decennial federal census.~~

...."

**FUNDS TO CERTAIN COUNTIES FOR APPALACHIAN REGIONAL COMMISSION MATCH**

**SECTION 15.8.(a)** Of the funds appropriated in this act to the Department of Commerce for the Rural Grant Program Expansion for the 2015-2016 fiscal year, the sum of two hundred fifty-three thousand nine hundred fifty-six dollars (\$253,956) in nonrecurring funds shall be allocated to the following counties to be used for the Appalachian Regional Commission match requirement:

(1)	Cherokee	\$63,606
(2)	Graham	103,450
(3)	Rutherford	43,450
(4)	Swain	43,450.

**SECTION 15.8.(b)** The match funds provided for in subsection (a) of this section shall be used for infrastructure projects only.

**MAIN STREET SOLUTIONS FUND ALLOCATION**

**SECTION 15.8A.(a)** Of the funds appropriated by this act to the Department of Commerce for the Main Street Solutions Fund for the 2015-2016 fiscal year, the Department shall allocate one million dollars (\$1,000,000) in nonrecurring funds for the 2015-2016 fiscal year for a downtown revitalization project that will stimulate economic growth along the main street corridor of a municipality meeting all of the following:

- (1) The municipality had a population, as of July 2013, of not fewer than 105,000 and not in excess of 110,000.
- (2) The municipality is located, in whole or in part, in a county that moved from a development tier three area status to development tier two area status in the annual ranking performed by the Department of Commerce pursuant to G.S. 143B-437.08 for the 2015 calendar year.
- (3) The municipality provides no less than one dollar forty-three cents (\$1.43) for every one dollar (\$1.00) allocated from the Fund.

**SECTION 15.8A.(b)** Of the funds appropriated in this act to the Department of Commerce for the Main Street Solutions Fund for the 2015-2016 fiscal year, the Department shall allocate one hundred thousand dollars (\$100,000) in nonrecurring funds for the 2015-2016 fiscal year to Renaissance West Community Initiative to provide quality housing, education, health, wellness, and opportunity.

**WANCHESE MARINE INDUSTRIAL PARK**

**SECTION 15.8B.(a)** The Department of Commerce shall transfer the cash balance remaining in fund code 14600-1561 on June 30, 2015, to an enterprise fund created for the North Carolina Marine Industrial Park. Thereafter, the enterprise fund shall be used for the operations, maintenance, repair, and capital improvements of the Wanchese Marine Industrial Park.

**SECTION 15.8B.(b)** This section becomes effective June 30, 2015.

**MODIFY ECONOMIC DEVELOPMENT GRANT REPORT**

**SECTION 15.10.(a)** G.S. 143B-437.07 reads as rewritten:

**"§ 143B-437.07. Economic development grant reporting.**

(a) Report. – The Department of Commerce must publish on or before October 1 of each year the information required by this subsection, itemized by business entity, for each business or joint private venture to which the State has, in whole or in part, granted one or more economic development incentives during the ~~previous fiscal year-relevant time period.~~ The relevant time period ends June 30 preceding the publication date of this subsection and begins (i) for incentives not awarded under Part 2G of this Article with the 2007 calendar year and (ii) for incentives awarded under Part 2G of this Article with the 2002 calendar year. The information in the report must include all of the following:

...

(3) The name, mailing address, telephone number, and Web site of the business recipient, or recipients if a joint venture, and the physical location of the site receiving the incentive. If the physical location of the site is undecided, then the name of the county in which the site will be located. The information regarding the physical location must indicate whether the physical location is a new or expanded facility.

(3a) A determination of whether the award is to a business that is new to the State or an expansion of an existing business within the State.

...."

**SECTION 15.10.(b)** This section is effective for reports published for fiscal years beginning on or after July 1, 2015.

**WORKFORCE DEVELOPMENT BOARDS/CHANGES TO CONFORM WITH FEDERAL LAW**

**SECTION 15.11.(a)** G.S. 143B-438.10 reads as rewritten:

**"§ 143B-438.10. ~~Commission on Workforce Development.~~ NCWorks Commission.**

(a) Creation and Duties. – There is created within the Department of Commerce the ~~North Carolina Commission on Workforce Development.~~ NCWorks Commission (hereinafter "Commission"). The Commission shall have the following powers and duties:

...

(9) To serve as the State's Workforce Investment Board for purposes of the federal ~~Workforce Investment Act of 1998.~~ Workforce Innovation and Opportunity Act.

...

(13) To develop performance accountability measures for local workforce development boards consistent with the requirements of section 116 of the Workforce Innovation and Opportunity Act and to recommend to the Governor sanctions against local workforce development boards that fail to meet the performance accountability measures.

(14) To develop fiscal control and fund accounting procedures for local workforce development boards consistent with the requirements of section 184 of the Workforce Innovation and Opportunity Act and to recommend to the Governor sanctions against local workforce development boards that fail to meet the fiscal control and fund accounting procedures.

(b) ~~Membership; Terms.~~ Effective January 1, 2013, the Membership. – The ~~Commission on Workforce Development~~ shall consist of ~~25-33~~ members appointed as follows:

(1) By virtue of their offices, the following ~~department and agency heads or their respective designees~~ persons, or their designees, shall serve on the Commission: ~~the~~

- 1           a.     The Governor.  
 2           b.     The Secretary of the Department of Administration, the  
 3                 Administration.  
 4           c.     The Secretary of the Department of Commerce.  
 5           d.     The Secretary of the Department of Health and Human Services, the  
 6                 Services.  
 7           e.     The Superintendent of Public Instruction, the Instruction.  
 8           f.     The President of the Community Colleges System Office, the  
 9                 Commissioner of the Department of Labor, and the Secretary of the  
 10                Department of Commerce Office.  
 11           g.     The President of The University of North Carolina system.

- 12           (2) ~~The Pursuant to the provisions of section 101 of the Workforce Innovation~~  
 13               ~~and Opportunity Act, the Governor shall appoint 19-26 members as follows:~~  
 14               a.     ~~Two Seventeen members representing public, postsecondary, and~~  
 15                   ~~vocational education, business and industry in the State.~~  
 16               b.     ~~One member Seven members representing community based~~  
 17                   ~~organizations, the workforce in the State.~~  
 18               c.     ~~Three members representing labor, One member representing local~~  
 19                   ~~elected city officials in the State.~~  
 20               d.     ~~Thirteen members representing business and industry, One member~~  
 21                   ~~representing local elected county officials in the State.~~

- 22           (3) ~~The terms of the members appointed by the Governor shall be for four years.~~

23           (b1) Terms. – The persons listed in subdivision (1) of subsection (b) of this section shall  
 24               serve on the Commission while they hold their respective offices. The terms of the members  
 25               appointed by the Governor pursuant to subdivision (2) of subsection (b) of this section shall be  
 26               for four years, except as provided in this subsection. The terms shall be staggered and shall  
 27               begin on August 1 and expire on July 31. Upon the expiration of the term of each member in  
 28               subdivision (2) of subsection (b) of this section, the Governor shall fill the vacancy by  
 29               reappointing the member or appointing another person of like qualification to serve a four-year  
 30               term. If a vacancy occurs for any reason other than the expiration of the member's term, the  
 31               Governor shall appoint a person of like qualification to serve for the remainder of the unexpired  
 32               term.

33           In order to provide for staggered terms, six persons appointed to the positions designated in  
 34               sub-subdivision a. of subdivision (2) of subsection (b) of this section and three persons  
 35               appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b)  
 36               of this section shall be appointed for initial terms ending on July 31, 2019. Five persons  
 37               appointed to the positions designated in sub-subdivision a. of subdivision (2) of subsection (b)  
 38               of this section, two persons appointed to the positions designated in sub-subdivision b. of  
 39               subdivision (2) of subsection (b) of this section, and one person appointed to the position  
 40               designated in sub-subdivision c. of subdivision (2) of subsection (b) of this section shall be  
 41               appointed for initial terms ending on July 31, 2017. Six persons appointed to the positions  
 42               designated in sub-subdivision a. of subdivision (2) of subsection (b) of this section, two persons  
 43               appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b)  
 44               of this section, and one person appointed to the position designated in sub-subdivision d. of  
 45               subdivision (2) of subsection (b) of this section shall be appointed for initial terms ending on  
 46               July 31, 2016.

47           ...."

48               **SECTION 15.11.(b)** The terms of office of the Commissioner of the Department  
 49               of Labor and the 19 public members appointed by the Governor and currently serving on the  
 50               North Carolina Commission on Workforce Development shall expire on July 31, 2015.

51               **SECTION 15.11.(c)** G.S. 143B-438.11 reads as rewritten:

1 **"§ 143B-438.11. Local Workforce Development Boards.**

2 (a) Duties. – Local Workforce Development Boards shall have the following powers  
3 and duties:

4 ...

5 (7) To serve as the Workforce Investment Board for the designated substate area  
6 for the purpose of the federal Workforce ~~Investment Act of 1998.~~Innovation  
7 and Opportunity Act.

8 (7a) To designate through a competitive selection process, by no later than July 1,  
9 2014, the providers of adult and dislocated worker services authorized in the  
10 Workforce ~~Investment Act of 1998.~~Innovation and Opportunity Act.

11 (8) To provide the appropriate guidance and information to Workforce  
12 ~~Investment~~Innovation and Opportunity Act consumers to ensure that they  
13 are prepared and positioned to make informed choices in selecting a training  
14 provider. Each local Workforce Development Board shall ensure that  
15 consumer choice is properly maintained in the one-stop centers and that  
16 consumers are provided the full array of public and private training provider  
17 information.

18 ...

19 (10) To comply with the performance accountability measures established by the  
20 NCWorks Commission pursuant to section 116 of the Workforce Innovation  
21 and Opportunity Act.

22 (11) To comply with the fiscal control and fund accounting procedures  
23 established by the NCWorks Commission pursuant to Section 184 of the  
24 Workforce Innovation and Opportunity Act.

25 (b) Members. – Members of local Workforce Development Boards shall be appointed  
26 by local elected officials in accordance with criteria established by the Governor and with  
27 provisions of the federal Workforce ~~Investment~~Innovation and Opportunity Act. The local  
28 Workforce Development Boards shall have a majority of business members and shall also  
29 include representation of workforce and education providers, labor organizations,  
30 community-based organizations, and economic development boards as determined by local  
31 elected officials. The Chairs of the local Workforce Development Boards shall be selected from  
32 among the business members.

33 (c) Assistance. – ~~The North Carolina Commission on Workforce Development~~  
34 NCWorks Commission and the Department of Commerce shall provide programmatic,  
35 technical, and other assistance to any local Workforce Development Board that realigns its  
36 service area with the boundaries of a local regional council of governments established  
37 pursuant to G.S. 160A-470."

38 **SECTION 15.11.(d)** G.S. 96-32 reads as rewritten:

39 **"§ 96-32. Common follow-up information management system created.**

40 ...

41 (d) The LEAD shall do the following:

42 (1) Collaborate with the ~~Commission on Workforce Development~~NCWorks  
43 Commission to develop common performance measures across workforce  
44 programs in the Department of Commerce, the Department of Health and  
45 Human Services, the Community Colleges System Office, the Department of  
46 Administration, and the Department of Public Instruction that can be tracked  
47 through the CFS in order to assess and report on workforce development  
48 program performance.

49 ...."

50 **SECTION 15.11.(e)** G.S. 143B-157 reads as rewritten:

51 **"§ 143B-157. Commission for the Blind – creation, powers and duties.**

1 There is recreated the Commission for the Blind of the Department of Health and Human  
 2 Services with the power and duty to adopt rules governing the conduct of the State's  
 3 rehabilitative programs for the blind that are necessary to carry out the provisions and purposes  
 4 of this Article.

5 ...  
 6 (3e) The Commission shall coordinate with other councils within the State,  
 7 including the statewide Independent Living Council established under  
 8 section 705 of the federal Rehabilitation Act, 29 U.S.C. § 720, et seq., the  
 9 advisory panel established under section 612(a)(21) of the Individuals with  
 10 Disabilities Education Act, 20 U.S.C. § 1413(A)(12), the Council on  
 11 Developmental Disabilities described in section 124 of the Developmental  
 12 Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6024, the State  
 13 Mental Health Planning Council established pursuant to section 1916(e) of  
 14 the Public Health Service Act, 42 U.S.C. § 300x-4(e), and the ~~Commission~~  
 15 ~~on Workforce Development; NCWorks Commission;~~

16 ...."

17 **SECTION 15.11.(f)** G.S. 143B-158 reads as rewritten:

18 **"§ 143B-158. Commission for the Blind.**

19 (a) The Commission for the Blind of the Department of Health and Human Services  
 20 shall consist of 19 members as follows:

21 ...

22 (12) One representative of the ~~Commission on Workforce~~  
 23 ~~Development; NCWorks Commission.~~

24 ...."

25 **SECTION 15.11.(g)** G.S. 143B-438.12 reads as rewritten:

26 **"§ 143B-438.12. Federal Program Administration.**

27 (a) Federal Workforce ~~Investment-Innovation and Opportunity Act.~~ – In accordance  
 28 with the federal Workforce ~~Investment-Innovation and Opportunity Act,~~ the ~~Commission on~~  
 29 ~~Workforce Development; NCWorks Commission~~ shall develop a ~~Five-Year Strategic Plan~~  
 30 ~~Four-Year Unified State Plan~~ to be submitted to the U.S. Secretary of Labor. The ~~Strategic Plan~~  
 31 ~~Unified State Plan~~ shall describe the ~~workforce development activities to be undertaken in the~~  
 32 ~~State to implement the federal Workforce Investment Act and how special populations shall be~~  
 33 ~~served.~~ State's strategic vision and goals for preparing an educated and skilled workforce as  
 34 required in section 102 of the federal Workforce Innovation and Opportunity Act.

35 (b) Other Workforce Grant Applications. – The ~~Commission on Workforce~~  
 36 ~~Development; NCWorks Commission~~ may submit grant applications for workforce  
 37 development initiatives and may manage the initiatives and demonstration projects."

38 **SECTION 15.11.(h)** G.S. 143B-438.13 reads as rewritten:

39 **"§ 143B-438.13. Employment and Training Grant Program.**

40 (a) Employment and Training Grant Program. – There is established in the Department  
 41 of Commerce, Division of ~~Employment and Training;~~ Workforce Solutions, an Employment  
 42 and Training Grant Program. Grant funds shall be allocated to local Workforce Development  
 43 Boards for the purposes of enabling recipient agencies to implement local employment and  
 44 training programs in accordance with existing resources, local needs, local goals, and selected  
 45 training occupations. The State program of workforce performance standards shall be used to  
 46 measure grant program outcomes.

47 (b) Use of Grant Funds. – Local agencies may use funds received under this section for  
 48 the purpose of providing services, such as training, education, placement, and supportive  
 49 services. Local agencies may use grant funds to provide services only to individuals who are (i)  
 50 18 years of age or older and meet the federal Workforce ~~Investment-Innovation and~~  
 51 ~~Opportunity Act,~~ title I adult eligibility definitions, or meet the federal Workforce ~~Investment~~

1 Innovation and Opportunity Act, title I dislocated worker eligibility definitions, or (ii)  
2 incumbent workers with annual family incomes at or below two hundred percent (200%) of  
3 poverty guidelines established by the federal Department of Health and Human Services.

4 (c) Allocation of Grants. – The Department of Commerce may reserve and allocate up  
5 to ten percent (10%) of the funds available to the Employment and Training Grant Program for  
6 State and local administrative costs to implement the Program. The Division of ~~Employment~~  
7 ~~and Training~~ Workforce Solutions shall allocate employment and training grant funds to local  
8 Workforce Development Boards serving federal Workforce ~~Investment~~ Innovation and  
9 Opportunity Act local workforce ~~investment~~ development areas based on the following  
10 formula:

11 (1) One-half of the funds shall be allocated on the basis of the relative share of  
12 the local workforce ~~investment~~ development area's share of federal  
13 Workforce ~~Investment~~ Innovation and Opportunity Act, title I adult funds as  
14 compared to the total of all local areas adult shares under the federal  
15 Workforce ~~Investment~~ Innovation and Opportunity Act, title I.

16 (2) One-half of the funds shall be allocated on the basis of the relative share of  
17 the local workforce ~~investment~~ development area's share of federal  
18 Workforce ~~Investment~~ Innovation and Opportunity Act, title I dislocated  
19 worker funds as compared to the total of all local areas dislocated worker  
20 shares under the federal Workforce ~~Investment~~ Innovation and Opportunity  
21 Act, title I.

22 (3) Local workforce ~~investment~~ development area adult and dislocated shares  
23 shall be calculated using the current year's allocations to local areas under  
24 the federal Workforce ~~Investment~~ Innovation and Opportunity Act, title I.

25 (d) Repealed by Session Laws 2009-451, s. 14.5(d), effective July 1, 2009.

26 (e) Nonreverting Funds. – Funds appropriated to the Department of Commerce for the  
27 Employment and Training Grant Program that are not expended at the end of the fiscal year  
28 shall not revert to the General Fund, but shall remain available to the Department for the  
29 purposes established in this section."

30 **SECTION 15.11.(i)** G.S. 143B-438.14 reads as rewritten:

31 "**§ 143B-438.14. "No Adult Left Behind" Initiative.**

32 (a) The ~~Commission on Workforce Development~~, NCWorks Commission, acting as the  
33 lead agency, with the cooperation of other participating agencies, including the Department of  
34 Labor, the Department of Commerce, the Employment Security Commission, the North  
35 Carolina Community College System, The University of North Carolina, and the North  
36 Carolina Independent Colleges and Universities shall initiate the "No Adult Left Behind"  
37 Initiative (Initiative) geared toward achievement of major statewide workforce development  
38 goals. The Initiative may also include community-based nonprofit organizations that provide  
39 services or assistance in the areas of worker training, workforce development, and transitioning  
40 North Carolinians between industries in the current global labor market.

41 (b) The first goal of the Initiative is to increase dramatically to forty percent (40%) the  
42 percentage of North Carolinians who earn associate degrees, other two-year educational  
43 credentials, and baccalaureate degrees. Specific fields of study may be selected for the most  
44 intense efforts. The ~~Commission on Workforce Development~~ NCWorks Commission shall, as  
45 the lead agency along with the North Carolina Community College System and The University  
46 of North Carolina as key cooperating institutions, do all of the following:

47 ...

48 (c) The ~~Commission on Workforce Development~~ NCWorks Commission and the other  
49 lead participating institutions may enter into contracts with other qualified organizations,  
50 especially community-based nonprofits, to carry out components of the Initiative set forth in  
51 subsection (b) of this section.

1 (d) The ~~Commission on Workforce Development~~ NCWorks Commission shall submit  
2 to the Governor and to the General Assembly by May 1, 2012, and annually thereafter, details  
3 of its implementation of this section that shall include at least the following:

4 ...."

5 **SECTION 15.11.(j)** The Revisor of Statutes may conform names and titles  
6 changed by this section, and may correct statutory references as required by this section,  
7 throughout the General Statutes. In making the changes authorized by this section, the Revisor  
8 may also adjust subject and verb agreement and the placement of conjunctions.

9  
10 **REPEAL STATUTES AUTHORIZING TRADE JOBS FOR SUCCESS/INITIATIVE**  
11 **ENDED JUNE 30, 2013**

12 **SECTION 15.12.** Part 3C of Article 10 of Chapter 143B of the General Statutes is  
13 repealed.

14  
15 **REPEAL APPRENTICESHIP FEE**

16 **SECTION 15.13.** G.S. 94-12 is repealed.

17  
18 **INDUSTRIAL COMMISSION STUDY IMPLEMENTING DRUG FORMULARY IN**  
19 **WORKERS' COMPENSATION CLAIMS**

20 **SECTION 15.13A.(a)** The Industrial Commission shall study the implementation  
21 of a drug formulary in workers' compensation claims filed by State employees. The study shall  
22 consider (i) the pharmacy-related expenses incurred by the State on an annual basis in workers'  
23 compensation claims; (ii) the savings, if any, that would result from the use of a drug formulary  
24 in workers' compensation claims; (iii) whether the use of a drug formulary would result in the  
25 more efficient delivery of medications, provide workers with reasonable and necessary care,  
26 and provide a disincentive for health care providers to utilize costly name brand drugs and  
27 habit-forming opioids and narcotics; and (iv) the adoption of an appeals process that would  
28 allow health care providers and injured workers to seek approval for the use of drugs that are  
29 not on the formulary's approved list. The Industrial Commission may consider any other issues  
30 relevant to the implementation of a drug formulary in workers' compensation claims.

31 **SECTION 15.13A.(b)** By April 1, 2016, the Industrial Commission shall report its  
32 findings, including any recommendations on the implementation of a drug formulary in  
33 workers' compensation claims filed by State employees, to the chairs of the House of  
34 Representatives Health Committee and the Senate Health Care Committee and the Fiscal  
35 Research Division.

36  
37 **INDUSTRIAL COMMISSION/REIMBURSEMENT FOR PRESCRIPTION DRUGS**  
38 **AND PROFESSIONAL PHARMACEUTICAL SERVICES**

39 **SECTION 15.13B.(a)** G.S. 97-26.2 reads as rewritten:

40 "**§ 97-26.2. Reimbursement for prescription ~~drugs~~ drugs, prescribed over-the-counter**  
41 **drugs, and professional pharmaceutical services.**

42 (a) The reimbursement amount for prescription ~~drugs~~ drugs, prescribed  
43 over-the-counter drugs, and professional pharmaceutical services shall be limited to the lesser  
44 of ninety-five percent (95%) of the average wholesale price (AWP) of the product, calculated  
45 on a per unit basis, as of the date of ~~dispensing~~ dispensing or the reimbursement amount  
46 provided for in an agreement between the dispensing health care provider and the payor  
47 employer or workers' compensation insurance carrier.

48 (b) All of the following shall apply to the reimbursement for prescription drugs and  
49 professional pharmaceutical services:

50 (1) A health care provider seeking reimbursement for ~~drugs dispensed by a~~  
51 ~~physician~~ health care provider-dispensed prescription drugs, prescribed



1 over-the-counter drugs, and pharmaceutical services shall include the  
 2 original manufacturer's National Drug Code (NDC) number, as assigned by  
 3 the United States Food and Drug Administration, on ~~the bills and reports~~  
 4 ~~required by this section~~ any billing documents or invoices issued.

- 5 (2) In no event may a ~~physician~~ health care provider receive reimbursement in  
 6 excess of ninety-five percent (95%) of the AWP of the drugs dispensed by a  
 7 ~~physician~~ health care provider, as determined by reference to the original  
 8 manufacturer's NDC number.
- 9 (3) A repackaged NDC number may not be individually used on any billing  
 10 documents or invoices issued, and will not be considered the original  
 11 manufacturer's NDC number. A repackaged NDC number may only appear  
 12 in conjunction with the manufacturer's NDC number. If a health care  
 13 provider seeking reimbursement for drugs dispensed by a ~~physician~~ health  
 14 care provider does not include the original manufacturer's NDC number on  
 15 ~~the bills and reports required by this section~~ any billing documents or  
 16 invoices issued, reimbursement shall be limited to one hundred percent  
 17 (100%) of the AWP of the least expensive clinically equivalent drug,  
 18 calculated on a per unit basis.
- 19 (4) No outpatient health care provider, other than a licensed pharmacy, may  
 20 receive reimbursement for a Schedule II controlled substance, as defined in  
 21 G.S. 90-90, ~~or~~ a Schedule III controlled substance, as defined in G.S. 90-91,  
 22 a Schedule IV controlled substance, as defined in G.S. 90-92, or a Schedule  
 23 V controlled substance, as defined in G.S. 90-93, dispensed in excess of an  
 24 initial five-day supply, commencing upon the employee's initial treatment  
 25 following injury. Reimbursement under this subdivision shall be made for  
 26 the five-day supply at the rates provided in this section.
- 27 (5) For purposes of this section, the term "clinically equivalent" means a drug  
 28 has chemical equivalents which, when administered in the same amounts,  
 29 will provide essentially the same therapeutic effect as measured by the  
 30 control of a symptom or disease."

31 **SECTION 15.13B.(b)** This section becomes effective September 1, 2015.

32  
 33 **INDUSTRIAL COMMISSION/USE OF IT FUNDS**

34 **SECTION 15.14.** In each year of the 2015-2017 fiscal biennium, the Industrial  
 35 Commission, in consultation with the State Chief Information Officer, may use available funds  
 36 in Budget Code 24611 (Fund 2200) to maintain its Consolidated Case Management System,  
 37 including, but not limited to, covering the costs of related service contracts and information  
 38 technology personnel.

39  
 40 **UTILITIES COMMISSION/PUBLIC STAFF REALIGN CERTIFIED BUDGET WITH**  
 41 **ANTICIPATED AGENCY REQUIREMENTS**

42 **SECTION 15.15.(a)** No later than November 1, 2015, the Utilities Commission  
 43 and Public Staff, in conjunction with the Department of Commerce and the Office of State  
 44 Budget and Management, shall realign the certified budget for the following funds for each  
 45 year of the 2015-2017 fiscal biennium to reflect the anticipated spending requirements for the  
 46 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."

**SECTION 15.16.(b)** Subdivisions 14.19(e1)(4), (5), (6), and (10) of S.L. 2009-451 are repealed.

**SECTION 15.16.(c)** G.S. 62-302, as amended by subsection (a) of this section, 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 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.

(b) Public Utility Rate. –

(1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

(2) Unless adjusted under subdivision (3) of this subsection, the public utility fee is a percentage of a utility's jurisdictional revenues as follows:

<u>Noncompetitive jurisdictional revenues</u>	<u>0.148%</u>
---	---------------

1 Subsection (h) competitive jurisdictional revenues 0.06%

2 Subsection (m) competitive jurisdictional revenues 0.05%

3 ~~For noncompetitive jurisdictional revenues as defined in sub-subdivision~~  
 4 ~~(4)a. of this subsection, the public utility regulatory fee for each~~  
 5 ~~fiscal year is the greater of (i) a percentage rate, established by the~~  
 6 ~~General Assembly, of each public utility's noncompetitive~~  
 7 ~~jurisdictional revenues for each quarter or (ii) six dollars and~~  
 8 ~~twenty five cents (\$6.25) each quarter. For subsection (h)~~  
 9 ~~competitive jurisdictional revenues as defined in sub-subdivision~~  
 10 ~~(4)b. of this subsection, and subsection (m) competitive jurisdictional~~  
 11 ~~revenues as defined in sub-subdivision (4)c. of this subsection, the~~  
 12 ~~public utility regulatory fee for each fiscal year is a percentage rate~~  
 13 ~~established by the General Assembly of each public utility's~~  
 14 ~~competitive jurisdictional revenues for each quarter.~~

15 ~~When the Commission prepares its budget request for the upcoming~~  
 16 ~~fiscal year, the Commission shall propose a percentage rate of the public~~  
 17 ~~utility regulatory fee. For fiscal years beginning in an odd-numbered year,~~  
 18 ~~that proposed rate shall be included in the budget message the Governor~~  
 19 ~~submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years~~  
 20 ~~beginning in an even-numbered year, that proposed rate shall be included in~~  
 21 ~~a special budget message the Governor shall submit to the General~~  
 22 ~~Assembly. The General Assembly shall set the percentage rate of the public~~  
 23 ~~utility regulatory fee by law.~~

24 ~~The percentage rate may not exceed the amount necessary to generate~~  
 25 ~~funds sufficient to defray the estimated cost of the operations of the~~  
 26 ~~Commission and the Public Staff for the upcoming fiscal year, including a~~  
 27 ~~reasonable margin for a reserve fund. The amount of the reserve may not~~  
 28 ~~exceed the estimated cost of operating the Commission and the Public Staff~~  
 29 ~~for the upcoming fiscal year. In calculating the amount of the reserve, the~~  
 30 ~~General Assembly shall consider all relevant factors that may affect the cost~~  
 31 ~~of operating the Commission or the Public Staff or a possible unanticipated~~  
 32 ~~increase or decrease in North Carolina jurisdictional revenues.~~

33 (3) In the first half of each calendar year, the Commission shall review the  
 34 estimated cost of operating the Commission and the Public Staff for the next  
 35 fiscal year, including a reasonable margin for the reserve fund allowed under  
 36 this section. In making this determination, the Commission shall consider all  
 37 relevant factors that may affect the cost of operating the Commission or the  
 38 Public Staff or a possible unanticipated change in competitive and  
 39 noncompetitive jurisdictional revenues. If the estimated receipts provided for  
 40 under this section are less than the estimated cost of operating the  
 41 Commission and the Public Staff for the next fiscal year, including the  
 42 reasonable margin for the reserve fund, then If the Commission, the Public  
 43 Staff, or both experience a revenue shortfall, the Commission shall may  
 44 implement a temporary increase the public utility regulatory fee surcharge on  
 45 noncompetitive jurisdictional revenues effective for the next fiscal year to  
 46 avert the deficiency that would otherwise occur. In no event may the total  
 47 percentage rate of the public utility regulatory fee on noncompetitive  
 48 jurisdictional revenues plus any surcharge established by the Commission  
 49 exceed twenty-five hundredths percent (0.25%).seventeen and one-half  
 50 hundredths of one percent (0.175%). If the estimated receipts provided for  
 51 under this section are more than the estimated cost of operating the

Commission and the Public Staff for the next fiscal year, including the reasonable margin for the reserve fund, then the Commission shall decrease the public utility regulatory fee on noncompetitive jurisdictional revenues effective for the next fiscal year.

(4) As used in this section:

- a. "Noncompetitive jurisdictional revenues" means all revenues derived or realized from intrastate tariffs, rates, and charges approved or allowed by the Commission or collected pursuant to Commission order or rule, but not including tap-on fees or any other form of contributions in aid of construction.
- b. "Subsection (h) competitive jurisdictional revenues" means all revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under G.S. 62-133.5(h).
- c. "Subsection (m) competitive jurisdictional revenues" means all revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under G.S. 62-133.5(m).

(b1) Electric Membership Corporation Rate. – The electric membership corporation regulatory fee for each fiscal year ~~shall be a dollar amount as established by the General Assembly by law~~ is two hundred thousand dollars (\$200,000).

~~When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose the amount of the electric membership corporation regulatory fee. For fiscal years beginning in an odd-numbered year, the proposed amount shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years beginning in an even-numbered year, the proposed amount shall be included in a special budget message the Governor shall submit to the General Assembly.~~

~~The amount of the electric membership corporation regulatory fee proposed by the Commission may not exceed the amount necessary to defray the estimated cost of the operations of the Commission and the Public Staff for the regulation of the electric membership corporations in the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of the Commission and the Public Staff for the regulation of the electric membership corporations for the upcoming fiscal year.~~

...

~~(e) Recovery of fee increase.~~ Fee Changes. – If a utility's regulatory fee obligation is ~~increased, changed,~~ the Commission shall either adjust the utility's rates to reflect the change ~~allow for the recovery of the increased fee obligation,~~ or approve the utility's request for an accounting order allowing deferral of the ~~increase change~~ in the fee obligation."

**SECTION 15.16.(d)** G.S. 62-302(b)(2), as amended by subsection (c) of this section, reads as rewritten:

- "(2) Unless adjusted under subdivision (3) of this subsection, the public utility fee is a percentage of a utility's jurisdictional revenues as follows:
 

Noncompetitive jurisdictional revenues	0.148%
Subsection (h) competitive jurisdictional revenues	<del>0.06%</del> <u>0.04%</u>
Subsection (m) competitive jurisdictional revenues	<del>0.05%</del> <u>0.02%</u> "

**SECTION 15.16.(e)** Subsection (c) of this section is effective July 1, 2015, and applies to jurisdictional revenues earned in each quarter that begins on or after July 1, 2015. Subsection (d) of this section is effective July 1, 2016, and applies to jurisdictional revenues earned in each quarter that begins on or after July 1, 2016. The remainder of this section is effective on the date this section becomes law.

**UTILITY COMMISSION FEES AND CHARGES**

**SECTION 15.16A.(a)** The Utilities Commission and Public Staff shall jointly review all fees and charges provided for in G.S. 62-300 to determine (i) whether the fees and charges are sufficient to cover the costs of processing the applications and filings required by G.S. 62-300 and (ii) whether new categories should be established to impose fees or charges on persons or entities who make applications or filings to the Utilities Commission but are not expressly included in any of the current categories listed in G.S. 62-300. The review may also include any other relevant matters related to fees and charges for applications and filings made to the Utilities Commission.

**SECTION 15.16A.(b)** By April 1, 2016, the Utilities Commission and Public Staff shall report their findings, including any recommendations on amending the fees and charges for applications and filings under G.S. 62-300, to the Joint Legislative Commission on Energy Policy, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division.

**MUNICIPAL SERVICE DISTRICTS/CONTRACTS & REFERENDUM AUTHORITY**

**SECTION 15.16B.(a)** G.S. 160A-536 reads as rewritten:

**"§ 160A-536. Purposes for which districts may be established.**

...

(d) Contracts. – A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this ~~paragraph~~ subsection shall (i) specify the purposes for which city moneys are to be ~~used and shall be used~~, (ii) require specific approval by the city council for all expenditures of moneys pursuant to the contract, and (iii) require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period.

...."

**SECTION 15.16B.(b)** G.S. 160A-541 reads as rewritten:

**"§ 160A-541. Abolition of service ~~districts~~ districts by city council.**

Upon finding that there is no longer a need for a particular service district, the city council may by resolution abolish that district. The council shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any service district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the council."

**SECTION 15.16B.(c)** Article 23 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

**"§ 160A-541.1. Abolition of service districts by referendum.**

(a) A petition seeking the abolition of any service district established under G.S. 160A-536 shall be filed with the city clerk, who shall immediately forward the petition to the county board of elections that conducts elections for the city. The petition shall bear the signatures equal in number to at least fifteen percent (15%) of the registered voters of the service district, as shown by the registration records of the last preceding general municipal election, each voter's residence address, and each voter's date of birth.

(b) The county board of elections shall verify the petition signatures. If a sufficient petition is submitted, the county board of elections shall certify its sufficiency to the city council, and the city council shall adopt a resolution setting the date for the referendum. The city council shall notify the county board of elections of the date set for the referendum and shall provide the board with a legible map and clear written description of the affected service

1 district. The referendum may be called only if there are no outstanding general obligation  
 2 bonds of the service district. No referendum shall be held in a service district in which there are  
 3 no voters.

4 (c) The county board of elections shall cause legal notice of the election to be  
 5 published. The notice shall include the general statement of the referendum. The referendum  
 6 shall be conducted, returned, and the results declared as in other municipal elections in the city.  
 7 Only registered voters of the affected service district shall be allowed to vote on the  
 8 referendum. The city shall reimburse the county board of elections for the cost incurred in  
 9 conducting the election, as required by G.S. 163-284.

10 (d) The referendum of the proposed abolition of more than one service district may be  
 11 submitted at the same election, but, as to the proposed abolition of each service district, there  
 12 shall be an entirely separate ballot question.

13 (e) The ballots used in a referendum shall submit the following proposition:

14 " FOR  AGAINST

15 The abolition of (name of the service district)."

16 (f) If a majority of the votes cast are in favor of abolishing the service district, the  
 17 abolition of the service district shall take effect at the end of the fiscal year immediately  
 18 following the date the county board of elections certifies the results of the election, and the city  
 19 council shall thereafter have no authority to levy a tax under G.S. 160A-542 within the  
 20 abolished service district. If a majority of the votes cast are against abolishing the service  
 21 district, the service district shall remain in effect until amended or abolished as provided for in  
 22 this Article."

23 **SECTION 15.16B.(d)** This section is effective when this act becomes law.  
 24

25 **GRASSROOTS SCIENCE PROGRAM**

26 **SECTION 15.18.(a)** Of the funds appropriated in this act to the Department of  
 27 Commerce for State-Aid, the sum of two million two hundred fifty thousand dollars  
 28 (\$2,250,000) is allocated as grants-in-aid for the 2015-2016 fiscal year:

	<b>2015-2016</b>
30 Aurora Fossil Museum	\$60,526
31 Cape Fear Museum	\$60,488
32 Carolina Raptor Center	\$60,483
33 Catawba Science Center	\$93,328
34 Colburn Earth Science Museum, Inc.	\$58,640
35 Core Sound Waterfowl Museum	\$59,430
36 Cowan Museum of History and Science	\$58,514
37 Dan Nicholas Park (Rowan County)	\$58,000
38 Discovery Place	\$94,939
39 Discovery Place KIDS (Rockingham)	\$58,000
40 Eastern NC Regional Science Center	\$59,637
41 Fascinate-U	\$65,792
42 Granville County Museum Commission,	
43 Inc. – Harris Gallery	\$61,068
44 Greensboro Children's Museum	\$79,322
45 Greensboro Science Center	\$115,410
46 Hands On! – A Child's Gallery	\$58,534
47 Highlands Nature Center	\$62,887
48 Imagination Station	\$65,349
49 The Iredell Museums, Inc.	\$58,360
50 Kidsenses	\$64,967
51 Marbles Kids Museum	\$70,582

1	Museum of Coastal Carolina	\$59,117
2	North Carolina Estuarium	\$62,359
3	North Carolina Museum of Life	
4	and Science	\$77,040
5	Pisgah Astronomical Research Institute	\$83,281
6	Port Discover: Northeastern	
7	North Carolina's Center for	
8	Hands-On Science, Inc.	\$60,248
9	Rocky Mount Children's Museum	\$67,464
10	Schiele Museum of Natural History	
11	and Planetarium, Inc.	\$107,868
12	Sci Works Science Center and	
13	Environmental Park of Forsyth County	\$61,943
14	Sylvan Heights Waterfowl Park	
15	and Eco-Center	\$68,981
16	The Rankin Museum, Inc.	\$58,000
17	Western North Carolina Nature Center	\$59,893
18	Wilmington Children's Museum	\$59,550
19	<b>Total</b>	<b>\$2,250,000.</b>

20  
 21 **SECTION 15.18.(b)** No later than March 1, 2016, the Department of Commerce  
 22 shall report to the Fiscal Research Division all of the following information for each museum  
 23 that receives funds under this section:

- 24 (1) For museums that operate on a fiscal year, the actual operating budget for  
 25 the 2014-2015 fiscal year. For museums that operate on a calendar year, the  
 26 actual operating budget for the 2014 calendar year.
- 27 (2) The proposed operating budget for the 2015-2016 fiscal year.
- 28 (3) The total attendance at the museum during the 2015 calendar year.

29 **SECTION 15.18.(c)** As a condition for qualifying to receive funding under this  
 30 section, all of the following documentation shall, no later than November 1, 2015, be submitted  
 31 for each museum under this section to the Department of Commerce for the fiscal year that  
 32 most recently ended and only those costs that are properly documented under this subsection  
 33 are allowed by the Department in calculating the distribution of funds under this section:

- 34 (1) Each museum under this section shall submit its IRS (Internal Revenue  
 35 Service) Form 990 to show its annual operating expenses, its annual report,  
 36 and a reconciliation that explains any differences between expenses as  
 37 shown on the IRS Form 990 and the annual report.
- 38 (2) Each friends association of a museum under this section shall submit its IRS  
 39 Form 990 to show its reported expenses for the museum, its annual report,  
 40 and a reconciliation that explains any differences between expenses as  
 41 shown on the IRS Form 990 and the annual report, unless the association  
 42 does not have both an IRS Form 990 and an annual report available; in  
 43 which case, it shall submit either an IRS Form 990 or an annual report.
- 44 (3) The chief financial officer of each county or municipal government that  
 45 provides funds for the benefit of the museum shall submit a detailed signed  
 46 statement of documented costs spent for the benefit of the museum that  
 47 includes documentation of the name, address, title, and telephone number of  
 48 the person making the assertion that the museum receives funds from the  
 49 county or municipality for the benefit of the museum.
- 50 (4) The chief financial officer of each county or municipal government or each  
 51 friends association that provides indirect or allocable costs that are not

1 directly charged to a museum under this section but that benefit the museum  
2 shall submit in the form of a detailed statement enumerating each cost by  
3 type and amount that is verified by the financial officer responsible for the  
4 completion of the documentation and that includes the name, address, title,  
5 and telephone number of the person making the assertion that the county,  
6 municipality, or association provides indirect or allocable costs to the  
7 museum.

8 **SECTION 15.18.(d)** As used in subsection (c) of this section, "friends association"  
9 means a nonprofit corporation established for the purpose of supporting and assisting a  
10 museum that receives funding under this section.

11 **SECTION 15.18.(e)** Each museum listed in subsection (a) of this section shall do  
12 the following:

- 13 (1) By September 1, 2015, and more frequently as requested, report to the Joint  
14 Legislative Commission on Governmental Operations and the Fiscal  
15 Research Division on prior State fiscal year program activities, objectives,  
16 and accomplishments and prior State fiscal year itemized expenditures and  
17 fund sources.
- 18 (2) Provide to the Fiscal Research Division a copy of the museum's annual  
19 audited financial statement within 30 days of issuance of the statement.  
20

## 21 GRASSROOTS SCIENCE PROGRAM/COMPETITIVE GRANT PROGRAM

22 **SECTION 15.18A.(a)** Effective July 1, 2016, the Grassroots Science Program  
23 within the Department of Commerce is transferred to the North Carolina State Museum of  
24 Natural Sciences in the Department of Natural and Cultural Resources, as enacted by Section  
25 14.30 of this act.

26 **SECTION 15.18A.(b)** Part 40 of Article 2 of Chapter 143B of the General  
27 Statutes, as enacted by Section 14.30 of this act, is amended by adding a new section to read as  
28 follows:

### 29 "§ 143B-135.227. Grassroots science competitive grant program.

30 (a) The North Carolina State Museum of Natural Sciences (hereinafter "Museum of  
31 Natural Sciences") shall administer the Grassroots Science Program as a competitive grant  
32 program. Any museum in the State may apply for a grant under the program, including a  
33 museum that has received a grant-in-aid as a grassroots science museum in prior fiscal years,  
34 but grant funds shall be awarded only if the museum meets the criteria established in subsection  
35 (c) of this section. No museum shall be guaranteed a grant under the competitive grant  
36 program.

37 (b) For each fiscal year, the Museum of Natural Sciences shall reserve seven hundred  
38 fifty thousand dollars (\$750,000) for the purpose of awarding grants to museums located in  
39 development tier one counties and six hundred thousand dollars (\$600,000) for museums  
40 located in development tier two counties. The development tier designation of a county shall be  
41 determined as provided in G.S. 143B-437.08. If, after the initial awarding of grants to all  
42 museum applicants who meet the eligibility criteria provided for in subsection (c) of this  
43 section, there are funds remaining in any development tier category, the Museum of Natural  
44 Sciences may reallocate those funds to another development tier category. The maximum  
45 amount of each grant awarded in each fiscal year shall be (i) seventy-five thousand dollars  
46 (\$75,000) for a museum in a development tier one county; (ii) sixty thousand dollars (\$60,000)  
47 for a museum in a development tier two county; and (iii) fifty thousand (\$50,000) for a  
48 museum in a development tier three county.

49 (c) To be eligible to receive a grant under the competitive grant program, a museum  
50 shall demonstrate:



- (1) That it is a science center or museum or a children's museum that is physically located in the State.
- (2) That it has been open, operating, and exhibiting science or Science, Technology, Engineering, and Math (STEM) education objects to the general public at least 120 days of each year for the past two or more years.
- (3) That it is a nonprofit organization that is exempt from federal income taxes pursuant to section 501(c)(3) of the Internal Revenue Code.
- (4) That it has on its staff at least one full-time professional person.
- (5) That its governing body has adopted a mission statement that includes language that shows the museum has a concentration on science or STEM education and that the adopted mission statement has been in effect for the past two or more years.

(d) The Museum of Natural Sciences shall, in awarding grants under this section, give priority to museums that:

- (1) When compared to other museum applicants:
  - a. Are located in counties that are more economically distressed according to the annual rankings prepared by the Department of Commerce pursuant to G.S. 143B-437.08(c).
  - b. Generate a larger portion of their operating funds from non-State revenue.
  - c. Have a higher attendance to population ratio.
- (2) Partner with other museums in the State to share exhibits, programs, or other activities.
- (3) Are not located in close proximity to other science or STEM education museums."

**SECTION 15.18A.(c)** Subsection (b) of this section is effective July 1, 2016.

**SECTION 15.18A.(d)** By March 1, 2016, the Museum of Natural Sciences shall submit guidelines for the submission of applications and the awarding of grants for the competitive grant program provided for in subsection (b) of this section to the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources and the Fiscal Research Division.

**COMMERCE NONPROFITS/REPORTING REQUIREMENTS**

**SECTION 15.19.** High Point Furniture Market Authority shall do the following:

- (1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.
- (2) Provide to the Fiscal Research Division a copy of the Authority's annual audited financial statement within 30 days of issuance of the statement.

**CREATE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON NATURAL AND ECONOMIC RESOURCES**

**SECTION 15.24.(a)** Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 36.

"Joint Legislative Oversight Committee on Natural and Economic Resources.

**"§ 120-310. Creation and membership of Joint Legislative Oversight Committee on Natural and Economic Resources.**

1       (a) The Joint Legislative Oversight Committee on Natural and Economic Resources is  
2 established. The Committee consists of 12 members as follows:

3           (1) Six members of the Senate appointed by the President Pro Tempore of the  
4 Senate. At least three of the members shall be members of the Senate  
5 appropriations committee that has jurisdiction over the agencies set out in  
6 G.S. 120-296(a)(1).

7           (2) Six members of the House of Representatives appointed by the Speaker of  
8 the House of Representatives. At least three of the members shall be  
9 members of the House of Representatives appropriations committee that has  
10 jurisdiction over the agencies set out in G.S. 120-296(a)(1).

11       (b) Terms on the Committee are for two years and begin on the convening of the  
12 General Assembly in each odd-numbered year. Members may complete a term of service on  
13 the Committee even if they do not seek reelection or are not reelected to the General Assembly,  
14 but resignation or removal from service in the General Assembly constitutes resignation or  
15 removal from service on the Committee.

16       (c) A member continues to serve until a successor is appointed. A vacancy shall be  
17 filled within 30 days by the officer who made the original appointment.

18 **"§ 120-311. Purpose and powers of Committee.**

19       (a) The Joint Legislative Oversight Committee on Natural and Economic Resources  
20 shall examine on a continuing basis the services provided by the departments and agencies set  
21 out in this subsection in order to make ongoing recommendations to the General Assembly on  
22 ways to improve the effectiveness, efficiency, and quality of State government services. The  
23 Committee has the following powers and duties:

24           (1) Study the programs, organization, operations, and policies of the following  
25 agencies:

26           a. Department of Agriculture and Consumer Services.

27           b. Department of Environmental Quality.

28           c. Department of Natural and Cultural Resources.

29           d. Wildlife Resources Commission.

30           e. Department of Labor.

31           f. Department of Commerce.

32           g. Any other agency under the jurisdiction of the Senate and House of  
33 Representatives appropriations committees on agriculture, natural, or  
34 economic resources.

35           (2) Review compliance of budget actions directed by the General Assembly.

36           (3) Monitor expenditures, deviations, and changes made by the agencies set out  
37 in subdivision (1) of subsection (a) of this section to the certified budget.

38           (4) Review policy changes as directed by law.

39           (5) Receive presentations of reports from agencies directed in the law, including  
40 audits, studies, and other reports.

41           (6) Review any issues that arise during the interim period between sessions of  
42 the General Assembly and provide a venue for any of these issues to be  
43 heard in a public setting.

44           (7) Monitor the quality of services provided by cultural, natural, and economic  
45 resources agencies to other agencies and the public.

46           (8) Identify opportunities for cultural, natural, and economic resources agencies  
47 to coordinate and collaborate to eliminate duplicative functions.

48           (9) Have presentations and reports on any other matters that the Committee  
49 considers necessary to fulfill its mandate.

50       (b) The Committee may make reports to the General Assembly. A report to the General  
51 Assembly may contain legislation needed to implement a recommendation of the Committee.

**"§ 120-312. Organization of Committee.**

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on Natural and Economic Resources. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is five members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Directors of Legislative Assistants of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

(d) The Committee cochairs may establish subcommittees for the purpose of examining issues relating to services provided by particular divisions within the State's cultural, natural, and economic resources departments.

**"§ 120-313. Reports to Committee.**

Whenever a department, office, or agency set out in subdivision (1) of subsection (a) of G.S. 120-296 is required by law to report to the General Assembly or to any of its permanent committees or subcommittees on matters affecting the services the department or agency provides, the department or agency shall transmit a copy of the report to the cochairs of the Joint Legislative Oversight Committee on Natural and Economic Resources."

**SECTION 15.24.(b)** This section is effective August 1, 2015.

**PART XVI. DEPARTMENT OF PUBLIC SAFETY****SUBPART XVI-A. GENERAL PROVISIONS****GRANT REPORTING AND MATCHING FUNDS**

**SECTION 16A.1.(a)** The Department of Public Safety, the Department of Justice, and the Judicial Department shall report by May 1 of each year to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety on grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

**SECTION 16A.1.(b)** Notwithstanding the provisions of G.S. 143C-6-9, the Department of Public Safety may use up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2015-2016 fiscal year from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety on the grants to be matched using these funds.

**CHANGE RECIPIENTS OF VICTIMS' COMPENSATION REPORT**

1           **SECTION 16A.2.** G.S. 15B-21 reads as rewritten:

2   "**§ 15B-21. Annual report.**

3       The Commission shall, by March 15 each year, prepare and transmit to the ~~Governor and~~  
4 ~~the General Assembly~~ chairs of the Joint Legislative Oversight Committee on Justice and Public  
5 Safety and to the chairs of the House and Senate Appropriations Committees on Justice and  
6 Public Safety a report of its activities in the prior fiscal year and the current fiscal year to date.

7   The report shall include:

- 8           (1)    The number of claims filed;
- 9           (2)    The number of awards made;
- 10          (2a)   The number of pending cases by year received;
- 11          (3)    The amount of each award;
- 12          (4)    A statistical summary of claims denied and awards made;
- 13          (5)    The administrative costs of the Commission, including the compensation of  
14               commissioners;
- 15          (6)    The current unencumbered balance of the North Carolina Crime Victims  
16               Compensation Fund;
- 17          (7)    The amount of funds carried over from the prior fiscal year;
- 18          (8)    The amount of funds received in the prior fiscal year from the Division of  
19               Adult Correction of the Department of Public Safety and from the  
20               compensation fund established pursuant to the Victims Crime Act of 1984,  
21               42 U.S.C. § 10601, et seq.; and
- 22          (9)    The amount of funds expected to be received in the current fiscal year, as  
23               well as the amount actually received in the current fiscal year on the date of  
24               the report, from the Division of Adult Correction of the Department of  
25               Public Safety and from the compensation fund established pursuant to the  
26               Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.

27       The Attorney General and State Auditor shall assist the Commission in the preparation of  
28 the report required by this section."

## 30 **LIMITED AUTHORITY TO ELIMINATE AND RECLASSIFY CERTAIN POSITIONS**

31       **SECTION 16A.3.** Notwithstanding any other provision of law, subject to the  
32 approval of the Director of the Budget, the Secretary of the Department of Public Safety may  
33 reclassify or eliminate existing positions in the Division of Administration that are not  
34 specifically addressed in this act as needed for the efficient operation of the Department. No  
35 position shall be reclassified pursuant to this section solely for the purpose of providing a  
36 person in that position with a salary increase. The Secretary of the Department of Public Safety  
37 shall report any position reclassification undertaken pursuant to this section to the chairs of the  
38 House and Senate Appropriations Committees on Justice and Public Safety and the Fiscal  
39 Research Division within 30 days of the reclassification. The report shall include the position  
40 number, original title, original fund code, original budgeted salary, new title, new fund code,  
41 and new budgeted salary for each reclassified position.

## 43 **SAMARCAND TRAINING ACADEMY**

44       **SECTION 16A.4.** The former juvenile detention facility known as Samarkand  
45 Manor, located in Moore County, is redesignated a law enforcement and corrections training  
46 facility and assigned to the Office of the Secretary of the Department of Public Safety. The  
47 facility shall be renamed Samarcand Training Academy and shall be administered by a  
48 Director. The operating budget for Samarcand Training Academy shall be funded by the  
49 Department of Public Safety but shall be independent of the operating budget of any Division  
50 within the Department and shall be managed and administered by the Director of the Academy  
51 with oversight by the Office of the Secretary of the Department of Public Safety.

**SENSITIVE PUBLIC SECURITY INFORMATION IS NOT A PUBLIC RECORD**

**SECTION 16A.5.** G.S. 132-1.7 reads as rewritten:

**"§ 132-1.7. Sensitive public security information.**

(a) Public records, as defined in G.S. 132-1, shall not include information containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure ~~facilities~~-facilities or plans, schedules, or other documents that include information regarding patterns or practices associated with executive protection and security.

(a1) Public records, as defined in G.S. 132-1, shall not include specific security information or detailed plans, patterns, or practices associated with prison operations.

(a2) Public records, as defined in G.S. 132-1, shall not include specific security information or detailed plans, patterns, or practices to prevent or respond to criminal, gang, or organized illegal activity.

(b) Public records as defined in G.S. 132-1 do not include plans to prevent or respond to terrorist activity, to the extent such records set forth vulnerability and risk assessments, potential targets, specific tactics, or specific security or emergency procedures, the disclosure of which would jeopardize the safety of governmental personnel or the general public or the security of any governmental facility, building, structure, or information storage system.

(c) Information relating to the general adoption of public security plans and arrangements, and budgetary information concerning the authorization or expenditure of public funds to implement public security plans and arrangements, or for the construction, renovation, or repair of public buildings and infrastructure facilities shall be public records."

**LAPSED SALARY SAVINGS**

**SECTION 16A.6.** Notwithstanding G.S. 143C-6-9, the Department of Public Safety shall revert to the General Fund a minimum of seventeen million eight hundred ninety thousand two hundred nine dollars (\$17,890,209) from lapsed salary savings by June 30, 2016.

**SUBPART XVI-B. DIVISION OF LAW ENFORCEMENT****USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

**SECTION 16B.1.(a)** Seized and forfeited assets transferred to the Department of Public Safety during the 2015-2017 fiscal biennium pursuant to applicable federal law shall be credited to the budget of the department and shall result in an increase of law enforcement resources for the department. The Department of Public Safety shall make the following reports to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety:

- (1) A report upon receipt of any assets.
- (2) A report that shall be made prior to use of the assets on their intended use and the departmental priorities on which the assets may be expended.
- (3) A report on receipts, expenditures, encumbrances, and availability of these assets for the previous fiscal year, which shall be made no later than September 1 of each year.

**SECTION 16B.1.(b)** The General Assembly finds that the use of seized and forfeited assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Public Safety is prohibited from using these assets for such purposes without the prior approval of the General Assembly.

1           **SECTION 16B.1.(c)** Nothing in this section prohibits North Carolina law  
2 enforcement agencies from receiving funds from the United States Department of Justice, the  
3 United States Department of the Treasury, and the United States Department of Health and  
4 Human Services.

5  
6           **VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER)**  
7           **SYSTEM**

8           **SECTION 16B.2.** The Department of Public Safety shall report annually no later  
9 than March 1 to the chairs of the Joint Legislative Oversight Committee on Justice and Public  
10 Safety on the progress of the State's VIPER system.

11  
12           **GANGNET REPORT AND RECOMMENDATIONS**

13           **SECTION 16B.3.(a)** Article 4 of Chapter 20 of the General Statutes is amended by  
14 adding a new section to read:

15           "§ 20-196.5. Report on gang prevention recommendations.

16           The State Highway Patrol, in conjunction with the State Bureau of Investigation and the  
17 Governor's Crime Commission, shall develop recommendations concerning the establishment  
18 of priorities and needed improvements with respect to gang prevention and shall report those  
19 recommendations to the chairs of the House of Representatives and Senate Appropriations  
20 Committees on Justice and Public Safety and to the chairs of the Joint Legislative Oversight  
21 Committee on Justice and Public Safety on or before March 1 of each year."

22           **SECTION 16B.3.(b)** G.S. 143B-1101(b) reads as rewritten:

23           "(b) The Governor's Crime Commission shall review the level of gang activity  
24 throughout the State and assess the progress and accomplishments of the State, and of local  
25 governments, in preventing the proliferation of gangs and addressing the needs of juveniles  
26 who have been identified as being associated with gang activity.

27           ~~The Governor's Crime Commission shall develop recommendations concerning the~~  
28 ~~establishment of priorities and needed improvements with respect to gang prevention and shall~~  
29 ~~report those recommendations to the Chairs of the Senate Appropriations Committee on Justice~~  
30 ~~and Public Safety, the Chairs of the House of Representatives Appropriations Subcommittee on~~  
31 ~~Justice and Public Safety, and to the Chairs of the Joint Legislative Oversight Committee on~~  
32 ~~Justice and Public Safety on or before March 1 of each year."~~

33  
34           **STATE CAPITOL POLICE/RECEIPT-SUPPORTED POSITIONS**

35           **SECTION 16B.4.(a)** The State Capitol Police may contract with State agencies for  
36 the creation of receipt-supported positions to provide security services to the buildings  
37 occupied by those agencies.

38           **SECTION 16B.4.(b)** The State Capitol Police shall report the creation of any  
39 position pursuant to this section to the chairs of the House of Representatives and Senate  
40 Appropriations Committees on Justice and Public Safety and to the Fiscal Research Division  
41 within 30 days of the position's creation.

42  
43           **CHANGES TO EXPUNCTION AND METHAMPHETAMINE REPORTING**  
44           **REQUIREMENTS**

45           **SECTION 16B.5.(a)** G.S. 15A-160 reads as rewritten:

46           "§ 15A-160. Reporting requirement.

47           The Department of Public Safety, in conjunction with the Department of Justice and the  
48 Administrative Office of the Courts-Courts, shall report jointly to the Chairs of the Joint  
49 Legislative Oversight Committee on Justice and Public Safety Oversight by September 1 of  
50 each year regarding expunctions. The report shall include all of the following information:

- 1 (1) The number and types of expunctions granted during the fiscal year in which
- 2 the report is made.
- 3 (2) The number and type of expunctions granted each fiscal year for the five
- 4 fiscal years preceding the date of the report.
- 5 (3) A full accounting of how the agencies have spent the receipts generated by
- 6 the expunction fees received during the fiscal year in which the report is
- 7 made and for the five preceding fiscal years."

8 **SECTION 16B.5.(b)** G.S. 90-113.64 reads as rewritten:

9 **"§ 90-113.64. SBI annual report.**

10 Beginning with the 2011 calendar year, the State Bureau of Investigation shall determine  
11 the number of methamphetamine laboratories discovered in the State each calendar year and  
12 report its findings to the Joint Legislative Oversight Committee on Justice and Public Safety  
13 and to the Legislative Commission on Methamphetamine Abuse by March 1, 2012, for the  
14 2011 calendar year and each March 1 thereafter for the preceding calendar year. The State  
15 Bureau of Investigation shall participate in the High Intensity Drug Trafficking Areas (HIDTA)  
16 program, assist in coordinating the drug control efforts between local and State law  
17 enforcement agencies, and monitor the implementation and effectiveness of the electronic  
18 record-keeping requirements included in G.S. 90-113.52A and G.S. 90-113.56. The SBI shall  
19 include its findings in the report to the Commission required by this section."  
20

21 **CLARIFY BOXING COMMISSION FEE**

22 **SECTION 16B.6.(a)** G.S. 143-655(b1) reads as rewritten:

23 "(b1) Admission Fees. – The Branch shall collect a fee in the amount of two dollars  
24 (\$2.00) per ~~each ticket sold~~ spectator to attend events regulated in this Article."

25 **SECTION 16B.6.(b)** This section is effective on July 1, 2015, and applies to fees  
26 collected or assessed on or after that date.  
27

28 **SBI/ALE ASHEVILLE REGIONAL OFFICE**

29 **SECTION 16B.7.** Section 17.1(aaaa) of S.L. 2014-100 reads as rewritten:

30 **"SECTION 17.1.(aaaa)** The Department of Public Safety shall consolidate ALE and SBI  
31 Regions and Regional Offices. The Asheville Regional Office shall be operational ~~by July 1,~~  
32 ~~2015~~ upon completion of a new facility. All other Regional Offices shall be operational by  
33 October 1, 2014."  
34

35 **CLARIFY HAZARDOUS MATERIALS FEE**

36 **SECTION 16B.8.(a)** G.S. 166A-29.1 reads as rewritten:

37 **"§ 166A-29.1. Hazardous materials facility fee.**

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

- 39 (1) EPCRA. – The federal Emergency Planning and Community Right-to-Know  
40 Act, P.L. No. 99-499 et. seq.
- 41 (2) Extremely hazardous substance. – Any substance, regardless of its state, set  
42 forth in 40 C.F.R. Part 355, Appendix A or B.
- 43 (3) Hazardous chemical. – As defined in 29 C.F.R. 1910.1200(c), except that the  
44 term does not include any of the following:
  - 45 a. Any food, food additive, color additive, drug, or cosmetic regulated  
46 by the Food and Drug Administration.
  - 47 b. Any substance present as a solid in any manufactured item to the  
48 extent exposure to the substance does not occur under normal  
49 conditions of use.

- 1 c. Any substance to the extent that it is used for personal, family, or  
2 household purposes or is present in the same form and concentration  
3 as a product packaged for distribution and use by the public.
- 4 d. Any substance to the extent that it is used in a research laboratory or  
5 a hospital or other medical facility under the direct supervision of a  
6 technically qualified individual.
- 7 e. Any substance to the extent that it is used in routine agricultural  
8 operations or is a fertilizer held for sale by a retailer to the ultimate  
9 consumer.
- 10 (b) Annual Fee Shall Be Charged. – A person or business required under Section 302 or  
11 312 of EPCRA to submit a notification or an annual inventory form to the Division shall be  
12 required to pay to the Department an annual fee in the amount set forth in subsection (c) of this  
13 section.
- 14 (c) Amount of Fee. – The amount of the annual fee charged pursuant to subsection (b)  
15 of this section shall be calculated in accordance with the following, up to a maximum annual  
16 amount of ~~five thousand dollars (\$5,000)~~: five thousand dollars (\$5,000) per reporting site:
- 17 (1) A fee of fifty dollars (\$50.00) shall be assessed for each substance at each  
18 site reported by a ~~facility person or business~~ that is classified as a hazardous  
19 chemical.
- 20 (2) A fee of ninety dollars (\$90.00) shall be assessed for each substance at each  
21 site reported by a ~~facility person or business~~ that is classified as an extremely  
22 hazardous substance.
- 23 (d) Late Fees. – The Division may impose a late fee against a person or business for  
24 failure to submit a report or filing that substantially complies with the requirements of EPCRA  
25 by the federal filing deadline or for failure to pay any fee, including a late fee. This fee shall be  
26 in addition to the fee imposed pursuant to subsection (c) of this section. Prior to imposing a late  
27 fee, the Division shall provide the person or business who will be assessed the late fee with  
28 written notice that identifies the specific requirements that have not been met and informs the  
29 person or business of its intent to assess a late fee. The assessment of a late fee shall be subject  
30 to the following limitations:
- 31 (1) If the report filing or fee is submitted within 30 days after receipt of the  
32 Division's notice that it intends to assess a late fee, no late fee shall be  
33 assessed.
- 34 (2) If the report filing or fee has not been submitted by the end of the period set  
35 forth in subdivision (1) of this subsection, the Division may impose a late fee  
36 in an amount equal to the amount of the fee charged pursuant to subsection  
37 (c) of this section.
- 38 (e) Exemptions. – No fee shall be charged under this section to any of the following:
- 39 (1) An owner or operator of a family farm enterprise, a facility owned by a State  
40 or local government, or a nonprofit corporation.
- 41 (2) An owner or operator of a facility where motor vehicle fuels are stored and  
42 from which such fuels are offered for retail sale. However, hazardous  
43 chemicals or extremely hazardous substances at such a facility, other than  
44 motor vehicle fuels for retail sale, shall not be subject to this exemption.
- 45 (3) A motor vehicle dealer, as that term is defined in G.S. 20-286(11).
- 46 (f) Use of Fee Proceeds. – The proceeds of fees assessed pursuant to this section shall  
47 be used for the following:
- 48 (1) To pay offset costs associated with the establishment and maintenance of a  
49 hazardous materials ~~database~~: database and a hazardous materials response  
50 application.



- 1 (2) To ~~support the~~ offset costs associated with the operations of the regional  
2 response program for hazardous materials emergencies and terrorist  
3 incidents.
- 4 (3) To provide grants to counties for hazardous materials emergency response  
5 planning, training, and related exercises.
- 6 (4) To offset Division costs that directly support hazardous materials emergency  
7 preparedness and response."

8 **SECTION 16B.8.(b)** This section becomes effective on July 1, 2015, and applies  
9 to fees assessed or collected on or after that date.

10  
11 **AMEND NATIONAL GUARD FAMILY ASSISTANCE CENTERS ANNUAL REPORT**  
12 **REQUIREMENTS**

13 **SECTION 16B.9.** G.S. 127A-64(b) reads as rewritten:

14 "(b) The Department of Public Safety shall report annually no later than September 1 to  
15 the Chairs of the House of Representatives and Senate Appropriations ~~Subcommittees~~  
16 Committees on Justice and Public Safety and to the House of Representatives Committee on  
17 Homeland Security, Military, and Veterans Affairs on the activities of the National Guard  
18 Family Assistance ~~Centers~~ Centers during the previous fiscal year. This report shall include  
19 information on services provided as well as on the number and type of members of the active or  
20 reserve components of the Armed Forces of the United States, veterans, and family members  
21 served."  
22

23 **SUBPART XVI-C. DIVISION OF ADULT CORRECTION**

24  
25 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL**  
26 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES**  
27 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

28 **SECTION 16C.1.** Notwithstanding G.S. 143C-6-9, the Department of Public  
29 Safety may use funds available to the Department for the 2015-2017 fiscal biennium to pay the  
30 sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing  
31 convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison  
32 system, as provided in G.S. 148-29. The Department shall report annually by February 1 of  
33 each year to the chairs of the Joint Legislative Oversight Committee on Justice and Public  
34 Safety and the chairs of the House of Representatives and Senate Appropriations Committees  
35 on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners  
36 awaiting transfer.  
37

38 **CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT**

39 **SECTION 16C.2.** The Department of Public Safety may continue to contract with  
40 The Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison  
41 beds for minimum security female inmates during the 2015-2017 fiscal biennium. The Center  
42 for Community Transitions, Inc., shall report by February 1 of each year to the Chairs of the  
43 House of Representatives and Senate Appropriations Committees on Justice and Public Safety  
44 on the annual cost per inmate and the average daily inmate population compared to bed  
45 capacity using the same methodology as that used by the Department of Public Safety.  
46

47 **USE OF CLOSED FACILITIES**

48 **SECTION 16C.3.** In conjunction with the closing of prison facilities, youth  
49 detention centers, and youth development centers, the Department of Public Safety shall  
50 consult with the county or municipality in which the facility is located, with the elected State  
51 and local officials, and with State and federal agencies about the possibility of converting that

1 facility to other use. The Department may also consult with any private for-profit or nonprofit  
2 firm about the possibility of converting the facility to other use. In developing a proposal for  
3 future use of each facility, the Department shall give priority to converting the facility to other  
4 criminal justice use. Consistent with existing law and the future needs of the Department of  
5 Public Safety, the State may provide for the transfer or the lease of any of these facilities to  
6 counties, municipalities, State agencies, federal agencies, or private firms wishing to convert  
7 them to other use. G.S. 146-29.1(f) through (g) shall not apply to a transfer made pursuant to  
8 this section. The Department of Public Safety may also consider converting some of the  
9 facilities recommended for closing from one security custody level to another, where that  
10 conversion would be cost-effective. A prison unit under lease to a county pursuant to the  
11 provisions of this section for use as a jail is exempt for the period of the lease from any of the  
12 minimum standards adopted by the Secretary of Health and Human Services pursuant to  
13 G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater  
14 standards than those required of a unit of the State prison system.

## 15 16 **MEDICAL COSTS FOR INMATES AND JUVENILE OFFENDERS**

17 **SECTION 16C.4.** Article 13 of Chapter 143B of the General Statutes is amended  
18 by adding a new section to read:

### 19 **"§ 143B-707.3. Medical costs for inmates and juvenile offenders.**

20 (a) The Department of Public Safety shall reimburse those providers and facilities  
21 providing approved medical services to inmates and juvenile offenders outside the correctional  
22 or juvenile facility the lesser amount of either a rate of seventy percent (70%) of the provider's  
23 then-current prevailing charge or two times the then-current Medicaid rate for any given  
24 service. The Department shall have the right to audit any given provider to determine the actual  
25 prevailing charge to ensure compliance with this provision.

26 This section does apply to vendors providing services that are not billed on a fee-for-service  
27 basis, such as temporary staffing. Nothing in this section shall preclude the Department from  
28 contracting with a provider for services at rates that provide greater documentable cost  
29 avoidance for the State than do the rates contained in this section or at rates that are less  
30 favorable to the State but that will ensure the continued access to care.

31 (b) The Department of Public Safety shall make every effort to contain medical costs  
32 for inmates and juvenile offenders by making use of its own hospital and health care facilities  
33 to provide health care services to inmates and juvenile offenders. To the extent that the  
34 Department of Public Safety must utilize other facilities and services to provide health care  
35 services to inmates and juvenile offenders, the Department shall make reasonable efforts to  
36 make use of hospitals or other providers with which it has a contract or, if none is reasonably  
37 available, hospitals with available capacity or other health care facilities in a region to  
38 accomplish that goal. The Department shall make reasonable efforts to equitably distribute  
39 inmates and juvenile offenders among all hospitals or other appropriate health care facilities.

40 (c) The Department of Public Safety shall report quarterly to the Joint Legislative  
41 Oversight Committee on Justice and Public Safety and the chairs of the House of  
42 Representative and Senate Appropriations Committees on Justice and Public Safety on:

43 (1) The percentage of the total inmates and juvenile offenders requiring  
44 hospitalization or hospital services who receive that treatment at each  
45 hospital.

46 (2) The volume of services provided by community medical providers that can  
47 be scheduled in advance and, of that volume, the percentage of those  
48 services that are provided by contracted providers.

49 (3) The volume of services provided by community medical providers that  
50 cannot be scheduled in advance and, of that volume, the percentage of those  
51 services that are provided by contracted providers.

- 1           (4)    The volume of services provided by community medical providers that are  
2           emergent cases requiring hospital admissions and emergent cases not  
3           requiring hospital admissions.
- 4           (5)    The volume of inpatient medical services provided to Medicaid-eligible  
5           inmates and juvenile offenders, the cost of treatment, and the estimated  
6           savings of paying the nonfederal portion of Medicaid for the services.
- 7           (6)    The hospital utilization, including the amount paid to individual hospitals,  
8           the number of inmates and juvenile offenders served, and the number of  
9           claims."

## 11   **STATEWIDE MISDEMEANANT CONFINEMENT FUND/MONTHLY AND ANNUAL** 12   **REPORTS**

13           **SECTION 16C.6.(a)** The North Carolina Sheriffs' Association shall report monthly  
14 by the 15th day of each month to the Office of State Budget and Management and the Fiscal  
15 Research Division on the Statewide Misdemeanant Confinement Program. Each monthly report  
16 shall include the following:

- 17           (1)    The daily population, delineated by misdemeanor or DWI monthly housing.  
18           (2)    The cost of housing prisoners under the Program.  
19           (3)    The cost of transporting prisoners under the Program.  
20           (4)    Personnel costs.  
21           (5)    Inmate medical care costs.  
22           (6)    The number of counties that volunteer to house inmates under the Program.  
23           (7)    The administrative costs paid to the Sheriffs' Association and to the  
24           Department of Public Safety.

25           **SECTION 16C.6.(b)** The North Carolina Sheriffs' Association shall report by  
26 October 1 of each year to the Chairs of the House of Representatives and Senate  
27 Appropriations Committees on Justice and Public Safety and the Joint Legislative Oversight  
28 Committee on Justice and Public Safety on the Statewide Misdemeanant Confinement  
29 Program. The annual report shall include the following with respect to the prior fiscal year:

- 30           (1)    Revenue collected by the Statewide Misdemeanant Confinement Program.  
31           (2)    The cost of housing prisoners by county under the Program.  
32           (3)    The cost of transporting prisoners by county under the Program.  
33           (4)    Personnel costs by county.  
34           (5)    Inmate medical care costs by county.  
35           (6)    The number of counties that volunteer to house inmates under the Program.  
36           (7)    The administrative costs paid to the Sheriffs' Association and to the  
37           Department of Public Safety.

## 39   **INMATE CONSTRUCTION PROGRAM**

40           **SECTION 16C.7.** Notwithstanding G.S. 66-58 or any other provision of law,  
41 during the 2015-2017 fiscal biennium, the State Construction Office may, wherever feasible,  
42 utilize inmates in the custody of the Division of Adult Correction of the Department of Public  
43 Safety through the Inmate Construction Program for repair and renovation projects on  
44 State-owned facilities, with priority given to Department of Public Safety construction projects.  
45

## 46   **MAINTENANCE OF PRISONS**

47           **SECTION 16C.8.** The Department of Public Safety shall not expand private  
48 maintenance contracts to additional prison facilities or continue existing private contracts for  
49 prison maintenance unless authorized by the General Assembly. If the Department determines  
50 that expanding private maintenance contracts to additional prison facilities or continuing  
51 existing contracts is necessary, then it shall submit its request to the General Assembly by May

1 1, 2016, stating (i) the ways in which the State can realize savings by doing so and (ii) that  
2 safety can be maintained at the facilities where those contracts are expanded or continued.  
3

4 **REPORT ON CONTRACTS FOR HOUSING STATE PRISONERS/REPEAL**  
5 **AUTHORIZATION FOR LEASE-PURCHASE OF PRISON FACILITIES FROM**  
6 **PRIVATE FIRMS**

7 **SECTION 16C.10.(a)** G.S. 148-37(i) reads as rewritten:

8 "(i) The Division of Adult Correction of the Department of Public Safety shall make a  
9 written report no later than March 1 of every ~~odd-numbered~~-year, beginning in 1997, on the  
10 substance of all outstanding contracts for the housing of State prisoners entered into under the  
11 authority of this section. The report shall be submitted to ~~the Council of State, the Department~~  
12 ~~of Administration, the Joint Legislative Commission on Governmental Operations, and the~~  
13 ~~Joint Legislative Oversight Committee on Justice and Public Safety. In addition to the report,~~  
14 ~~the Division of Adult Correction of the Department of Public Safety shall provide information~~  
15 ~~on contracts for the housing of State prisoners as requested by these groups."~~

16 **SECTION 16C.10.(b)** G.S. 148-37.2 is repealed.  
17

18 **ANNUAL REPORT ON SAFEKEEPERS**

19 **SECTION 16C.11.** Article 13 of Chapter 143B of the General Statutes is amended  
20 by adding a new section to read:

21 **"§ 143B-707.4. Annual report on safekeepers.**

22 The Department of Public Safety shall report by October 1 of each year to the chairs of the  
23 House of Representatives and Senate Appropriations Committees on Justice and Public Safety  
24 and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on  
25 county prisoners housed in the State prison system pursuant to safekeeping orders under  
26 G.S. 162-39. The report shall include:

- 27 (1) The number of safekeepers currently housed by the Department.  
28 (2) A list of the facilities where safekeepers are housed and the population of  
29 safekeepers by facility.  
30 (3) The average length of stay by a safekeeper in one of those facilities.  
31 (4) The amount paid by counties for housing and extraordinary medical care of  
32 safekeepers.  
33 (5) A list of the counties in arrears for safekeeper payments owed to the  
34 Department at the end of the fiscal year."  
35

36 **COLLECTION OF DELINQUENT SAFEKEEPER REIMBURSEMENTS**

37 **SECTION 16C.12.** G.S. 148-10.4 is amended by adding a new subsection to read:

38 "(f) Upon notification from the Division of Adult Correction that an amount owed by a  
39 county for safekeeper reimbursements authorized under G.S. 162-39 is more than 120 days  
40 overdue, the Sheriffs' Association shall withhold funds from any reimbursements due to a  
41 county under this section and transmit those funds to the Division until that overdue safekeeper  
42 reimbursement is satisfied."  
43

44 **PRISON BEHAVIORAL HEALTH POSITIONS**

45 **SECTION 16C.13.** Notwithstanding any other provision of law, the Section of  
46 Prisons of the Division of Adult Correction may post, advertise, accept applications for, and  
47 interview for positions established or authorized by this act related to behavioral health  
48 treatment prior to the effective date of the establishment of those positions.  
49

50 **EVALUATION REQUIREMENT FOR ELECTRICAL DEVICES**

51 **SECTION 16C.13A.** G.S. 66-25 reads as rewritten:

1 **"§ 66-25. Acceptable listings as to safety of goods.**

2 (a) All electrical materials, devices, appliances, and equipment shall be evaluated for  
3 safety and suitability for intended use. Except as provided in subsection (b) of this section, this  
4 evaluation shall be conducted in accordance with nationally recognized standards and shall be  
5 conducted by a qualified testing laboratory. The Commissioner of Insurance, through the  
6 Engineering Division of the Department of Insurance, shall implement the procedures  
7 necessary to approve suitable national standards and to approve suitable qualified testing  
8 laboratories. The Commissioner may assign his authority to implement the procedures for  
9 specific materials, devices, appliances, or equipment to other agencies or bodies when they  
10 would be uniquely qualified to implement those procedures.

11 In the event that the Commissioner determines that electrical materials, devices, appliances,  
12 or equipment in question cannot be adequately evaluated through the use of approved national  
13 standards or by approved qualified testing laboratories, the Engineering Division of the  
14 Department of Insurance shall specify any alternative evaluations which safety requires.

15 The Engineering Division of the Department of Insurance shall keep in file, where  
16 practical, copies of all approved national standards and resumes of approved qualified testing  
17 laboratories.

18 (b) Electrical devices, appliances, or equipment used by the Division of Adult  
19 Correction of the Department of Public Safety ~~may be evaluated for safety and suitability by~~  
20 ~~the Central Engineering Section of the Department of Public Safety. The evaluation shall be~~  
21 ~~conducted in accordance with nationally recognized standards. Electrical devices, appliances,~~  
22 ~~and equipment used by the Division that are not evaluated by the Central Engineering Section~~  
23 ~~as provided by this subsection are subject to~~ in institutional kitchens and manufacturing  
24 equipment used by Correction Enterprises are exempt from the evaluation requirement of  
25 subsection (a) of this section."  
26

27 **PAROLE ELIGIBILITY REPORT**

28 **SECTION 16C.14.** Article 13 of Chapter 143B of the General Statutes is amended  
29 by adding a new section to read:

30 **"§ 143B-721.1. Parole eligibility reports.**

31 (a) Each fiscal year the Post-Release Supervision and Parole Commission shall, with  
32 the assistance of the North Carolina Sentencing and Policy Advisory Commission and the  
33 Department of Public Safety, analyze the amount of time each inmate who is eligible for parole  
34 on or before July 1 of the previous fiscal year has served compared to the time served by  
35 offenders under Structured Sentencing for comparable crimes. The Commission shall  
36 determine if the person has served more time in custody than the person would have served if  
37 sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the  
38 General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated  
39 as set forth in subsection (b) of this section.

40 (b) For the purposes of this section, the following rules apply for the calculation of the  
41 maximum sentence:

42 (1) The offense upon which the person was convicted shall be classified as the  
43 same felony class as the offense would have been classified if committed  
44 after the effective date of Article 81B of Chapter 15A of the General  
45 Statutes.

46 (2) The minimum sentence shall be the maximum number of months in the  
47 presumptive range of minimum durations in Prior Record Level VI of  
48 G.S. 15A-1340.17(c) for the felony class determined under subdivision (1)  
49 of this subsection. The maximum sentence shall be calculated using  
50 G.S. 15A-1340.17(d), (e), or (e1).

1           (3) If a person is serving sentences for two or more offenses that are concurrent  
2 in any respect, then the offense with the greater classification shall be used  
3 to determine a single maximum sentence for the concurrent offenses. The  
4 fact that the person has been convicted of multiple offenses may be  
5 considered by the Commission in making its determinations under  
6 subsection (a) of this section.

7           (c) The Commission shall reinitiate the parole review process for each offender who  
8 has served more time than that person would have under Structured Sentencing as provided by  
9 subsections (a) and (b) of this section.

10          (d) The Post-Release Supervision and Parole Commission shall report to the Chairs of  
11 the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the  
12 House of Representatives and Senate Appropriations Committees on Justice and Public Safety  
13 by April 1 of each year. The report shall include the following: the class of the offense for  
14 which each parole-eligible inmate was convicted and whether an inmate had multiple criminal  
15 convictions. The Commission shall also report on the number of parole-eligible inmates  
16 reconsidered in compliance with this section and the number who were actually paroled."

## 17 18 **INTERSTATE COMPACT FEES TO SUPPORT TRAINING PROGRAMS AND** 19 **EQUIPMENT PURCHASES**

20           **SECTION 16C.16.** Notwithstanding the provisions of G.S. 148-65.7, fees  
21 collected for the Interstate Compact Fund during the 2015-2017 fiscal biennium may be used  
22 by the Division of Adult Correction of the Department of Public Safety during the 2015-2017  
23 fiscal biennium to provide training programs and equipment purchases for the Section of  
24 Community Corrections, but only as long as sufficient funds remain available in the Fund to  
25 support the mission of the Interstate Compact Program.  
26

## 27 **OUR CHILDREN'S PLACE FUNDS**

28           **SECTION 16C.17.** Notwithstanding any other provision of law, funds remaining  
29 from funds appropriated for the 2004-2005 fiscal year for Our Children's Place for planning and  
30 design may be used by Our Children's Place for general operations.  
31

## 32 **SUBPART XVI-D. DIVISION OF JUVENILE JUSTICE**

### 33 **LIMIT USE OF COMMUNITY PROGRAM FUNDS**

34           **SECTION 16D.1.(a)** Funds appropriated in this act to the Department of Public  
35 Safety for the 2015-2017 fiscal biennium for community program contracts that are not  
36 required for or used for community program contracts shall only be used for the following:  
37

- 38           (1) Other statewide residential programs that provide Level 2 intermediate  
39           dispositional alternatives for juveniles.
- 40           (2) Statewide community programs that provide Level 2 intermediate  
41           dispositional alternatives for juveniles.
- 42           (3) Regional programs that are collaboratives of two or more Juvenile Crime  
43           Prevention Councils which provide Level 2 intermediate dispositional  
44           alternatives for juveniles.
- 45           (4) The Juvenile Crime Prevention Council funds to be used for the Level 2  
46           intermediate dispositional alternatives for juveniles listed in  
47           G.S. 7B-2506(13) through (23).

48           **SECTION 16D.1.(b)** Under no circumstances shall funds appropriated by this act  
49 to the Department of Public Safety for the 2015-2017 fiscal biennium for community programs  
50 be used for staffing, operations, maintenance, or any other expenses of youth development  
51 centers or detention facilities.

1           **SECTION 16D.1.(c)** The Department of Public Safety shall submit an electronic  
2 report by October 1, 2015, and a second electronic report by October 1, 2016, on all  
3 expenditures made from the miscellaneous contract line in Fund Code 1230 to the chairs of the  
4 House of Representatives and Senate Appropriations Committees on Justice and Public Safety  
5 and the Fiscal Research Division. The report shall include all of the following: an itemized list  
6 of the contracts that have been executed, the amount of each contract, the date the contract was  
7 executed, the purpose of the contract, the number of juveniles that will be served and the  
8 manner in which they will be served, the amount of money transferred to the Juvenile Crime  
9 Prevention Council fund, and an itemized list of grants allocated from the funds transferred to  
10 the Juvenile Crime Prevention Council fund.

#### 11 12 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

13           **SECTION 16D.2.** Funds appropriated in this act to the Department of Public  
14 Safety for the 2015-2016 fiscal year may be used as matching funds for the Juvenile  
15 Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability  
16 Incentive Block Grants or a notice of funds to be awarded, the Office of State Budget and  
17 Management and the Governor's Crime Commission shall consult with the Department of  
18 Public Safety regarding the criteria for awarding federal funds. The Office of State Budget and  
19 Management, the Governor's Crime Commission, and the Department of Public Safety shall  
20 report to the chairs of the House of Representatives and Senate Appropriations Committees on  
21 Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public  
22 Safety prior to allocation of the federal funds. The report shall identify the amount of funds to  
23 be received for the 2015-2016 fiscal year and the allocation of funds by program and purpose.

#### 24 25 **PART XVII. DEPARTMENT OF JUSTICE**

#### 26 27 **NO HIRING OF SWORN STAFF POSITIONS FOR THE NORTH CAROLINA STATE** 28 **CRIME LABORATORY**

29           **SECTION 17.1.** The Department of Justice shall not hire sworn personnel to fill  
30 vacant positions in the North Carolina State Crime Laboratory. Nothing in this section shall be  
31 construed to require the termination of sworn personnel, but as vacant positions in the State  
32 Crime Laboratory are filled, they shall be filled only with nonsworn personnel. Nothing in this  
33 section shall be construed to affect North Carolina State Crime Laboratory personnel who are  
34 sworn and employed by the Laboratory as of the effective date of this section and who continue  
35 to meet the sworn status retention standards mandated by the North Carolina Criminal Justice  
36 Education and Standards Commission.

#### 37 38 **AMEND DNA DATABASE REPORTING REQUIREMENTS**

39           **SECTION 17.2.** G.S. 15A-266.5(c) reads as rewritten:

40           "(c) The Crime Laboratory shall report annually to ~~the Joint Legislative Commission on~~  
41 ~~Governmental Operations and to the~~ Joint Legislative Oversight Committee on Justice and  
42 Public Safety, on or before ~~February 1,~~ September 1, with information for the previous ~~calendar~~  
43 fiscal year, which shall include: a summary of the operations and expenditures relating to the  
44 DNA Database and DNA Databank; the number of DNA records from arrestees entered; the  
45 number of DNA records from arrestees that have been expunged; and the number of DNA  
46 arrestee matches or hits that occurred with an unknown sample, and how many of those have  
47 led to an arrest and conviction; and how many letters notifying defendants that a record and  
48 sample have been expunged, along with the number of days it took to complete the expunction  
49 and notification process, from the date of the receipt of the verification form from the State."

#### 50 51 **STUDY COLLECTION OF DNA/ALL FELONY ARRESTS**

1           **SECTION 17.3.** The Joint Legislative Oversight Committee on Justice and Public  
2 Safety shall study extending the collection of DNA samples to persons arrested for any felony  
3 and shall report its findings and recommendations to the 2016 Regular Session of the 2015  
4 General Assembly. The report shall include all of the following:

- 5           (1) A recommended time line for implementing a requirement that DNA  
6 samples be collected for persons arrested for committing any felony.
- 7           (2) An estimate of initial nonrecurring costs and recurring operating costs  
8 required of implementing such a requirement.
- 9           (3) Other costs and benefits of implementing such a requirement.
- 10          (4) An estimate of capital costs to the State of implementing such a requirement.
- 11          (5) Any other information that the Committee deems relevant.

## 12           **DEPARTMENT OF JUSTICE POSITIONS**

13           **SECTION 17.4.** Notwithstanding any other provision of law, the Department of  
14 Justice may post, advertise, accept applications for, and interview for positions established or  
15 authorized by this act in the Department of Justice prior to the effective date of the  
16 establishment of those positions.  
17

## 18           **PRIVATE LABS MUST COMPLY WITH CODIS**

19           **SECTION 17.6.(a)** Article 13 of Chapter 15A of the General Statutes is amended  
20 by adding a new section to read:

21           "**§ 15A-270.2. Obtaining DNA analyses from entities other than the State Crime**  
22           **Laboratory; use of local DNA databases prohibited.**

23           (a) Private Laboratories Shall Comply With CODIS Requirements. – A local law  
24 enforcement agency shall not obtain DNA analysis from an entity other than the State Crime  
25 Laboratory unless that entity meets the standards applicable to vendor laboratories as set forth  
26 in the Federal Bureau of Investigation's Quality Assurance Standards for Forensic DNA Testing  
27 and Databasing Laboratories. The State Crime Laboratory shall maintain a list of laboratories  
28 that meet those standards and shall make the list available on its Web site.

29           (b) Private DNA Databases Prohibited. – A local law enforcement agency shall not  
30 access or create any DNA database other than those that participate in the CODIS system."

31           **SECTION 17.6.(b)** This section becomes effective October 1, 2015.  
32

## 33           **PART XVIII. JUDICIAL DEPARTMENT**

### 34           **SUBPART XVIII-A. ADMINISTRATIVE OFFICE OF THE COURTS**

#### 35           **AOC ANNUAL REPORT**

36           **SECTION 18A.1.** G.S. 7A-343 reads as rewritten:

37           "**§ 7A-343. Duties of Director.**

38           The Director is the Administrative Officer of the Courts, and the Director's duties include  
39 all of the following:

- 40           ...
- 41           (8) Prepare and submit an annual report on the work of the Judicial Department  
42 to the Chief Justice, and transmit a copy by March 15 of each year to the  
43 Chairs of the House of Representatives and Senate Appropriations  
44 Subcommittee Committees on Justice and Public Safety and the Senate  
45 Appropriations Committee on Justice and Public Safety and to the Chairs of  
46 the Joint Legislative Oversight Committee on Justice and Public Safety.

47           ...."  
48  
49  
50  
51



**ANNUAL REPORT ON CRIMINAL COURT COST WAIVERS**

**SECTION 18A.3.(a)** Article 29 of Chapter 7A of the General Statutes is amended by adding a new section to read:

**"§ 7A-350. Annual report on criminal court cost waivers.**

The Administrative Office of the Courts shall maintain records of all cases in which a judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and shall report on those waivers to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall aggregate the waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers."

**SECTION 18A.3.(b)** The Administrative Office of the Courts shall make the necessary modifications to its information systems to maintain the records required under G.S. 7A-350, as enacted by subsection (a) of this section.

**GRANT FUNDS**

**SECTION 18A.4.** Notwithstanding G.S. 143C-6-9, the Administrative Office of the Courts may use up to the sum of one million five hundred thousand dollars (\$1,500,000) during the 2015-2016 fiscal year from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety on the grants to be matched using these funds.

**COLLECTION OF WORTHLESS CHECK FUNDS**

**SECTION 18A.5.(a)** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2015, for the purchase or repair of office or information technology equipment during the 2015-2016 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and the Office of State Budget and Management on the equipment to be purchased or repaired and the reasons for the purchases.

**SECTION 18A.5.(b)** This section becomes effective June 30, 2015.

**CONFERENCE OF DISTRICT ATTORNEYS GRANT FUNDS/AUTHORIZE DISTRICT ATTORNEYS TO USE CERTAIN GRANT FUNDS TO OBTAIN TOXICOLOGY ANALYSIS FROM PROVIDERS OF TOXICOLOGY ANALYSES OTHER THAN HOSPITALS**

**SECTION 18A.7.** Section 18B.4 of S.L. 2013-360 reads as rewritten:

**"SECTION 18B.4.** Of the funds appropriated in this act to the Judicial Department, the sum of five hundred thousand dollars (\$500,000) in the 2013-2014 fiscal year shall be allocated to the Conference of District Attorneys and shall be used to establish a grant fund to provide district attorneys across the State with the resources to obtain toxicology analysis from local ~~hospitals~~ hospitals, or from other providers of toxicology analyses, on persons charged with driving while impaired whose conduct did not result in serious injury or death to others. The Conference of District Attorneys shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety ~~by October 1, 2014,~~ on the expenditure of these ~~funds.~~ funds by October 1 of each year until all of the grant funds have been expended."

**DISTRICT ATTORNEY LEGAL ASSISTANTS**

**SECTION 18A.8.(a)** G.S. 7A-347 reads as rewritten:

**"§ 7A-347. ~~Assistants for administrative and victim and witness services.~~District attorney legal assistants.**

~~Assistant for administrative and victim and witness services.~~District attorney legal assistant positions are established under the district attorneys' offices. Each prosecutorial district is allocated at least one ~~assistant for administrative and victim and witness services.~~district attorney legal assistant to be employed by the district attorney. The Administrative Office of the Courts shall allocate additional assistants to prosecutorial districts on the basis of need and within available appropriations. Each district attorney may also use any volunteer or other personnel to assist the assistant. The assistant is responsible for coordinating efforts of the law-enforcement and judicial systems to assure that each victim and witness is provided fair treatment under Article 45 of Chapter 15A, Fair Treatment for Victims and Witnesses and shall also provide administrative and legal support to the district attorney's office."

**SECTION 18A.8.(b)** G.S. 7A-348 reads as rewritten:

**"§ 7A-348. Training and supervision of ~~assistants for administrative and victim and witness services.~~district attorney legal assistants.**

Pursuant to the provisions of G.S. 7A-413, the Conference of District Attorneys shall:

- (1) Assist in establishing uniform statewide training for ~~assistants for administrative and victim and witness services;~~district attorney legal assistants; and
- (2) Assist in the implementation and supervision of this program."

**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

1	2	Beaufort, Hyde, Martin,	8
2		Tyrrell, Washington	
3	3A	Pitt	11
4	3B	Carteret, Craven, Pamlico	12
5	4	Duplin, Jones, Onslow,	18
6		Sampson	
7	5	New Hanover, Pender	18
8	6	Bertie, Halifax, Hertford,	10
9		Northampton	
10	7	Edgecombe, Nash, Wilson	18
11	8	Greene, Lenoir, Wayne	14
12	9	Franklin, Granville,	10
13		Vance, Warren	
14	9A	Person, Caswell	6
15	10	Wake	41
16	11A	Harnett, Lee	9
17	11B	Johnston	10
18	12	Cumberland	23
19	13	Bladen, Brunswick, Columbus	13
20	14	Durham	18
21	15A	Alamance	11
22	15B	Orange, Chatham	10
23	16A	Scotland, Hoke	7
24	16B	Robeson	12
25	16C	Anson, Richmond	6
26	17A	Rockingham	7
27	17B	Stokes, Surry	8
28	18	Guilford	32
29	19A	Cabarrus	9
30	19B	Montgomery, Randolph	9
31	19C	Rowan	8
32	19D	Moore	5
33	20A		5
34		Stanly	
35	20B	Union	10
36	21	Forsyth	25
37	22A	Alexander, Iredell	11
38	22B	Davidson, Davie	11
39	23	Alleghany, Ashe, Wilkes,	8
40		Yadkin	
41	24	Avery, Madison, Mitchell,	7
42		Watauga, Yancey	
43	25	Burke, Caldwell, Catawba	18
44	26	Mecklenburg	58
45	27A	Gaston	14
46	27B	Cleveland,	11
47		Lincoln	
48	28	Buncombe	14
49	29A	McDowell, Rutherford	7
50	29B	Henderson, Polk, Transylvania	8
51	30	Cherokee, Clay, Graham,	10

1 Haywood, Jackson, Macon,  
2 Swain.

3 ~~Upon the convening of each regular session of the General Assembly and its~~  
4 ~~reconvening in the even-numbered year, the~~ The Administrative Office of the Courts shall  
5 report by March 15 of each year on its recommendations regarding the allocation of assistant  
6 district attorneys for the upcoming fiscal biennium and fiscal year to the General Assembly,  
7 including any request for additional assistant district attorneys. The report shall include the  
8 number of assistant district attorneys that the Administrative Office of the Courts ~~recommends~~  
9 ~~to be~~ has allocated to each prosecutorial district and the workload formula established through  
10 the National Center for State Courts on which each ~~recommended~~ allocation is based. Any  
11 reports required under this subsection shall be made to ~~the Joint Legislative Commission of~~  
12 ~~Governmental Operations,~~ the House of Representatives and Senate Appropriations  
13 ~~Subcommittees/Committees~~ on Justice and Public, and the Fiscal Research Division.

14 ...."

15 **SECTION 18A.10.(b)** G.S. 7A-63 reads as rewritten:

16 "**§ 7A-63. Assistant district attorneys.**

17 Each district attorney shall be entitled to the number of full-time assistant district attorneys  
18 ~~set out in this Subchapter, such number to be developed by the General Assembly allocated to~~  
19 that prosecutorial district by the Administrative Office of the Courts after consulting the  
20 workload formula established through the National Center for State Courts, to be appointed by  
21 the district attorney, to serve at the district attorney's pleasure. A vacancy in the office of  
22 assistant district attorney shall be filled in the same manner as the initial appointment. An  
23 assistant district attorney shall take the same oath of office as the district attorney, and shall  
24 perform such duties as may be assigned by the district attorney. The district attorney shall  
25 devote full time to the duties of the office and shall not engage in the private practice of law  
26 during his or her term."

27 **SECTION 18A.10.(c)** Article 9 of Chapter 7A of the General Statutes is amended  
28 by adding a new section to read:

29 "**§ 7A-69.2. Transfer of vacant positions.**

30 Any assistant district attorney positions within a prosecutorial district that become vacant  
31 shall be transferred by the Administrative Office of the Courts to prosecutorial districts that are  
32 determined to be understaffed under the workload formula established through the National  
33 Center for State Courts if the Administrative Office of the Courts makes a determination that  
34 the district in which the vacancy occurred is overstaffed under that workload formula."

35 **SECTION 18A.10.(d)** The Administrative Office of the Courts, in conjunction  
36 with the National Center for State Courts and the Conference of District Attorneys, shall revisit  
37 the workload formula used to determine the allocation of assistant district attorneys under  
38 G.S. 7A-60 and determine whether any adjustments should be made to the formula. The  
39 Administrative Office of the Courts shall report by May 1, 2016, to the chairs of the Joint  
40 Legislative Committee on Justice and Public Safety and the chairs of House of Representatives  
41 and Senate Appropriations Committees on Justice and Public Safety on the conclusions reached  
42 about the workload formula and any recommendations for adjustments.

## 43 44 **AMEND COURT COSTS**

45 **SECTION 18A.11.** G.S. 7A-304(a) reads as rewritten:

46 "(a) In every criminal case in the superior or district court, wherein the defendant is  
47 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the  
48 prosecuting witness, the following costs shall be assessed and collected. No costs may be  
49 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of  
50 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs

1 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8),  
2 (8a), (11), (12), or (13) of this section.

3 ...

4 (2b) ~~For the maintenance of misdemeanors in county jails, the sum of eighteen~~  
5 ~~dollars (\$18.00) in the district court to be remitted to the Statewide~~  
6 ~~Misdemeanor Confinement Fund in the Division of Adult Correction of the~~  
7 ~~Department of Public Safety.~~

8 ...

9 (4) For support of the General Court of Justice, the sum of ~~one hundred~~  
10 ~~twenty nine dollars and fifty cents (\$129.50)~~ one hundred forty-seven dollars  
11 and fifty cents (\$147.50) in the district court, including cases before a  
12 magistrate, and the sum of one hundred fifty-four dollars and fifty cents  
13 (\$154.50) in the superior court, to be remitted to the State Treasurer. For a  
14 person convicted of a felony in superior court who has made a first  
15 appearance in district court, both the district court and superior court fees  
16 shall be assessed. The State Treasurer shall remit the sum of one dollar and  
17 fifty cents (\$1.50) of each fee collected under this subdivision to the North  
18 Carolina State Bar for the provision of services described in G.S. 7A-474.4,  
19 and ninety-five cents (\$.95) of each fee collected under this subdivision to  
20 the North Carolina State Bar for the provision of services described in  
21 G.S. 7A-474.19.

22 ...

23 (4b) ~~To provide for contractual services to reduce county jail populations, For~~  
24 ~~additional support of the General Court of Justice, the sum of fifty dollars~~  
25 ~~(\$50.00) for all offenses arising under Chapter 20 of the General Statutes~~  
26 ~~and resulting in a conviction of an improper equipment offense, to be~~  
27 ~~remitted to the Statewide Misdemeanor Confinement Fund in the Division of~~  
28 ~~Adult Correction of the Department of Public Safety.~~ State Treasurer.

29 ...."

## 30 31 FAMILY COURT PROGRAMS

32 **SECTION 18A.13.** The Administrative Office of the Courts shall provide direction  
33 and oversight to the existing family court programs in order to ensure that each district with a  
34 family court program is utilizing best practices and is working effectively and efficiently in the  
35 disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report  
36 on its efforts in this regard and the results of those efforts to the chairs of the House of  
37 Representatives and Senate Appropriations Committee on Justice and Public Safety and the  
38 Joint Legislative Oversight Committee on Justice and Public Safety by March 1 of each year.

## 39 40 SPECIALTY COURTS/USE CLERK OF COURT PERSONNEL AND RESOURCES

41 **SECTION 18A.14.(a)** Article 14 of Chapter 7A of the General Statutes is amended  
42 by adding a new section to read:

### 43 **"§ 7A-146.1. Specialty sessions of court; use of clerk of court personnel and resources.**

44 Upon the request of a clerk of court or district attorney, or upon the judge's own initiative, a  
45 chief district court judge may, pursuant to the judge's authority under G.S. 7A-146(7) to  
46 arrange sessions for the trial of specialized cases, authorize the establishment in the district  
47 court district of the holding of sessions of court in which related specialized cases or matters  
48 are adjudicated, including the holding of family court, drug treatment court, veterans' court,  
49 DWI court, mental health court, or any other innovative use of a session of court. With the  
50 consent of the clerk of superior court, the court may make use of the personnel and resources of  
51 the clerk's office to administer these specialty sessions. The Administrative Office of the Courts

1 shall provide direction and oversight to any such specialty session of district court in order to  
2 ensure that each district is utilizing best practices and is working effectively and efficiently in  
3 the disposition of such specialized cases and consistent with the provisions of G.S. 7A-272."

4 **SECTION 18A.14.(b)** This section becomes effective October 1, 2015.

5  
6 **INNOCENCE INQUIRY COMMISSION**

7 **SECTION 18A.16.** G.S. 15A-1462 reads as rewritten:

8 "**§ 15A-1462. Commission established.**

9 (a) There is established the North Carolina Innocence Inquiry Commission. The North  
10 Carolina Innocence Inquiry Commission shall be an independent commission under the  
11 ~~Judicial Department~~ Administrative Office of the Courts for administrative purposes.

12 (b) The Administrative Office of the Courts shall provide administrative support to the  
13 Commission as needed. The Director of the Administrative Office of the Courts shall not  
14 reduce or modify the budget of the Commission or use funds appropriated to the Commission  
15 without the approval of the Commission. The Administrative Office of the Courts shall conduct  
16 an annual audit of the Commission."

17  
18 **TRANSFER OFFICE OF INDIGENT DEFENSE SERVICES TO THE**  
19 **ADMINISTRATIVE OFFICE OF THE COURTS**

20 **SECTION 18A.17.** G.S. 7A-498.2 reads as rewritten:

21 "**§ 7A-498.2. Establishment of Office of Indigent Defense Services.**

22 (a) The Office of Indigent Defense Services, which is administered by the Director of  
23 Indigent Defense Services and includes the Commission on Indigent Defense Services and the  
24 Sentencing Services Program established in Article 61 of this Chapter, is created within the  
25 ~~Judicial Department~~ Administrative Office of the Courts. As used in this Article, "Office"  
26 means the Office of Indigent Defense Services, "Director" means the Director of Indigent  
27 Defense Services, and "Commission" means the Commission on Indigent Defense Services.

28 (b) The Office of Indigent Defense Services shall exercise its prescribed powers  
29 independently of the head of the Administrative Office of the Courts. The Office may enter into  
30 contracts, own property, and accept funds, grants, and gifts from any public or private source to  
31 pay expenses incident to implementing its purposes.

32 (c) The Director of the Administrative Office of the Courts shall provide general  
33 administrative support to the Office of Indigent Defense Services. The term "general  
34 administrative support" includes purchasing, payroll, and similar administrative services.

35 (d) The budget of the Office of Indigent Defense Services shall be a part of the ~~Judicial~~  
36 ~~Department's budget.~~ budget of the Administrative Office of the Courts. The Commission on  
37 Indigent Defense Services shall consult with the Director of the Administrative Office of the  
38 Courts, who shall assist the Commission in preparing and presenting to the General Assembly  
39 the Office's budget, but the Commission shall have the final authority with respect to  
40 preparation of the Office's budget and with respect to representation of matters pertaining to the  
41 Office before the General Assembly. The Administrative Office of the Courts shall conduct an  
42 annual audit of the budget of the Office of Indigent Defense Services.

43 (e) The Director of the Administrative Office of the Courts shall not ~~reduce or~~ modify  
44 the budget of the Office of Indigent Defense Services or use funds appropriated to the Office  
45 without the approval of the Commission."

46  
47 **STUDY FUTURE OF INDIGENT DEFENSE SERVICES COMMISSION AND**  
48 **INNOCENCE INQUIRY COMMISSION**

49 **SECTION 18A.18.** The Joint Legislative Oversight Committee on Justice and  
50 Public Safety shall study:

1 (1) The Office of Indigent Defense Services and determine whether changes  
2 should be made to the ways in which appropriated funds are used to provide  
3 legal assistance and representation to indigent persons.

4 (2) The North Carolina Innocence Inquiry Commission and determine whether  
5 changes should be made to the way in which the Commission investigates  
6 and determines credible claims of factual innocence made by criminal  
7 defendants.

8 The Joint Legislative Oversight Committee on Justice and Public Safety shall report  
9 its findings and recommendations, including any proposed legislation, to the 2015 General  
10 Assembly when it reconvenes in 2016.

## 11 **ABOLISH THREE SPECIAL SUPERIOR COURT JUDGESHIPS**

12 **SECTION 18A.19.** G.S. 7A-45.1 reads as rewritten:

### 13 **"§ 7A-45.1. Special judges.**

14 ...

15  
16 (a8) Notwithstanding any other provision of this section, the four special superior court  
17 judgeships held as of April 1, 2014, by judges whose terms expire on April 29, 2015, October  
18 20, 2015, and December 31, 2017, and the two special superior court judgeships held as of  
19 April 1, 2015, by judges whose terms expire January 26, 2016, are abolished when any of the  
20 following first occurs:

- 21 (1) Retirement of the incumbent judge.
- 22 (2) Resignation of the incumbent judge.
- 23 (3) Removal from office of the incumbent judge.
- 24 (4) Death of the incumbent judge.
- 25 (5) Expiration of the term of the incumbent judge.

26 (a9) Effective upon the retirement, resignation, removal from office, death, or expiration  
27 of the term of the special superior court judge held as of April 1, 2014, by the judge whose term  
28 expires on April 29, 2015, a new special superior court judgeship shall be created and filled  
29 through the procedure for nomination and confirmation provided for in subsection (a10) of this  
30 section. ~~Effective upon the retirement, resignation, removal from office, death, or expiration of~~  
31 ~~the term of the special superior court judge held as of April 1, 2014, by the judge whose term~~  
32 ~~expires on October 20, 2015, a new special superior court judgeship shall be created and filled~~  
33 ~~through the procedure for nomination and confirmation provided for in subsection (a10) of this~~  
34 ~~section.~~

35 Prior to submitting a nominee for the ~~judgeships~~ judgeship created under this subsection to  
36 the General Assembly for confirmation, the Governor shall consult with the Chief Justice to  
37 ensure that the ~~persons~~ person nominated to fill ~~these two judgeships~~ have this judgeship has  
38 the requisite expertise and experience to be designated by the Chief Justice as a business court  
39 ~~judges~~ judge under G.S. 7A-45.3, and the Chief Justice is requested to designate ~~those two~~  
40 ~~judges as business court judges~~ this judge as a business court judge.

41 ...

42 (a11) The Chief Justice is requested, pursuant to the authority under G.S. 7A-45.3 to  
43 designate business court judges, to maintain at least five business court judgeships from among  
44 the special superior court judgeships authorized under this section.

45 ...."

## 46 **COMPENSATION OF COURT REPORTERS**

47 **SECTION 18A.20.** The Administrative Office of the Courts shall set the limits on  
48 compensation and allowances of court reporters provided for in G.S. 7A-95(e) and  
49 G.S. 7A-198(f) during the 2015-2017 fiscal biennium so that (i) the Administrative Office of  
50 the Courts pays no more than fifty percent (50%) of the per-transcript-page rate paid by the  
51

1 Administrative Office of the Courts during the 2011-2013 fiscal biennium and (ii) the Office of  
2 Indigent Defense Services pays no more than fifty percent (50%) of the per-transcript-page rate  
3 paid by the Office of Indigent Defense Services during the 2011-2013 fiscal biennium.  
4

5 **E-COURTS INFORMATION TECHNOLOGY INITIATIVE/STRATEGIC**  
6 **PLAN/ADVISORY COMMITTEE**

7 **SECTION 18A.21.(a)** The Administrative Office of the Courts shall establish a  
8 strategic plan for the design and implementation of its e-Courts information technology  
9 initiative by February 1, 2016. The plan shall:

- 10 (1) Clearly articulate the requirements for the e-Courts system, including  
11 well-defined milestones, costs parameters, and performance measures.
- 12 (2) Prioritize the funding needs for implementation of the various elements of  
13 the system, after consultation with the e-Courts advisory committee  
14 established by subsection (c) of this section.
- 15 (3) Identify any potential issues that may arise in the development of the system  
16 and plans for mitigating those issues.
- 17 (4) Address the potential for incorporating any currently existing resources into  
18 the e-Courts system.

19 **SECTION 18A.21.(b)** The Administrative Office of the Courts shall report  
20 quarterly beginning November 1, 2015, to the Joint Legislative Oversight Committee on Justice  
21 and Public Safety and the Joint Legislative Oversight Committee on Information Technology  
22 on the development, implementation, and specific costs of the strategic plan required by  
23 subsection (a) of this section and on any changes in the projected costs for implementing the  
24 e-Courts system or the schedule for implementation.

25 **SECTION 18A.21.(c)** The Administrative Office of the Courts shall establish an  
26 e-Courts advisory committee consisting of clerks of superior court, judges, district attorneys,  
27 public defenders, and representatives of the State Bar in order to ensure that, in the  
28 development and implementation of the strategic plan required by subsection (a) of this section,  
29 it has the input and advice of those stakeholders in the e-Courts system and the benefit of the  
30 various stakeholders' expertise on the information technology needs of the courts. The advisory  
31 committee shall be guided by an executive steering committee.

32 **SECTION 18A.21.(d)** Upon completion of the strategic plan required by  
33 subsection (a) of this section, the Administrative Office of the Courts shall issue a Request For  
34 Information (RFI) for a contractor to provide the e-Courts system as outlined in the strategic  
35 plan. The Administrative Office of the Courts shall evaluate the responses to the RFI before  
36 issuing a Request for Proposals (RFP) for the e-Courts system.  
37

38 **AMEND CHILD CUSTODY LAWS**

39 **SECTION 18A.22.(a)** Article 1 of Chapter 50 of the General Statutes is amended  
40 by adding a new section to read:

41 **"§ 50-13.01. Purposes.**

42 It is the policy of the State of North Carolina to do the following:

- 43 (1) Encourage focused, good-faith, best interest, and child-centered joint  
44 parenting agreement development to reduce needless litigation over child  
45 custody matters and to promote the best interest of the child.
- 46 (2) Encourage parents to take responsibility for their child by setting the  
47 expectation that parenthood will be a significant and ongoing responsibility.
- 48 (3) Encourage programs and court practices that maximize participation of both  
49 parents in the child's life and contact with both parents when such is in the  
50 child's best interest, regardless of the parents' present marital status, subject  
51 to laws regarding abuse, neglect, and dependency.



1 (4) Encourage both parents to share equitably in the rights and responsibilities  
 2 of raising their child, even after dissolution of marriage or unwed  
 3 relationship.

4 (5) Encourage each parent to establish and maintain a healthy relationship with  
 5 the other parent to promote the best interest and welfare of the child."

6 **SECTION 18A.22.(b)** G.S. 50-13.2 reads as rewritten:

7 "**§ 50-13.2. Who entitled to custody; terms of custody; visitation rights of grandparents;**  
 8 **taking child out of State; consideration of parent's military service.**

9 (a) An order for custody of a minor child entered pursuant to this section shall award  
 10 the custody of such child to such person, agency, organization or institution as will best  
 11 promote the interest and welfare of the child. In making the determination, the court shall  
 12 consider all relevant ~~factors~~ factors, including all of the following:

13 (1) ~~acts~~ Acts of domestic violence between the ~~parties~~, parties.

14 (2) ~~the~~ The safety of the ~~child~~, child.

15 (3) ~~and the~~ The safety of either party from domestic violence by the other ~~party~~  
 16 ~~and shall make findings accordingly~~, party.

17 An order for custody must include findings of fact ~~which that~~ reflect the consideration of each  
 18 of these factors and that support the determination of what is in the best interest of the child.

19 (a1) Between the mother and father, whether natural or adoptive, no presumption shall  
 20 apply as to who will better promote the interest and welfare of the child. ~~Joint custody to the~~  
 21 ~~parents shall be considered upon the request of either parent.~~

22 (b) An order for custody of a minor child may grant joint custody to the parents,  
 23 exclusive custody to one person, agency, organization, or institution, or grant custody to two or  
 24 more persons, agencies, organizations, or institutions. Any order for custody shall include such  
 25 terms, including visitation, as will best promote the interest and welfare of the child. If the  
 26 court finds that domestic violence has occurred, the court shall enter such orders that best  
 27 protect the children and party who were the victims of domestic violence, in accordance with  
 28 the provisions of G.S. 50B-3(a1)(1), (2), and (3). If a party is absent or relocates with or  
 29 without the children because of an act of domestic violence, the absence or relocation shall not  
 30 be a factor that weighs against the party in determining custody or visitation. Absent an order  
 31 of the court to the contrary, each parent shall have equal access to the records of the minor  
 32 child involving the health, education, and welfare of the child.

33 ...."

### 34 **USE OF COURT INFORMATION TECHNOLOGY FUND**

35 **SECTION 18A.23.** G.S. 7A-343.2(b) reads as rewritten:

36 (b) Use. – Money in the Fund derived from State judicial facilities fees must be used to  
 37 upgrade, maintain, and operate the judicial and county courthouse ~~phone systems~~, data  
 38 connectivity. All other monies in the Fund must be used to supplement funds otherwise  
 39 available to the Judicial Department for court information technology and office automation  
 40 needs."  
 41

### 42 **CLARIFY AUTHORIZATION TO CONTRACT FOR THE PROVISION OF REMOTE** 43 **ACCESS TO COURT RECORDS**

44 **SECTION 18A.24.** G.S. 7A-109(d) reads as rewritten:

45 (d) In order to facilitate public access to ~~court records~~, the electronic data processing  
 46 records or any compilation of electronic court records or data of the clerks of superior court,  
 47 except where public access is prohibited by law, the Director may enter into one or more  
 48 nonexclusive contracts under reasonable cost recovery terms with third parties to provide  
 49 remote electronic access to the electronic data processing records or any compilation of  
 50 electronic court records or data of the clerks of superior court by the public. Neither the  
 51

1 Director nor the Administrative Office of the Courts is the custodian of the records of the clerks  
2 of superior court or of the electronic data processing records or any compilation of electronic  
3 court records or data of the clerks of superior court. Costs recovered pursuant to this subsection  
4 shall be remitted to the State Treasurer to be held in the Court Information Technology Fund  
5 established in G.S. 7A-343.2."

## 7 **SUBPART XVIII-B. OFFICE OF INDIGENT DEFENSE SERVICES**

### 9 **INDIGENT DEFENSE SERVICES ANNUAL REPORT DATE CHANGE**

10 **SECTION 18B.1.** G.S. 7A-498.9 reads as rewritten:

11 "**§ 7A-498.9. Annual report on Office of Indigent Defense Services.**

12 The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative  
13 Oversight Committee on Justice and Public Safety and to the Chairs of the House of  
14 Representatives ~~Subcommittee~~ and Senate Committees on Justice and Public Safety and the  
15 ~~Senate Appropriations Committee on Justice and Public Safety~~ by ~~February 1~~ March 15 of each  
16 year on the following:

- 17 (1) The volume and cost of cases handled in each district by assigned counsel or  
18 public defenders;
- 19 (2) Actions taken by the Office to improve the cost-effectiveness and quality of  
20 indigent defense services, including the capital case program;
- 21 (3) Plans for changes in rules, standards, or regulations in the upcoming year;  
22 and
- 23 (4) Any recommended changes in law or funding procedures that would assist  
24 the Office in improving the management of funds expended for indigent  
25 defense services, including any recommendations concerning the feasibility  
26 and desirability of establishing regional public defender offices."

### 28 **OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS**

29 **SECTION 18B.2.** Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense  
30 Services may use the sum of up to fifty thousand dollars (\$50,000) during the 2015-2016 fiscal  
31 year from funds available to provide the State matching funds needed to receive grant funds.  
32 Prior to using funds for this purpose, the Office shall report to the chairs of the House of  
33 Representatives and Senate Appropriations Committees on Justice and Public Safety on the  
34 grants to be matched using these funds.

### 36 **REPORTS ON CRIMINAL CASE INFORMATION SYSTEM**

37 **SECTION 18B.3.(a)** Section 18B.10 of S.L. 2013-360, as amended by Section  
38 18A.2 of S.L. 2014-100, reads as rewritten:

39 "**SECTION 18B.10.** The Administrative Office of the Courts, in consultation with the  
40 Office of Indigent Defense Services, shall use the sum of three hundred fifty thousand dollars  
41 (\$350,000) in funds available to the Administrative Office of the Courts for the 2013-2015  
42 fiscal biennium and the sum of three hundred fifty thousand dollars (\$350,000) in funds  
43 available to the Office of Indigent Defense Services for the 2013-2015 fiscal biennium to  
44 develop or acquire and to implement a component of the Department's criminal case  
45 information system for use by public defenders no later than ~~February 1, 2015.~~ February 1,  
46 2016. The Administrative Office of the Courts shall make ~~an interim report~~ quarterly reports  
47 on the development and implementation of this system by February 1, 2014, system, including  
48 costs, milestones, and performance measures, and a final report on the completed  
49 implementation of the system by July 1, 2015, July 1, 2016, to the Chairs of the Joint  
50 Legislative Oversight Committee on Justice and Public Safety and to the Chairs of the House of

1 Representatives and Senate Appropriations Subcommittee Committees on Justice and Public  
2 Safety and the Senate Appropriations Committee on Justice and Public Safety."

3 **SECTION 18B.3.(b)** This section becomes effective June 30, 2015.  
4

5 **STUDY EFFICIENCY OF ESTABLISHING A SYSTEM OF AUTOMATED KIOSKS**  
6 **IN LOCAL CONFINEMENT FACILITIES TO ALLOW ATTORNEYS**  
7 **REPRESENTING INDIGENT DEFENDANTS TO CONSULT WITH THEIR**  
8 **CLIENTS REMOTELY**

9 **SECTION 18B.4.(a)** The Administrative Office of the Courts, in conjunction with  
10 the Office of Indigent Defense Services and the North Carolina Sheriffs' Association, shall  
11 study and determine whether savings can be realized through the establishment of a system of  
12 fully automated kiosks in local confinement facilities to allow attorneys representing indigent  
13 defendants to consult with their clients remotely. The system would incorporate technology  
14 through which meetings between attorneys and their clients cannot be monitored or recorded,  
15 would provide for end-to-end message encryption, and would have scheduling software  
16 integrated into the system.

17 **SECTION 18B.4.(b)** The Administrative Office of the Courts shall report its  
18 findings and recommendations, including recommendations of at least two potential pilot sites  
19 for the proposed system, to the chairs of the House of Representatives and Senate  
20 Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative  
21 Oversight Committee on Justice and Public Safety by February 1, 2016.  
22

23 **STUDY FEE SCHEDULES USED BY OFFICE OF INDIGENT DEFENSE SERVICES**

24 **SECTION 18B.5.** The Joint Legislative Oversight Committee on Justice and  
25 Public Safety shall study the creation and implementation of fee schedules to be used by the  
26 Office of Indigent Defense Services to compensate private assigned counsel representing  
27 indigent defendants. The Committee shall include its findings and recommendations in its  
28 report to the 2015 General Assembly when it reconvenes in 2016.  
29

30 **PART XIX. DEPARTMENT OF CULTURAL RESOURCES – RESERVED**

31  
32 **PART XX. DEPARTMENT OF INSURANCE**

33  
34 **INSURANCE REGULATORY CHARGE**

35 **SECTION 20.1.** The percentage rate to be used in calculating the insurance  
36 regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2016 calendar  
37 year.  
38

39 **SYNCHRONIZATION OF PRESCRIPTION REFILLS**

40 **SECTION 20.2.(a)** Article 3 of Chapter 58 of the General Statutes is amended by  
41 adding a new section to read:

42 **"§ 58-3-181. Synchronization of prescription refills.**

43 **(a) Every health benefit plan that provides coverage for prescription drugs shall provide**  
44 **for synchronization of medication when it is agreed among the insured, the provider, and a**  
45 **pharmacist that synchronization of multiple prescriptions for the treatment of a chronic illness**  
46 **is in the best interest of the insured for the management or treatment of a chronic illness,**  
47 **provided all of the following apply:**

48 **(1) The medications are covered by the clinical coverage policy.**

49 **(2) The medications are used for treatment and management of chronic**  
50 **conditions and the medications are subject to refills.**

- (3) The medications are not a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone.
- (4) The medications meet all prior authorization criteria specific to the medications at the time of the synchronization request.
- (5) The medications are of a formulation that can be effectively split over required short fill periods to achieve synchronization.
- (6) The medications do not have quantity limits or dose optimization criteria or requirements that would be violated in fulfilling synchronization.

(b) When applicable to permit synchronization, the health benefit plan shall apply a prorated daily cost-sharing rate to any medication dispensed by a network pharmacy pursuant to this section. Any dispensing fee shall not be prorated and shall be based on an individual prescription filled or refilled.

(c) The following definitions apply in this section:

- (1) Health benefit plan. – As defined in G.S. 58-3-167. The phrase also applies to limited-scope dental and vision insurance.
- (2) Health care provider or provider. – As defined in G.S. 58-3-225(a)(4).
- (3) Insured. – An individual who is eligible to receive benefits from the health benefit plan.
- (4) Insurer. – As defined in G.S. 58-3-225(a)(5)."

**SECTION 20.2.(b)** This section becomes effective January 1, 2016, and applies to insurance contracts issued, renewed, or amended on or after that date.

## **PART XXI. DEPARTMENT OF THE STATE TREASURER**

### **UPDATE ORBIT RETIREMENT SYSTEM**

**SECTION 21.1.** The Department of State Treasurer, Retirement Systems Division, may use funds from receipts up to eight hundred fifty thousand dollars (\$850,000) for the purpose of upgrading the Online Retirement Benefits through Integrated Technology self-service retirement system and those funds are hereby appropriated for that purpose.

### **ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACT**

**SECTION 21.2.(a)** Chapter 147 of the General Statutes is amended by adding a new Article to read:

"Article 6E.

"Achieving Better Life Experience Program Trust.

#### **"§ 147-86.50. Policy and definitions.**

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

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

- (1) ABLE account. – An account established and owned by an eligible individual and maintained under this Article. A guardian or agent under a power of attorney may act on behalf of an account owner.
- (2) Account owner. – The person who enters into an ABLE savings agreement pursuant to the provisions of this Article. The account owner must be the designated beneficiary.
- (3) Board. – The ABLE Program Board of Trustees established in G.S. 147-86.52.

- 1           (4)    Contracting state. – A state without a qualified ABLE program that has  
2           entered into a contract with North Carolina to provide residents of the  
3           contracting state access to a qualified ABLE program.  
4           (5)    Designated beneficiary. – The eligible individual who established and owns  
5           an ABLE account.  
6           (6)    Disability certification. – Defined in 26 U.S.C. § 259A(e)(2).  
7           (7)    Eligible individual. – Defined in 26 U.S.C. § 259A(e)(1).  
8           (8)    Federal ABLE Act. – Division B of the Tax Increase Prevention Act of  
9           2014, P.L. 113-295, the Achieving a Better Life Experience Act of 2014.  
10          (9)    Member of the family. – A brother, sister, stepbrother, or stepsister.  
11          (10) Qualified disability expense. – As defined in 26 U.S.C. § 529A(e)(5).

12    **§ 147-86.51. ABLE Program.**

13          (a)    Achieving a Better Life Experience (ABLE) Program Trust. – There is established  
14          an ABLE Program Trust to be administered by the ABLE Program Board of Trustees  
15          established in G.S. 146-86.52 to enable contributors to save funds to meet the costs of the  
16          qualified disability expenses of eligible individuals.

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

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

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

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

- 1           (1)    A rollover from an ABLE account shall constitute a qualified rollover if the  
2           rollover distribution is in accordance with the federal ABLE Act.
- 3           (2)    A person may make contributions for a taxable year for the benefit of an  
4           individual who is an eligible individual for the taxable year to an ABLE  
5           account that is established to meet the qualified disability expenses of the  
6           designated beneficiary of the account.
- 7           (3)    A designated beneficiary is limited to one ABLE account.
- 8           (4)    An ABLE account may be established only for a designated beneficiary who  
9           is a resident of North Carolina or a resident of a contracting state.
- 10          (5)    Except as permitted under the federal ABLE Act, a person does not direct  
11          the investment of any contributions to or earnings from the Achieving a  
12          Better Life Experience Program more than two times each year.
- 13          (6)    An account or a legal or beneficial interest in an account is not assignable,  
14          pledged, or otherwise used to secure or obtain a loan or other advancement.
- 15          (7)    Separate records and accounting are maintained for each ABLE account.
- 16          (8)    Reports are made no less frequently than annually to each ABLE account  
17          owner.
- 18          (9)    A trustee or guardian appointed as a signatory of an ABLE account does not  
19          have or acquire any beneficial interest in the account and administers the  
20          account for the benefit of the designated beneficiary.

21    **"§ 147-86.52. ABLE Program Board of Trustees.**

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

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

37          (b)    Terms. – The members of the Board, except those members serving in an ex officio  
38          capacity, shall be appointed for terms of three years and shall serve until their successors are  
39          appointed and qualified. Vacancies are filled in the same manner as the original appointment.  
40          No appointed member of the Board may serve longer than any of the following:

- 41               (1)    Two consecutive three-year terms.
- 42               (2)    Three consecutive terms of any length, in the event that one or more of the  
43               terms is for fewer than three years in duration or the member serves a partial  
44               term as a result of filling a vacancy.
- 45               (3)    Eight consecutive years, regardless of term lengths.

46          (c)    Duties. – The Board of Trustees is authorized to:

- 47               (1)    Delegate the authority to the State Treasurer to develop and perform all  
48               functions necessary and desirable to (i) administer the ABLE Program Trust  
49               in such a manner as to meet and comply with the requirements of the federal  
50               ABLE Act and federal regulations under the act, (ii) implement the  
51               investment strategy of the Board, and (iii) provide other services as the

- 1 Board shall deem necessary to facilitate participation in the ABLE Program  
2 Trust.
- 3 (2) Notwithstanding provisions of Article 3 of Chapter 143 of the General  
4 Statutes, engage the services of consultants on a contract basis for rendering  
5 professional and technical assistance and advice.
- 6 (3) Retain the services of auditors, attorneys, investment counseling firms,  
7 custodians, or other persons or firms possessing specialized skills or  
8 knowledge necessary for the proper administration of investment programs  
9 that the Board administers pursuant to this Article.
- 10 (4) Develop marketing plans and promotional material.
- 11 (5) Establish the methods by which the funds held in accounts shall be  
12 dispersed.
- 13 (6) Establish the method by which funds shall be allocated to pay for  
14 administrative costs.
- 15 (7) Do all things necessary and proper to carry out the purposes of this act.
- 16 (d) Investments. – The Board shall determine and document in an investment policy  
17 statement an appropriate investment strategy for the ABLE Program Trust containing one or  
18 more forms of investments or strategies for investment from which account owners may select.  
19 The Board shall authorize the State Treasurer to be responsible for engaging and discharging  
20 investment managers and service providers, including contracting and contract monitoring, to  
21 implement the investment strategy established by the Board. All amounts maintained in an  
22 account shall be invested according to the account owner's election of one or more of the  
23 strategies approved by the Board. Each strategy may include a combination of fixed income  
24 assets and preferred or common stocks issued by any company incorporated, or otherwise  
25 located within or outside the United States, or other appropriate investment instruments to  
26 achieve long-term return through a combination of capital appreciation and current income. If  
27 the Board approves multiple forms of investment as investment strategy options, transfers of an  
28 account owner's accumulated funds shall be permitted among the various approved forms of  
29 investments, subject to reasonable restrictions approved by the Board.
- 30 (e) Discharge of duties by the Board. – The assets of the ABLE Program Trust shall be  
31 held in trust for the designated beneficiaries. The assets of the ABLE Program Trust shall at all  
32 times be preserved, invested, and expended for the exclusive purpose of providing benefits to  
33 designated beneficiaries and paying reasonable expenses of administering the ABLE Program  
34 Trust and investing the assets of the ABLE Program Trust. Compliance by the Board with this  
35 section must be determined in light of the facts and circumstances existing at the time of the  
36 Board's decision or action and not by hindsight. The Board shall discharge its duties with  
37 respect to the ABLE Program Trust as follows:
- 38 (1) Solely in the interest of the designated beneficiaries.
- 39 (2) With the care, skill, and caution under the circumstances then prevailing that  
40 a prudent person acting in a like capacity and familiar with those matters  
41 would use in the conduct of an activity of like character and purpose.
- 42 (3) Impartially, taking into account any differing interests of designated  
43 beneficiaries.
- 44 (4) Incurring only costs that are appropriate and reasonable.
- 45 (5) In accordance with a good-faith interpretation of the law governing the  
46 ABLE Program Trust.
- 47 (f) Immunity. – A person serving on the ABLE Board of Trustees shall be immune  
48 individually from civil liability for monetary damages, and exempt to the extent covered by  
49 insurance, for any act or failure to act arising out of that service except where any of the  
50 following apply:
- 51 (1) The person was not acting within the scope of that person's official duties.

1           (2)    The person was not acting in good faith.

2           (3)    The person committed gross negligence or willful or wanton misconduct that  
3           resulted in the damages or injury.

4           (4)    The person derived an improper personal financial benefit, either directly or  
5           indirectly, from the transaction.

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

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

13          **§ 147-86.53. Administration of ABLE Program.**

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

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

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

31               (1)    The costs of administration, management, investment, and operation of the  
32               ABLE Program Trust.

33               (2)    The costs of all actions authorized for the Board.

34               (3)    The costs of all actions delegated to the State Treasurer and his or her staff  
35               by the Board under this section. Such costs shall be allocated among the  
36               designated beneficiaries in such manner as may be prescribed by the Board.  
37               The Board shall no less than annually approve a budget and allocation of  
38               costs.

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

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



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

5        (g) Notice to Account Owner for Designated Beneficiary Receiving Medicaid. – Notice  
6 of the State's right to file a claim against the estate following the death of a designated  
7 beneficiary who received medical assistance must be provided to the account owner. The notice  
8 shall be on a form prescribed by the Department of Health and Human Services, Division of  
9 Medical Assistance, and shall explain:

10            (1) The types of Medicaid payments subject to a claim against the estate.

11            (2) That a claim will not be made if the individual is survived by a legal spouse,  
12 a child or children under the age of 21, or a blind or disabled child or  
13 children of any age who became blind or disabled before age 21 and still live  
14 on the property of the deceased designated beneficiary.

15            (3) That a claim against the estate is limited to specified conditions.

16            (4) That a claim against the estate may be waived in the case of undue hardship  
17 and the procedure for claiming an undue hardship.

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

20        **SECTION 21.2.(b)** The Department of Health and Human Services shall provide  
21 information and assistance to the Department of State Treasurer and shall enter into a  
22 data-sharing agreement with the Department of the State Treasurer for the purpose of the  
23 ongoing implementation of this section. The Department of State Treasurer shall consult with  
24 other departments as needed.

25        **SECTION 21.2.(c)** The Department of State Treasurer and the Department of  
26 Health and Human Services are authorized to adopt rules necessary to implement this section.

27        **SECTION 21.2.(d)** The State Treasurer shall begin accepting contributions  
28 authorized under this section when federal regulations regarding the Achieving a Better Life  
29 Experience Program, as provided under the Tax Increase Prevention Act of 2014, Pub. L. No.  
30 113-295, have been issued and provide the guidance necessary to implement the Achieving a  
31 Better Life Experience Trust Fund Program established in this section. If the federal regulations  
32 are materially inconsistent with this section, the Board may delay implementation of this  
33 section until a change in this section has been made. If the Board delays implementation, the  
34 Board shall provide a written report to the Governor, the Speaker of the House of  
35 Representatives, and the President Pro Tempore of the Senate identifying the changes in this  
36 section that must be made to be consistent with federal regulation.

37        **SECTION 21.2.(e)** The Board authorized in G.S. 147-86.52 shall be organized  
38 immediately after a majority of the members have been qualified or appointed, and have taken  
39 the oath of office. The terms for the trustees that are appointed shall be for initial terms to  
40 expire June 30, 2018.

41        **SECTION 21.2.(f)** This section is effective when it becomes law.

#### 42 43 **AUDIT OF FIREFIGHTERS' AND RESCUE SQUAD WORKERS' PENSION DATA**

44        **SECTION 21.3.** Of the funds allocated to the line item for Retirement for Fire and  
45 Rescue Squad Workers for the 2015-2016 fiscal year, the Department of State Treasurer may  
46 use up to the sum of five hundred fifty-nine thousand dollars (\$559,000) to fund an audit of the  
47 employment and membership history of the members of the Firefighters' and Rescue Squad  
48 Workers' Pension Fund, load the results of the audit into the ORBIT system, and update data  
49 collection and online processes involving agency turnaround documents as recommended by  
50 the Program Evaluation Division of the General Assembly.

**PART XXII. OFFICE OF ADMINISTRATIVE HEARINGS****WAYNESVILLE ADMINISTRATIVE LAW JUDGE/RULES REVIEW COMMISSION COUNSEL**

**SECTION 22.1.(a)** The Office of Administrative Hearings shall identify office space for the administrative law judge to be located in the Town of Waynesville. In selecting office space, the Office of Administrative Hearings shall only consider locations that do not impose an additional financial burden to the State. The Office is authorized to identify other State-owned properties in the town and work with State officials to locate office space that satisfies the requirements of this section. The Office of Administrative Hearings may provide support staff for the administrative law judge to be located in the Town of Waynesville; provided, there is no additional financial burden to the State as a result.

**SECTION 22.1.(b)** G.S. 143B-30.1 is amended by adding a new subsection to read:

"(g) In the discretion of the Commission, G.S. 114-2.3 and G.S. 147-17 (a) through (c) shall not apply to the Commission if the Commission is being sued by another agency, institution, department, bureau, board, or commission of the State, whether such body is created by the Constitution or by statute. The chairman, upon approval of a majority of the Commission, may retain private counsel to represent the Commission to be paid with available State funds to defend such litigation either independently or in cooperation with the Department of Justice. If private counsel is to be so retained to represent the Commission, the chairman shall designate lead counsel who shall possess final decision-making authority with respect to the representation, counsel, or service for the Commission. Other counsel for the Commission shall, consistent with the Rules of Professional Conduct, cooperate with such designated lead counsel."

**PART XXIII. OFFICE OF STATE BUDGET AND MANAGEMENT****SYMPHONY CHALLENGE GRANT**

**SECTION 23.1.(a)** Of the funds appropriated in this act to the Office of State Budget and Management, Special Appropriations, the sum of one million five hundred thousand dollars (\$1,500,000) in recurring funds for the 2015-2016 fiscal year and the sum of one million five hundred thousand dollars (\$1,500,000) in recurring funds for the 2016-2017 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section. It is the intent of the General Assembly that the North Carolina Symphony raise at least eight million dollars (\$8,000,000) in non-State funds for the 2015-2016 fiscal year and at least eight million dollars (\$8,000,000) in non-State funds for the 2016-2017 fiscal year. The North Carolina Symphony shall not use funds transferred from the organization's endowment to its operating budget to achieve the fund-raising targets set out in subsections (b) and (c) of this section.

**SECTION 23.1.(b)** For the 2015-2016 fiscal year, the North Carolina Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the North Carolina Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds, the North Carolina Symphony shall receive an additional sum of five hundred thousand dollars (\$500,000).
- (3) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total sum of eight million dollars (\$8,000,000) in

1 non-State funds, the North Carolina Symphony shall receive the final sum of  
2 five hundred thousand dollars (\$500,000) for the 2015-2016 fiscal year.

3 **SECTION 23.1.(c)** For the 2016-2017 fiscal year, the North Carolina Symphony  
4 shall receive allocations from the Office of State Budget and Management as follows:

- 5 (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State  
6 funding, the North Carolina Symphony shall receive the sum of five hundred  
7 thousand dollars (\$500,000).  
8 (2) Upon raising an additional sum of two million dollars (\$2,000,000) in  
9 non-State funding for a total amount of six million dollars (\$6,000,000) in  
10 non-State funds, the North Carolina Symphony shall receive an additional  
11 sum of five hundred thousand dollars (\$500,000).  
12 (3) Upon raising an additional sum of two million dollars (\$2,000,000) in  
13 non-State funding for a total sum of eight million dollars (\$8,000,000) in  
14 non-State funds, the North Carolina Symphony shall receive the final sum of  
15 five hundred thousand dollars (\$500,000) for the 2016-2017 fiscal year.  
16

### 17 **STUDY TRANSITION TO RENT-BASED MODEL FOR STATE-OWNED** 18 **FACILITIES**

19 **SECTION 23.3.** The Office of State Budget and Management shall study charging  
20 State agencies rent to cover the cost of facility management, maintenance, and related costs that  
21 are attributable to those agencies. The Office of State Budget and Management shall report the  
22 results of the study to the Joint Legislative Oversight Committee on General Government no  
23 later than March 1, 2016. The study shall examine all of the following:

- 24 (1) Making receipt-supported all Department of Administration functions that  
25 support the management and maintenance of State-owned facilities.  
26 (2) An appropriate rate to charge agencies for facility management,  
27 maintenance, and related costs, and the basis for determining that rate.  
28 (3) Logistical, legal, and budgetary matters that would need to be resolved  
29 before the rent-based model could be implemented.  
30 (4) The desirability of using proceeds from lease payments for financing future  
31 building repairs and needs of the State. Any analysis involving the  
32 securitizing funds shall be undertaken in consultation with the State  
33 Treasurer.  
34 (5) Any other matter the Office of State Budget and Management deems  
35 relevant.  
36

## 37 **PART XXIV. DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**

### 38 **ESTABLISH DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**

#### 39 **CREATION OF DEPARTMENT**

40  
41 **SECTION 24.1.(a)** The Department of Military and Veterans Affairs is established  
42 as a new executive department. All functions, powers, duties, and obligations vested in the  
43 following agencies are transferred to, vested in, and consolidated within the Department of  
44 Military and Veterans Affairs by a Type I transfer, as defined in G.S. 143A-6:  
45

- 46 (1) The following components of the Department of Administration:  
47 a. The Veterans' Affairs Commission.  
48 b. The Governor's Jobs for Veterans Committee.  
49 c. The Division of Veterans Affairs.  
50 (2) The North Carolina Military Affairs Commission in the Office of the  
51 Governor.

1 SECTION 24.1.(b) Chapter 143B of the General Statutes is amended by adding a  
2 new Article to read:

3 "Article 14.

4 "Department of Military and Veterans Affairs.

5 "Part 1. General Provisions.

6 **"§ 143B-1210. Organization.**

7 (a) There is established the Department of Military and Veterans Affairs. The head of  
8 the Department of Military and Veterans Affairs is the Secretary of Military and Veterans  
9 Affairs, who shall be known as the Secretary.

10 (b) The powers and duties of the deputy secretaries and the divisions and directors of  
11 the Department shall be subject to the direction and control of the Secretary of Military and  
12 Veterans Affairs.

13 **"§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

14 It shall be the duty of the Department of Military and Veterans Affairs to do all of the  
15 following:

- 16 (1) Provide active outreach to the United States Department of Defense and the  
17 United States Department of Homeland Security and their associated  
18 establishments in North Carolina in order to support the military installations  
19 and activities in the State, to enhance North Carolina's current  
20 military-friendly environment and foster and promote business, technology,  
21 transportation, education, economic development, and other efforts in  
22 support of the mission, execution, and transformation of the United States  
23 government military and national defense activities located in the State.
- 24 (2) Promote the industrial and economic development of localities included in or  
25 adjacent to United States government military and national defense activities  
26 and those of the State.
- 27 (3) Provide technical assistance and coordination between the State, its political  
28 subdivisions, and the United States military and national defense activities  
29 within the State of North Carolina.
- 30 (4) Award grants to local governments, State and federal agencies, and private  
31 entities at the direction of the Secretary. The number of grants awarded and  
32 the level of funding of each grant for each fiscal year shall be contingent  
33 upon and determined by funds appropriated for that purpose by the General  
34 Assembly.
- 35 (5) Provide active outreach to the United States Department of Veterans Affairs,  
36 the veterans service organizations, and the veterans community in North  
37 Carolina to support and assist North Carolina's veterans in identifying and  
38 obtaining the services, assistance, and support to which they are entitled,  
39 including monitoring efforts to provide services to veterans, newly separated  
40 service members, and their immediate family members and disseminating  
41 relevant materials.
- 42 (6) Monitor and enhance efforts to provide assistance and support for veterans  
43 living in North Carolina and members of the North Carolina National Guard  
44 and North Carolina residents in the Armed Forces Reserves not in active  
45 federal service in the areas of (i) medical care, (ii) mental health and  
46 rehabilitative services, (iii) housing, (iv) homelessness prevention, (v) job  
47 creation, and (vi) education.
- 48 (7) Seek and receive monies from any source, including federal funds, gifts,  
49 grants, and devises, which shall be expended for the purposes designated in  
50 this Article.

- 1           (8)    Provide active outreach, coordination, formal training and standards, and  
2           official certification to localities of the State and veterans support  
3           organizations in the development, implementation, and review of local  
4           veterans services programs as part of the State program.
- 5           (9)    Work with veterans services organizations and counterparts in other states to  
6           monitor and encourage the timely and accurate processing of veterans'  
7           benefit requests by the United States Department of Veterans Affairs,  
8           including requests for service connected to health care, mental health care,  
9           and disability payments.
- 10          (10)   Manage and maintain the State's veterans nursing homes and cemeteries and  
11          their associated assets to the standard befitting those who have worn the  
12          uniform of the Armed Forces according to federal guidelines. Plan for  
13          expansion and grow the capacity of these facilities and any new facilities as  
14          required pending the availability of designated funds.
- 15          (11)   Manage and maintain the State's Scholarships for Children of Wartime  
16          Veterans in accordance with Part 2 of Article 14 of Chapter 143B of the  
17          General Statutes and in support of the Veterans' Affairs Commission.
- 18          (12)   Provide administrative, organizational, and funding support to the NC  
19          Military Affairs Commission and the Governor's Working Group for  
20          Veterans.
- 21          (13)   Work with federal officials to obtain additional federal resources and  
22          coordinate veterans policy development and information exchange.
- 23          (14)   Work with the appropriate heads of the principal departments to coordinate  
24          working relationships between State agencies and take all actions necessary  
25          to ensure that available federal and State resources are directed toward  
26          assisting veterans and addressing all issues of mutual concern to the State  
27          and the Armed Forces of the United States, including, but not limited to,  
28          quality of life issues unique to North Carolina's military personnel and their  
29          families, the quality of educational opportunities for military children, the  
30          future of federal impact aid, preparedness, public safety and security  
31          concerns, transportation needs, alcoholic beverage law enforcement,  
32          substance abuse, social service needs, possible expansion and growth of  
33          military facilities in the State, and intergovernmental support agreements  
34          with state and local governments.
- 35          (15)   Educate the public on veterans and defense issues in coordination with  
36          applicable State agencies.
- 37          (16)   Adopt rules and procedures for the implementation of this section.
- 38          (17)   Assist veterans, their families, and dependents in the presentation,  
39          processing, proof, and establishment of such claims, privileges, rights, and  
40          benefits as they may be entitled to under federal, State, or local laws, rules,  
41          and regulations.
- 42          (18)   Aid persons in active military service and their dependents with problems  
43          arising out of that service that come reasonably within the purview of the  
44          Department's program of assistance.
- 45          (19)   Collect data and information as to the facilities and services available to  
46          veterans, their families, and dependents and to cooperate with agencies  
47          furnishing information or services throughout the State in order to inform  
48          such agencies regarding the availability of (i) education, training, and  
49          retraining facilities; (ii) health, medical, rehabilitation, and housing services  
50          and facilities; (iii) employment and reemployment services; and (iv)  
51          provisions of federal, State, and local laws, rules, and regulations affording

1 rights, privileges, and benefits to veterans, their families, and dependents,  
2 and in respect to such other matters of similar, related, or appropriate nature  
3 not herein set out.

4 (20) Establish such field offices, facilities, and services throughout the State as  
5 may be necessary to carry out the purposes of this Article.

6 (21) Cooperate, as the Department deems appropriate, with governmental,  
7 private, and civic agencies and instrumentalities in securing services or  
8 benefits for veterans, their families, dependents, and beneficiaries.

9 (22) Enter into any contract or agreement with any person, business,  
10 governmental agency, or other entity in furtherance of the purposes of this  
11 Article.

12 (23) Train, assist, and provide guidance to the employees of any county, city,  
13 town, or Indian tribe who are engaged in veterans service. Authority is  
14 hereby granted to the governing body of any county, city, or town to  
15 appropriate such amounts as it may deem necessary to provide a veterans  
16 services program, and the expenditure of such funds is hereby declared to be  
17 for a public purpose; such program shall be operated in affiliation with this  
18 Department as set forth above and in compliance with Department policies  
19 and procedures.

20 **§ 143B-1212. Personnel of the Department of Military and Veterans Affairs.**

21 Notwithstanding G.S. 114-2.3, the Secretary of Military and Veterans Affairs shall have the  
22 power to appoint all employees, including consultants and legal counsel, necessary to carry out  
23 the powers and duties of the office. These employees shall be subject to the North Carolina  
24 Human Resources Act, except that employees in positions designated as exempt under  
25 G.S. 126-5(d)(1) are not subject to the Act, in accordance with the provisions of that section.

26 **§ 143B-1213. Definitions.**

27 Except where provided otherwise, the following definitions apply in this Chapter:

28 (1) Department. – The Department of Military and Veterans Affairs.

29 (2) Secretary. – The Secretary of Military and Veterans Affairs.

30 (3) Veteran. – One of the following, as applicable:

31 a. For qualifying as a voting member of the State Board of Veterans  
32 Affairs and as the State Director of Veterans Affairs, a person who  
33 served honorably during a period of war as defined in Title 38,  
34 United States Code.

35 b. For entitlement to the services of the Department of Military and  
36 Veterans Affairs, any person who may be entitled to any benefits or  
37 rights under the laws of the United States by reason of service in the  
38 Armed Forces of the United States."

39  
40 **CREATION OF STATUTORY PARTS AND RECODIFICATION AND REPEAL OF**  
41 **AFFECTED STATUTES**

42 **SECTION 24.1.(c)** Veterans' Affairs Commission. – Part 13 of Article 9 of  
43 Chapter 143B of the General Statutes is recodified as Part 2 of Article 14 of Chapter 143B of  
44 the General Statutes and renumbered as G.S. 143B-1220 through G.S. 143B-1222. G.S. 165-19  
45 through G.S. 165-22.1 are recodified under that Part as G.S. 143B-1223 through  
46 G.S. 143B-1227.

47 **SECTION 24.1.(d)** Governor's Jobs for Veterans Committee. – Part 19 of Article 9  
48 of Chapter 143B of the General Statutes is recodified as Part 3 of Article 14 of Chapter 143B of  
49 the General Statutes and renumbered as G.S. 143B-1235 and G.S. 143B-1236.

50 **SECTION 24.1.(e)** Division of Veterans Affairs. – G.S. 165-1 through G.S. 165-4,  
51 G.S. 165-6, 165-8, and 165-10 are repealed. G.S. 165-9, 165-11, and 165-11.1 are recodified

1 under Part 1 of Article 14 of Chapter 143B of the General Statutes as G.S. 143B-1214 through  
2 G.S. 143B-1216, respectively.

3 **SECTION 24.1.(f)** Minor Veterans and Minor Spouses of Veterans. – Article 2 of  
4 Chapter 165 of the General Statutes is recodified as Part 4 of Article 14 of Chapter 143B of the  
5 General Statutes, G.S. 143B-1240 through G.S. 143B-1244. Article 3 of Chapter 165 of the  
6 General Statutes is recodified as Part 5 of Article 14 of Chapter 143B of the General Statutes,  
7 G.S. 143B-1247 and G.S. 143B-1248.

8 **SECTION 24.1.(g)** Veterans Recreation Authorities Law. – Article 5 of Chapter  
9 165 of the General Statutes is recodified as Part 6 of Article 14 of Chapter 143B of the General  
10 Statutes, G.S. 143B-1250 through G.S. 143B-1265.

11 **SECTION 24.1.(h)** Powers of Attorney. – Article 6 of Chapter 165 of the General  
12 Statutes is recodified as Part 7 of Article 14 of Chapter 143B of the General Statutes,  
13 G.S. 143B-1270 through G.S. 143B-1273.

14 **SECTION 24.1.(i)** Miscellaneous Provisions. – Article 7 of Chapter 165 of the  
15 General Statutes is recodified as Part 8 of Article 14 of Chapter 143B of the General Statutes,  
16 G.S. 143B-1275 through G.S. 143B-1277.

17 **SECTION 24.1.(j)** Employment Assistance. – Article 7A of Chapter 165 of the  
18 General Statutes is recodified as Part 9 of Article 14 of Chapter 143B of the General Statutes,  
19 G.S. 143B-1280 through G.S. 143B-1285.

20 **SECTION 24.1.(k)** State Veterans Home. – Article 8 of Chapter 165 of the  
21 General Statutes is recodified as Part 10 of Article 14 of Chapter 143B of the General Statutes,  
22 G.S. 143B-1290 through G.S. 143B-1300.

23 **SECTION 24.1.(l)** North Carolina Military Affairs Commission. – Chapter 127C  
24 of the General Statutes is recodified as Part 11 of Article 14 of Chapter 143B of the General  
25 Statutes, G.S. 143B-1310 through G.S. 143B-1314.

## 26 27 CONFORMING CHANGES

28 **SECTION 24.1.(m)** G.S. 20-79.4 reads as rewritten:

29 **"§ 20-79.4. Special registration plates.**

30 ...

31 (a2) Special Plates Based Upon Military Service. – The ~~Division of Veterans Affairs~~  
32 Department of Military and Veterans Affairs shall be responsible for verifying and maintaining  
33 all verification documentation for all special plates that are based upon military service. The  
34 ~~Division~~Department shall not issue a special plate that is based on military service unless the  
35 application is accompanied by a motor vehicle registration (MVR) verification form signed by  
36 the ~~Director of the Division of Veterans Affairs, Secretary of Military and Veterans Affairs, or~~  
37 the ~~Director's~~Secretary's designee, showing that the ~~Division of Veterans Affairs~~Department  
38 of Military and Veterans Affairs has verified the applicant's credentials and qualifications to  
39 hold the special plate applied for.

40 (1) Unless a qualifying condition exists requiring annual verification, no  
41 additional verification shall be required to renew a special registration plate  
42 either in person or through an online service.

43 (2) If the ~~Division of Veterans Affairs~~Department of Military and Veterans  
44 Affairs determines a special registration plate has been issued due to an error  
45 on the part of the Division of Motor Vehicles, the plate shall be recalled and  
46 canceled.

47 (3) If the ~~Division of Veterans Affairs~~Department of Military and Veterans  
48 Affairs determines a special registration plate has been issued to an applicant  
49 who falsified documents or has fraudulently applied for the special  
50 registration plate, the Division of Motor Vehicles shall revoke the special  
51 plate and take appropriate enforcement action.

1       ...."  
 2               **SECTION 24.1.(n)** G.S. 20-79.5 reads as rewritten:  
 3       "**§ 20-79.5. Special registration plates for elected and appointed State government**  
 4               **officials.**

5       (a)     Plates. – The State government officials listed in this section are eligible for a  
 6       special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the  
 7       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	<del>22-23-29</del>

14       ...."  
 15               **SECTION 24.1.(o)** G.S. 47-113.2 reads as rewritten:  
 16       "**§ 47-113.2. Restricting access to military discharge documents.**

17       ...  
 18       (b)     Definitions:  
 19             (1)     Authorized party. – Four categories of authorized parties are recognized with  
 20             respect to access to military discharge documents under subsection (e) of  
 21             this section:

22             ...  
 23             c.       Authorized agents of the ~~Division of Veterans Affairs, Department of~~  
 24             Military and Veterans Affairs, the United States Department of  
 25             Veterans Affairs, the Department of Defense, or a court official with  
 26             an interest in assisting the subject or the deceased subject's  
 27             beneficiaries to obtain a benefit.

28             ...  
 29             (h)     The North Carolina Association of Registers of Deeds and the ~~Division of Veterans~~  
 30             ~~Affairs~~ Department of Military and Veterans Affairs shall adopt ~~before January 1, 2004,~~ such  
 31             request forms and associated rules as are required to implement the provisions of this section.  
 32             All filing offices shall use the forms and comply with the rules, as adopted.

33       ...."  
 34               **SECTION 24.1.(p)** G.S. 65-43.4(b) reads as rewritten:

35       "(b)     A disinterment may be permitted, at no cost to the State, when the following  
 36       conditions are satisfied:

- 37             (1)     The disinterment is requested in writing and filed with the Program Director  
 38             of the veterans cemeteries, the Assistant Secretary for Veterans Affairs, or  
 39             the ~~Division of Veterans Affairs;~~Department of Military and Veterans  
 40             Affairs;
- 41             (2)     The request for disinterment contains the notarized signature of the nearest  
 42             of kin, such as surviving spouse. If the spouse is deceased, the signatures of  
 43             a majority of the surviving children of legal age will be required;
- 44             (3)     The funeral director has obtained all necessary permits for disinterment."

45               **SECTION 24.1.(q)** G.S. 65-43.5 reads as rewritten:  
 46       "**§ 65-43.5. Reinterment.**

47       (a)     The remains of a qualified veteran or the remains of an eligible family member may  
 48       be moved to a State veterans cemetery for reinterment, at no cost to the State, when the  
 49       following conditions are satisfied:

50       ...



(2) The reinterment is requested in writing and filed with the Program Manager of veterans cemeteries, the Assistant Secretary for Veterans Affairs, or the ~~Division of Veterans Affairs; and~~ Department of Military and Veterans Affairs;

...."

**SECTION 24.1.(r)** G.S. 93B-15.1(c1) reads as rewritten:

"(c1) Each occupational licensing board shall publish a document that lists the specific criteria or requirements for licensure, registration, or certification by the board, with a description of the criteria or requirements that are satisfied by military training or experience as provided in this section, and any necessary documentation needed for obtaining the credit or satisfying the requirement. The information required by this subsection shall be published on the occupational licensing board's Web site and the Web site of the ~~North Carolina Division of Veterans Affairs.~~ Department of Military and Veterans Affairs."

**SECTION 24.1.(s)** G.S. 116-209.23 reads as rewritten:

**"§ 116-209.23. Inconsistent laws inapplicable.**

Insofar as the provisions of this Article are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this Article shall be controlling, except that no provision of the 1971 amendments to this Article shall apply to scholarships for children of war veterans as set forth in ~~Article 4 of Chapter 165,~~ Part 2 of Article 14 of Chapter 143B of the General Statutes, as amended."

**SECTION 24.1.(t)** G.S. 116B-7(b) reads as rewritten:

"(b) An amount specified in the Current Operations Appropriations Act shall be transferred annually from the Escheat Fund to the Department of ~~Administration~~ Military and Veterans Affairs to partially fund the program of Scholarships for Children of War Veterans established by ~~Article 4 of Chapter 165~~ Part 2 of Article 14 of Chapter 143B of the General Statutes. Those funds may be used only for residents of this State who (i) are worthy and needy as determined by the Department of ~~Administration,~~ Military and Veterans Affairs and (ii) are enrolled in public institutions of higher education of this State."

**SECTION 24.1.(u)** G.S. 126-2(b1)(5) reads as rewritten:

"(b1) The Commission shall consist of nine members, appointed as follows:

...

(5) One member who is a veteran of the Armed Forces of the United States appointed by the Governor upon the nomination of the ~~Veterans~~ Veterans' Affairs Commission and who is a State employee subject to this Chapter serving in a nonexempt supervisory position. The member may not be a human resources professional."

**SECTION 24.1.(v)** G.S. 126-5(d)(1) is amended by adding a new sub-subdivision to read:

"(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this Chapter, which is known as the North Carolina Human Resources Act, the Governor may designate a total of 1,500 exempt positions throughout the following departments and offices:

- a. Department of Administration.
- b. Department of Commerce.
- c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
- d. Department of Public Safety.
- e. Department of Cultural Resources.
- f. Department of Health and Human Services.
- g. Department of Environment and Natural Resources.

- 1 h. Department of Revenue.  
2 i. Department of Transportation.  
3 j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012,  
4 and by Session Laws 2012-142, s. 25.2E(a), effective January 1,  
5 2013.  
6 k. Office of Information Technology Services.  
7 l. Office of State Budget and Management.  
8 m. Office of State Human Resources.  
9 n. Department of Military and Veterans Affairs."

10 **SECTION 24.1.(w)** G.S. 127C-1, as recodified by subsection (l) of this section,  
11 reads as rewritten:

12 "**§ 143B-1310. Commission established; purpose; transaction of business.**

13 (a) Establishment. – There is established the North Carolina Military Affairs  
14 Commission. The Commission shall be established within the ~~Office of the Governor. The~~  
15 ~~Department of Commerce is responsible for organizational, budgetary, and administrative~~  
16 ~~purposes.~~Department of Military and Veterans Affairs.

17 (b) Purpose. – The Commission shall provide advice, counsel, and recommendations to  
18 ~~the Governor, the~~ General Assembly, the Secretary of ~~Commerce,~~Military and Veterans  
19 Affairs, and other State agencies on initiatives, programs, and legislation that will continue and  
20 increase the role that North Carolina's military installations, the National Guard, and Reserves  
21 play in America's defense strategy and the economic health and vitality of the State. The  
22 Commission is authorized ~~to~~to do all of the following, as delegated by the Secretary of  
23 Military and Veterans Affairs:

24 ...

25 (c) Transaction of Business. – The Commission shall meet, at a minimum, at least once  
26 during each quarter and shall provide a report on military affairs to the ~~Governor~~Secretary of  
27 Military and Veterans Affairs and to the General Assembly at least every six months. Prior to  
28 the start of a Regular Session of the General Assembly, the Commission shall report to the  
29 General Assembly with recommendations, if any, for legislation. Priority actions or issues may  
30 be submitted at any time.

31 ...."

32 **SECTION 24.1.(x)** G.S. 127C-2(h), as recodified by subsection (l) of this section,  
33 reads as rewritten:

34 "(h) The initial meeting of the Commission shall be within 30 days of the effective date  
35 of this act at a time and place to be determined by the Secretary of Commerce. The first order  
36 of business at the initial meeting of the Commission shall be the adoption of bylaws and  
37 establishment of committees, after which the Commission shall meet upon the call of the  
38 ~~Chairman or the Military Advisor within the Office of the Governor, or the Secretary of the~~  
39 Department of Military and Veterans Affairs. The members shall receive no compensation for  
40 attendance at meetings, except a per diem expense reimbursement. Members of the  
41 Commission who are not officers or employees of the State shall receive reimbursement for  
42 subsistence and travel expenses at rates set out in G.S. 138-5 from funds made available to the  
43 Commission. Members of the Commission who are officers or employees of the State shall be  
44 reimbursed for travel and subsistence at the rates set out in G.S. 138-6 from funds made  
45 available to the Commission. The Department of ~~Commerce~~Military and Veterans Affairs  
46 shall use funds within its budget for the per diem, subsistence, and travel expenses authorized  
47 by this subsection."

48 **SECTION 24.1.(y)** G.S. 127C-3, as recodified by subsection (l) of this section, is  
49 repealed.

50 **SECTION 24.1.(z)** G.S. 127C-5, as recodified by subsection (l) of this section,  
51 reads as rewritten:

1 **"§ 143B-1314. Protection of sensitive documents.**

2 (a) In carrying out any purpose set out in ~~G.S. 127C-1(b), G.S. 143B-1310(b),~~ the  
3 Commission and the Department of ~~Commerce~~ Military and Veterans Affairs may share  
4 documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11  
5 with other public bodies. Any information shared under this subsection shall be confidential  
6 and exempt from Chapter 132 of the General Statutes to the same extent that it is confidential  
7 in the possession of the Commission or the Department.

8 (b) In carrying out any purpose set out in ~~G.S. 127C-1(b), G.S. 143B-1310(b),~~ the  
9 Commission and the Department of ~~Commerce~~ Military and Veterans Affairs may share  
10 documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11  
11 with any third party in its discretion. Any information shared under this subsection shall be  
12 shared under an agreement to keep the information confidential to the same extent that it is  
13 confidential in the possession of the Commission or the Department."

14 **SECTION 24.1.(aa)** G.S. 143B-6 is amended by adding a new subdivision to read:

15 **"§ 143B-6. Principal departments.**

16 In addition to the principal departments enumerated in the Executive Organization Act of  
17 1971, all executive and administrative powers, duties, and functions not including those of the  
18 General Assembly and its agencies, the General Court of Justice and the administrative  
19 agencies created pursuant to Article IV of the Constitution of North Carolina, and higher  
20 education previously vested by law in the several State agencies, are vested in the following  
21 principal departments:

22 ...

23 (12) Department of Military and Veterans Affairs."

24 **SECTION 24.1.(bb)** G.S. 143B-399, as recodified and renumbered by subsection  
25 (c) of this section, reads as rewritten:

26 **"§ 143B-1220. Veterans' Affairs Commission – creation, powers and duties.**

27 There is hereby created the Veterans' Affairs Commission of the Department of  
28 ~~Administration of Military and Veterans Affairs.~~ The Veterans' Affairs Commission shall have  
29 the following functions and duties: ~~duties, as delegated by the Secretary of Military and~~  
30 Veterans Affairs:

- 31 (1) To advise the ~~Governor~~ Secretary of Military and Veterans Affairs on  
32 matters relating to the affairs of veterans in North Carolina;
- 33 (2) To maintain a continuing review of the operation and budgeting of existing  
34 programs for veterans and their dependents in the State and to make any  
35 recommendations to the ~~Governor~~ Secretary of Military and Veterans  
36 Affairs for improvements and additions to such matters to which the  
37 ~~Governor~~ Secretary shall give due consideration;
- 38 (3) ~~To serve collectively as a liaison between the Division of Veterans Affairs~~  
39 ~~and the veterans organizations represented on the Commission;~~
- 40 (4) To promulgate rules and regulations concerning the awarding of  
41 scholarships for children of North Carolina veterans as provided by ~~Article 4~~  
42 ~~of Chapter 165 of the General Statutes of North Carolina.~~ this Article. The  
43 Commission shall make rules and regulations consistent with the provisions  
44 of this ~~Chapter.~~ Article. All rules and regulations not inconsistent with the  
45 provisions of this Chapter heretofore adopted by the State Board of Veterans'  
46 Affairs shall remain in full force and effect unless and until repealed or  
47 superseded by action of the ~~Veterans~~ Veterans' Affairs Commission. All  
48 rules and regulations adopted by the Commission shall be enforced by the  
49 ~~Division of Veterans' Affairs;~~ Department of Military and Veterans Affairs;
- 50 (4a) To promulgate rules concerning the awarding of the North Carolina Services  
51 Medal to all veterans who have served in any period of war as defined in 38

1 U.S.C. § 101. The award shall be self-financing; those who wish to be  
2 awarded the medal shall pay a fee to cover the expenses of producing the  
3 medal and awarding the medal. All rules adopted by the Commission with  
4 respect to the North Carolina Services Medal shall be implemented and  
5 enforced by the ~~Division of Veterans' Affairs;~~Department of Military and  
6 Veterans Affairs; and

7 (5) To advise the ~~Governor~~Secretary on any matter the ~~Governor~~Secretary may  
8 refer to it."

9 **SECTION 24.1(cc)** G.S. 143B-400, as recodified and renumbered by subsection  
10 (c) of this section, reads as rewritten:

11 "**§ 143B-1221. Veterans' Affairs Commission – members; selection; quorum;**  
12 **compensation.**

13 The Veterans' Affairs Commission of the Department of ~~Administration~~Military and  
14 Veterans Affairs shall consist of one voting member from each congressional district, all of  
15 whom shall be veterans, appointed by the Governor for four-year terms. In making these  
16 appointments, the Governor shall insure that both major political parties will be continuously  
17 represented on the Veterans' Affairs Commission.

18 The initial members of the Commission shall be the appointed members of the current  
19 Veterans' Affairs Commission who shall serve for the remainder of their current terms and six  
20 additional members appointed by the Governor for terms expiring June 30, 1981. Thereafter, all  
21 members shall be appointed for terms of four years. Any appointment to fill a vacancy on the  
22 Commission created by the resignation, dismissal, death or disability of a member shall be for  
23 the balance of the unexpired term. The Governor shall have the power to remove any member  
24 of the Commission in accordance with provisions of G.S. 143B-13.

25 In the event that more than 11 congressional districts are established in the State, the  
26 Governor shall on July 1 following the establishment of such additional congressional districts  
27 appoint a member of the Commission from that congressional district. If on July 1, 1977, or at  
28 any time thereafter due to congressional redistricting, two or more members of the Veterans'  
29 Affairs Commission shall reside in the same congressional district then such members shall  
30 continue to serve as members of the Commission for a period equal to the remainder of their  
31 current terms on the Commission provided that upon the expiration of said term or terms the  
32 Governor shall fill such vacancy or vacancies in such a manner as to insure that as  
33 expeditiously as possible there is one member of the Veterans' Affairs Commission who is a  
34 resident of each congressional district in the State.

35 The Governor shall designate from the membership of the Commission a chairman and  
36 vice-chairman of the Commission who shall serve at the pleasure of the Governor. The  
37 Secretary of the Department of ~~Administration~~Military and Veterans Affairs or his designee  
38 shall serve as secretary of the Commission.

39 Members of the Commission shall receive per diem and necessary travel and subsistence  
40 expenses in accordance with provisions of G.S. 138-5.

41 A majority of the Commission shall constitute a quorum for the transaction of business.

42 The Veterans' Affairs Commission shall meet at least twice a year and may hold special  
43 meetings at any time or place within the State at the call of the chairman, at the call of the  
44 Secretary of the Department of ~~Administration~~Military and Veterans Affairs or upon the  
45 written request of at least six members.

46 All clerical and other services required by the Commission shall be provided by the  
47 Secretary of the Department of ~~Administration~~Military and Veterans Affairs."

48 **SECTION 24.1(dd)** G.S. 143B-420, as recodified by subsection (d) of this  
49 section, reads as rewritten:

50 "**§ 143B-1235. Governor's Jobs for Veterans Committee – creation; appointment,**  
51 **organization, etc.; duties.**

1 (a) There is hereby created and established in the North Carolina Department of  
2 ~~Administration, Division of Veterans Affairs, Military and Veterans Affairs,~~ a committee to be  
3 known as the Governor's Jobs for Veterans Committee, with one member from each  
4 Congressional district, appointed by the Governor. Members of the Committee shall serve at  
5 the pleasure of the Governor. The Secretary of ~~Administration, Military and Veterans Affairs~~  
6 with the concurrence of the Governor, shall appoint a chairman to administer this Committee  
7 who shall be subject to the direction and supervision of the Secretary. The chairman shall serve  
8 at the pleasure of the Secretary. The chairman shall devote full time to his duties of office.

9 (b) ~~Subject to the general supervision of the Secretary, the~~ The duties of the chairman  
10 shall include but not be limited to the ~~following:~~ following, as delegated by the Secretary of  
11 Military and Veterans Affairs:

- 12 (1) Serving as a liaison between the Office of the Governor and all State  
13 agencies to insure that veterans receive the employment preference to which  
14 they are legally entitled and that such State agencies list available jobs with  
15 appropriate public employment services;
- 16 (2) Evaluating existing programs designed to benefit veterans and submitting  
17 reports and recommendations to the Governor and Secretary;
- 18 (3) Developing and furthering favorable employer attitudes toward the  
19 employment of veterans by appropriate promulgation of information  
20 concerning veterans and the functions of the Committee;
- 21 (4) Serving as a liaison between the Committee and communities throughout the  
22 State to the end that civic committees and volunteer groups are formed and  
23 utilized to promote the objectives of the Committee;
- 24 (5) Assisting employers in properly designing affirmative action plans as they  
25 relate to handicapped and Vietnam-era veterans;
- 26 (6) Serving as a liaison between veterans and State agencies on questions  
27 regarding the employment practices of such State agencies."

28 **SECTION 24.1.(ee)** G.S. 161-10.1 reads as rewritten:

29 **"§ 161-10.1. Exemption of Armed Forces discharge documents and certain other records**  
30 **needed in support of claims for veterans' benefits.**

31 Any schedule of fees which is now or may be prescribed in Chapter 161 of the General  
32 Statutes or in G.S. 161-10 shall not apply to nor shall the same repeal any of the provisions of  
33 Article 5 of Chapter 47 of the General Statutes. Any schedule of fees which is now or may be  
34 hereafter prescribed in Chapter 161 of the General Statutes or as may appear in G.S. 161-10  
35 shall not apply to nor shall the same repeal any of the provisions of  
36 ~~G.S. 165-11, G.S. 143B-1215."~~

37 **SECTION 24.1.(ff)** G.S. 165-11, as recodified by subsection (e) of this section,  
38 reads as rewritten:

39 **"§ 143B-1215. Copies of records to be furnished to the Department of**  
40 **~~Administration, Military and Veterans Affairs.~~**

41 (a) Whenever copies of any State and local public records are requested by a  
42 representative of the Department of ~~Administration, Military and Veterans Affairs~~ in assisting  
43 persons in obtaining any federal, State, local or privately provided benefits relating to veterans  
44 and their beneficiaries, the official charged with the custody of any such records shall without  
45 charge furnish said representative with the requested number of certified copies of such  
46 records; provided, that this section shall not apply to the disclosure of information in certain  
47 privileged and confidential records referred to elsewhere in the General Statutes of North  
48 Carolina, which information shall continue to be disclosed in the manner prescribed by the  
49 statute relating thereto.

50 (b) No official chargeable with the collection of any fee or charge under the laws of the  
51 State of North Carolina in connection with his official duties shall be held accountable on his

1 official bond or otherwise for any fee or charge remitted pursuant to the provisions of this  
2 section."

3 **SECTION 24.1.(gg)** G.S. 165-11.1, as recodified by subsection (e) of this section,  
4 reads as rewritten:

5 "**§ 143B-1216. Confidentiality of ~~Veterans Affairs~~ Department of Military and Veterans**  
6 **Affairs records.**

7 Notwithstanding any other provisions of Chapter 143B, no records of the ~~Division of~~  
8 ~~Veterans Affairs in the Department of Administration~~ Department of Military and Veterans  
9 Affairs shall be disclosed or used for any purpose except for official purposes, and no records  
10 shall be disclosed, destroyed or used in any manner which is in violation of any existing federal  
11 law or regulation. Nothing in this Chapter shall convert records which are the property of the  
12 federal government into State property."

13 **SECTION 24.1.(hh)** G.S. 165-20, as recodified by subsection (c) of this section,  
14 reads as rewritten:

15 "**§ 143B-1224. Definitions.**

16 As used in this Article the terms defined in this section shall have the following meaning:

17 ...

18 (3) "Child" means a person: (i) under 25 years of age at the time of application  
19 for a scholarship, (ii) who is a domiciliary of North Carolina and is a  
20 resident of North Carolina when applying for a scholarship, (iii) who has  
21 completed high school or its equivalent prior to receipt of a scholarship  
22 awarded under this Article, (iv) who has complied with the requirements of  
23 the Selective Service System, if applicable, and (v) who further meets one of  
24 the following requirements:

25 a. A person whose veteran parent was a legal resident of North Carolina  
26 at the time of said veteran's entrance into that period of service in the  
27 Armed Forces during which eligibility is established under  
28 ~~G.S. 165-22~~ G.S. 143B-1226.

29 b. A veteran's child who was born in North Carolina and has been a  
30 resident of North Carolina continuously since birth. Provided, that  
31 the requirement in the preceding sentence as to birth in North  
32 Carolina may be waived by the Department of ~~Administration~~  
33 Military and Veterans Affairs if it is shown to the satisfaction of the  
34 Department that the child's mother was a native-born resident of  
35 North Carolina and was such resident at the time of her marriage to  
36 the veteran and was outside the State temporarily at the time of the  
37 child's birth, following which the child was returned to North  
38 Carolina within a reasonable period of time where said child has  
39 since lived continuously.

40 c. A person meeting either of the requirements set forth in subdivision  
41 (3) a or b above, and who was legally adopted by the veteran prior to  
42 said person's reaching the age of 15 years.

43 ...

44 (5) "Private educational institution" means any junior college, senior college or  
45 university which is operated and governed by private interests not under the  
46 control of the federal, State or any local government, which is located within  
47 the State of North Carolina, which does not operate for profit, whose  
48 curriculum is primarily directed toward the awarding of associate,  
49 baccalaureate or graduate degrees, which agrees to the applicable  
50 administration and funding provisions of ~~G.S. 165-22.1~~ G.S. 143B-1227, of

1 this Article, and which is otherwise approved by the State Board of Veterans  
2 Affairs.

3 ...."

4 **SECTION 24.1.(ii)** G.S. 165-21, as recodified by subsection (c) of this section,  
5 reads as rewritten:

6 "**§ 143B-1225. Scholarship.**

7 (a) A scholarship granted pursuant to this Article shall consist of the following benefits  
8 in either a State or private educational institution:

9 ...

10 (2) With respect to private educational institutions, a scholarship shall consist of  
11 a monetary allowance as prescribed in ~~G.S. 165-22.1(d)~~, G.S. 143B-1227(d).

12 ...."

13 **SECTION 24.1.(jj)** G.S. 165-22, as recodified by subsection (c) of this section,  
14 reads as rewritten:

15 "**§ 143B-1226. Classes or categories of eligibility under which scholarships may be  
16 awarded.**

17 A child, as defined in this Article, who falls within the provisions of any eligibility class  
18 described below shall, upon proper application be considered for a scholarship, subject to the  
19 provisions and limitations set forth for the class under which the child is considered:

20 ...

21 (2) Class I-B: Under this class a limited scholarship providing only those  
22 benefits set forth in ~~G.S. 165-21(1)a and d and 165-21(2) of this Article,~~  
23 G.S. 143B-1225(a)(1)a. and d. and G.S. 143B-1225(a)(2) shall be awarded  
24 to any child whose veteran parent, at the time the benefits pursuant to this  
25 Article are sought to be availed of, is or was at the time of his death  
26 receiving compensation for a wartime service-connected disability of one  
27 hundred percent (100%) as rated by the United States Department of  
28 Veterans Affairs. Provided, that if the veteran parent of a recipient under this  
29 class should die of his wartime service-connected condition before the  
30 recipient shall have utilized all of his scholarship eligibility time, then the  
31 North Carolina Department of ~~Administration~~ Military and Veterans Affairs  
32 shall amend the recipient's award from Class I-B to Class I-A for the  
33 remainder of the recipient's eligibility time. The effective date of such an  
34 amended award shall be determined by the Department of ~~Administration,~~  
35 Military and Veterans Affairs but, in no event shall it predate the date of the  
36 veteran parent's death.

37 ...

38 (4) Class III: Under this class a scholarship may be awarded to not more than  
39 100 children yearly, each of whose veteran parent, at the time the benefits  
40 pursuant to this Article are sought to be availed of:

41 a. Is or was at the time of his death drawing pension for permanent and  
42 total disability, nonservice-connected, as rated by the United States  
43 Department of Veterans Affairs.

44 b. Is deceased and who does not fall within the provisions of any other  
45 eligibility class described in ~~G.S. 165-22(1)~~, G.S. 143B-1226(1), (2),  
46 (3), (4)a., nor (5).

47 c. Served in a combat zone, or waters adjacent to a combat zone, or any  
48 other campaign, expedition, or engagement for which the United  
49 States Department of Defense authorizes a campaign badge or medal,  
50 who does not fall within the provisions of any other class described  
51 in ~~G.S. 165-22(1)~~, G.S. 143B-1226(1), (2), (3), (4)a., or (5).

1 (5) Class IV: Under this class a scholarship as defined in ~~G.S. 165-21~~  
2 G.S. 143B-1225 shall be awarded to any child whose parent, while serving  
3 honorably as a member of the Armed Forces in active federal service during  
4 a period of war, as defined in ~~G.S. 165-20(4), G.S. 143B-1224(4)~~, was listed  
5 by the United States government as (i) missing in action, (ii) captured in line  
6 of duty by a hostile force, or (iii) forcibly detained or interned in line of duty  
7 by a foreign government or power."

8 **SECTION 24.1.(kk)** G.S. 165-22.1, as recodified by subsection (c) of this section,  
9 reads as rewritten:

10 "**§ 143B-1227. Administration and funding.**

11 (a) The administration of the scholarship program shall be vested in the Department of  
12 ~~Administration, Military and Veterans Affairs~~, and the disbursing and accounting activities  
13 required shall be a responsibility of the Department of ~~Administration, Military and Veterans~~  
14 Affairs. The ~~Veterans—Veterans'~~ Veterans' Affairs Commission shall determine the eligibility of  
15 applicants, select the scholarship recipients, establish the effective date of scholarships, and  
16 may suspend or revoke scholarships if the ~~said Veterans—Veterans'~~ Veterans' Affairs Commission finds  
17 that the recipient does not comply with the registration requirements of the Selective Service  
18 System or does not maintain an adequate academic status, or if the recipient engages in riots,  
19 unlawful demonstrations, the seizure of educational buildings, or otherwise engages in  
20 disorderly conduct, breaches of the peace or unlawful assemblies. The Department of  
21 ~~Administration, Military and Veterans Affairs~~ shall maintain the primary and necessary records,  
22 and the ~~Veterans—Veterans'~~ Veterans' Affairs Commission shall promulgate such rules and regulations not  
23 inconsistent with the other provisions of this Article as it deems necessary for the orderly  
24 administration of the program. It may require of State or private educational institutions, as  
25 defined in this Article, such reports and other information as it may need to carry out the  
26 provisions of this Article. The Department of ~~Administration, Military and Veterans Affairs~~  
27 shall disburse scholarship payments for recipients certified eligible by the Department of  
28 ~~Administration, Military and Veterans Affairs~~ upon certification of enrollment by the enrolling  
29 institution.

30 (b) Funds for the support of this program shall be appropriated to the Department of  
31 ~~Administration, Military and Veterans Affairs~~ as a reserve for payment of the allocable costs for  
32 room, board, tuition, and other charges, and shall be placed in a separate budget code from  
33 which disbursements shall be made. Funds to support the program shall be supported by  
34 receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be used only  
35 for worthy and needy residents of this State who are enrolled in public institutions of higher  
36 education of this State. In the event the said appropriation for any year is insufficient to pay the  
37 full amounts allocable under the provisions of this Article, such supplemental sums as may be  
38 necessary shall be allocated from the Contingency and Emergency Fund. The method of  
39 disbursing and accounting for funds allocated for payments under the provisions of this section  
40 shall be in accordance with those standards and procedures prescribed by the Director of the  
41 Budget, pursuant to the ~~Executive Budget Act, State Budget Act~~.

42 (c) Allowances for room and board in State educational institutions shall be at such rate  
43 as established by the Secretary of the Department of ~~Administration, Military and Veterans~~  
44 Affairs.

45 (d) Scholarship recipients electing to attend a private educational institution shall be  
46 granted a monetary allowance for each term or other academic period attended under their  
47 respective scholarship awards. All recipients under Class I-B scholarship shall receive an  
48 allowance at one rate, irrespective of course or institution; all recipients under Classes I-A, II,  
49 III and IV shall receive a uniform allowance at a rate higher than for Class I-B, irrespective of  
50 course or institution. The amount of said allowances shall be determined by the Director of the  
51 Budget and made known prior to the beginning of each fall quarter or semester; provided that



1 the Director of the Budget may change the allowances at intermediate periods when in his  
2 judgment such changes are necessary. Disbursements by the State shall be to the private  
3 institution concerned, for credit to the account of each recipient attending said institution. The  
4 manner of payment to any private institution shall be as prescribed by the Department of  
5 ~~Administration~~ Military and Veterans Affairs. The participation by any private institution in  
6 the program shall be subject to the applicable provisions of this Article and to examination by  
7 State auditors of the accounts of scholarship recipients attending or having attended private  
8 institutions. The ~~Veterans~~ Veterans' Affairs Commission may defer making an award or may  
9 suspend an award in any private institution which does not comply with the provisions of this  
10 Article relating to said institutions.

11 (e) Irrespective of other provisions of this Article, the ~~Veterans~~ Veterans' Affairs  
12 Commission may prescribe special procedures for adjusting the accounts of scholarship  
13 recipients who for reasons of illness, physical inability to attend class or for other valid reason  
14 satisfactory to the ~~Veterans~~ Veterans' Affairs Commission may withdraw from State or private  
15 educational institutions prior to the completion of the term, semester, quarter or other academic  
16 period being attended at the time of withdrawal. Such procedures may include, but shall not be  
17 limited to, paying the recipient the dollar value of his unused entitlements for the academic  
18 period being attended, with a corresponding deduction of this period from his remaining  
19 scholarship eligibility time."

20 **SECTION 24.1.(ll)** G.S. 165-44.5, as recodified by subsection (j) of this section,  
21 reads as rewritten:

22 **"§ 143B-1284. Priority employment assistance directed.**

23 All covered service providers, as specified in ~~G.S. 165-44.4~~, G.S. 143B-1283, shall  
24 establish procedures to provide veterans with priority, not inconsistent with existing federal or  
25 State law, to participate in employment and job training assistance programs."

26 **SECTION 24.1.(mm)** G.S. 165-44.6, as recodified by subsection (j) of this section,  
27 reads as rewritten:

28 **"§ 143B-1285. Implementation and performance measures.**

29 The North Carolina Commission on Workforce Preparedness shall:

- 30 (1) Issue implementing directives that shall apply to all covered service  
31 providers as specified in ~~G.S. 165-44.4~~, G.S. 143B-1283, and revise those  
32 directives as necessary to accomplish the purpose of this Article.
- 33 (2) Develop measures of service for veterans that will serve as indicators of  
34 compliance with the provisions of this Article by all covered service  
35 providers.
- 36 (3) Annually publish and submit to the Joint Legislative Commission on  
37 Governmental Operations, beginning not later than October 1, 1998, a report  
38 detailing covered providers' compliance with the provisions of this Article."

39 **SECTION 24.1.(nn)** G.S. 165-46, as recodified by subsection (k) of this section,  
40 reads as rewritten:

41 **"§ 143B-1291. Establishment.**

42 The State of North Carolina shall construct, maintain, and operate veterans homes for the  
43 aged and infirm veterans resident in this State under the administrative authority and control of  
44 the ~~Division of Veterans Affairs of the Department of Administration~~ Department of Military  
45 and Veterans Affairs. There is vested in ~~such Division~~ the Department any and all powers and  
46 authority that may be necessary to enable it to establish and operate the homes and to issue  
47 rules necessary to operate the homes in compliance with applicable State and federal statutes  
48 and regulations."

49 **SECTION 24.1.(oo)** G.S. 165-47, as recodified by subsection (k) of this section,  
50 reads as rewritten:

51 **"§ 143B-1292. Exemption from certificate of need.**

1 Any state veterans home established by the ~~Division of Veterans Affairs~~ Department of  
2 Military and Veterans Affairs shall be exempt from the certificate of need requirements as set  
3 out in Article 9 of Chapter 131E, or as may be hereinafter enacted."

4 **SECTION 24.1.(pp)** G.S. 165-48, as recodified by subsection (k) of this section,  
5 reads as rewritten:

6 "**§ 143B-1293. North Carolina Veterans Home Trust Fund.**

7 (a) Establishment. – A trust fund shall be established in the State treasury, for the  
8 ~~Division of Veterans Affairs~~, Department of Military and Veterans Affairs, to be known as the  
9 North Carolina Veterans Home Trust Fund.

10 (b) Composition. – The trust fund shall consist of all funds and monies received by the  
11 ~~Veterans~~ Veterans' Affairs Commission ~~or the Division of Veterans Affairs~~ from the United  
12 States, any federal agency or institution, and any other source, whether as a grant,  
13 appropriation, gift, contribution, devise, or individual reimbursement, for the care and support  
14 of veterans who have been admitted to a State veterans home.

15 (c) Use of Fund. – The trust fund created in subsection (a) of this section shall be used  
16 by the ~~Division of Veterans Affairs~~ Department of Military and Veterans Affairs to do the  
17 following:

- 18 (1) To pay for the care of veterans in said State veterans homes;
- 19 (2) To pay the general operating expenses of the State veterans homes, including  
20 the payment of salaries and wages of officials and employees of said homes;  
21 and
- 22 (3) To remodel, repair, construct, modernize, or add improvements to buildings  
23 and facilities at the homes.

24 (d) Miscellaneous. – The following provisions apply to the trust fund created in  
25 subsection (a) of this section:

- 26 (1) All funds deposited and all income earned on the investment or reinvestment  
27 of such funds shall be credited to the trust fund.
- 28 (2) Any monies remaining in the trust fund at the end of each fiscal year shall  
29 remain on deposit in the State treasury to the credit of the North Carolina  
30 Veterans Home Trust Fund.
- 31 (3) Nothing contained herein shall prohibit the establishment and utilization of  
32 special agency accounts by the ~~Division of Veterans Affairs~~, ~~as may be~~  
33 ~~approved by the Veterans~~ Veterans' Affairs Commission, for the receipt and  
34 disbursement of personal funds of the State veterans homes' residents or for  
35 receipt and disbursement of charitable contributions for use by and for  
36 residents."

37 **SECTION 24.1.(qq)** G.S. 165-49, as recodified by subsection (k) of this section,  
38 reads as rewritten:

39 "**§ 143B-1294. Funding.**

40 (a) The ~~Division of Veterans Affairs of the Department of Administration~~ Department  
41 of Military and Veterans Affairs may apply for and receive federal aid and assistance from the  
42 United States Department of Veterans Affairs or any other agency of the United States  
43 Government authorized to pay federal aid to states for the construction and acquisition of  
44 veterans homes under Title 38, United States Code, section 8131 et seq., or for the care or  
45 support of disabled veterans in State veterans homes under Title 38, United States Code,  
46 section 1741 et seq., or from any other federal law for said purposes.

47 (b) The ~~Division of Veterans Affairs~~ Department may receive from any source any gift,  
48 contribution, devise, or individual reimbursement, the receipt of which does not exclude any  
49 other source of revenue.

50 (c) All funds received by the ~~Division~~ Department shall be deposited in the North  
51 Carolina Veterans Home Trust Fund, except for any funds deposited into special agency

1 accounts established pursuant to ~~G.S. 165-48(d)(3)~~. G.S. 143B-1293(d)(3). The ~~Veterans~~  
2 Veterans' Affairs Commission shall authorize the expenditure of all funds from the North  
3 Carolina Veterans Home Trust Fund. The ~~Veterans~~-Veterans' Affairs Commission may delegate  
4 authority to the Assistant Secretary of Veterans Affairs for the expenditure of funds from the  
5 North Carolina Veterans Home Trust Fund for operations of the State Veterans Nursing  
6 Homes."

7 **SECTION 24.1.(rr)** G.S. 165-50, as recodified by subsection (k) of this section,  
8 reads as rewritten:

9 **"§ 143B-1295. Contracted operation of homes.**

10 The ~~Veterans~~-Veterans' Affairs Commission may contract with persons or other  
11 nongovernmental entities to operate each State veterans home. Contracts for the procurement of  
12 services to manage, administer, and operate any State veterans home shall be awarded on a  
13 competitive basis through the solicitation of proposals and through the procedures established  
14 by statute and the Division of Purchase and Contract. A contract may be awarded to the vendor  
15 whose proposal is most advantageous to the State, taking into consideration cost, program  
16 suitability, management plan, excellence of program design, key personnel, corporate or  
17 company resources, financial condition of the vendor, experience and past performance, and  
18 any other qualities deemed necessary by the ~~Veterans~~-Veterans' Affairs Commission and set out  
19 in the solicitation for proposals. Any contract awarded under this section shall not exceed five  
20 years in length. The ~~Veterans~~-Veterans' Affairs Commission is not required to select or  
21 recommend the vendor offering the lowest cost proposal but shall select or recommend the  
22 vendor who, in the opinion of the Commission, offers the proposal most advantageous to the  
23 veterans and the State of North Carolina."

24 **SECTION 24.1.(ss)** G.S. 165-51, as recodified by subsection (k) of this section,  
25 reads as rewritten:

26 **"§ 143B-1296. Program staff.**

27 The ~~Division~~-Department shall appoint and fix the salary of an Administrative Officer for  
28 the State veterans home program. The Administrative Officer shall be an honorably discharged  
29 veteran who has served in active military service in the Armed Forces of the United States for  
30 other than training purposes. The Administrative Officer shall direct the establishment of the  
31 State veterans home program, coordinate the master planning, land acquisition, and  
32 construction of all State veterans homes under the procedures of the Office of State  
33 Construction, and oversee the ongoing operation of said veterans homes. The Division may hire  
34 any required additional administrative staff to help with administrative and operational  
35 responsibilities at each established State veterans home."

36 **SECTION 24.1.(tt)** G.S. 165-52, as recodified by subsection (k) of this section,  
37 reads as rewritten:

38 **"§ 143B-1297. Admission and dismissal authority.**

39 The ~~Veterans~~-Veterans' Affairs Commission shall have authority to determine  
40 administrative standards for admission and dismissal, as well as the medical conditions, of all  
41 persons admitted to and dismissed from any State veterans home, and to issue any necessary  
42 rules, subject to the requirements set out in ~~G.S. 165-53~~. G.S. 143B-1298."

43 **SECTION 24.1.(uu)** G.S. 165-54, as recodified by subsection (k) of this section,  
44 reads as rewritten:

45 **"§ 143B-1299. Deposit required.**

46 Each resident of any State veterans home shall pay to the ~~Division of Veterans Affairs~~  
47 Department of Military and Veterans Affairs the cost of maintaining his or her residence at the  
48 home. This deposit shall be placed in the North Carolina Veterans Home Trust Fund and shall  
49 be in an amount and in the form prescribed by the ~~Veterans~~-Veterans' Affairs Commission in  
50 consultation with the Assistant Secretary for Veterans Affairs."

1           **SECTION 24.1.(vv)** G.S. 165-55, as recodified by subsection (k) of this section,  
2 reads as rewritten:

3 **"§ 143B-1300. Report and budget.**

4       (a) The Assistant Secretary for Veterans Affairs shall report annually to the Secretary of  
5 the Department of ~~Administration~~ Military and Veterans Affairs on the activities of the State  
6 Veterans Homes Program. This report shall contain an accounting of all monies received and  
7 expended, statistics on residents in the homes during the year, recommendations to the  
8 Secretary, the Governor, and the General Assembly as to the program, and such other matters  
9 as may be deemed pertinent.

10       (b) The Assistant Secretary for Veterans Affairs, with the approval of the ~~Veterans~~  
11 Veterans' Affairs Commission, shall compile an annual budget request for any State funding  
12 needed for the anticipated costs of the homes, which shall be submitted to the Secretary of the  
13 Department of ~~Administration~~ Military and Veterans Affairs. State appropriated funds for  
14 operational needs shall be made available only in the event that other sources are insufficient to  
15 cover essential operating costs."

16           **SECTION 24.1.(ww)** This section becomes effective on January 1, 2016.

17  
18 **RESTORE STATE CONTRIBUTION TO COUNTY VETERANS SERVICES**  
19 **PROGRAMS**

20           **SECTION 24.2.** G.S. 143B-1211, as enacted by Section 24.1(b) of this act, is  
21 amended by adding a new subdivision to read:

22 **"§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

23       It shall be the duty of the Department of Military and Veterans Affairs to do all of the  
24 following:

25       ...  
26       (24) Contribute each fiscal year to each county that applies for it an amount for  
27 the maintenance and operation of a county veterans services program.  
28 Participating counties shall furnish the Department such reports,  
29 accountings, and other information at such times and in such form as the  
30 Department may require. The amount contributed to each county under this  
31 subdivision shall be as follows:

32       a. If funds appropriated to the Department for contributions under this  
33 subdivision exceed the total amount of county requests received by  
34 December 31 of each year, the contribution to each county shall be  
35 the full amount requested by each county.

36       b. If the funds appropriated to the Department for contributions under  
37 this subdivision are insufficient to fund the full amount of county  
38 requests received by December 31 of each year, the contribution to  
39 each county shall be a pro rata share of the amount appropriated to  
40 the Department for contributions under this section, up to the amount  
41 requested by the county."

42  
43 **BRAC SPECIAL FUND**

44           **SECTION 24.3.(a)** Part 1 of Article 14 of Chapter 143B of the General Statutes, as  
45 enacted by Section 24.1 of this act, is amended by adding a new section to read:

46 **"§ 143B-1214. Military Presence Stabilization Fund.**

47 The Military Presence Stabilization Fund is established as a special fund in the Department  
48 of Military and Veterans Affairs. Funds in the Military Presence Stabilization Fund shall be  
49 used to fund actions designed to make the State less vulnerable to closure pursuant to federal  
50 Base Realignment and Closure and related initiatives. The Secretary of Military and Veterans  
51 Affairs may allocate funds in the Fund for this purpose."

1           **SECTION 24.3.(b)** Notwithstanding G.S. 143B-1214, the funds appropriated in  
2 this act to the Military Presence Stabilization Fund for the 2015-2016 fiscal year shall not be  
3 used to provide grants to local communities or military installations and shall only be used for  
4 the following:

- 5           (1) Administrative expenses and reimbursements for members of the  
6 Commission.
- 7           (2) Federal advocacy and lobbying support.
- 8           (3) Updates to strategic planning analysis and strategic plan.
- 9           (4) Economic modeling software and analyses.
- 10          (5) Compatible development mapping (red, yellow, green mapping)
- 11          (6) Public-public/public-private (P4) initiative.
- 12          (7) Identification and implementation of innovated measures to increase the  
13 military value of installations.

14           **SECTION 24.3.(c)** The Department of Military and Veterans Affairs shall report to  
15 the Joint Legislative Oversight Committee on General Government no later than December 1,  
16 2015, on the expenditures from the Military Presence Stabilization Fund.

## 17 18 **PROJECT HEALING WATERS FLY FISHING PROGRAM**

19           **SECTION 24.4.(a)** Notwithstanding any provision of this act to the contrary, of the  
20 funds transferred to the Department of Military and Veterans Affairs as part of the transfer of  
21 central administrative staff and field operations staff from the Department of Administration to  
22 the new Department of Military and Veterans Affairs, the sum of twenty-five thousand dollars  
23 (\$25,000) for the 2015-2016 fiscal year and the sum of twenty-five thousand dollars (\$25,000)  
24 for the 2016-2017 fiscal year shall be used to create a grant-in-aid program to assist veterans  
25 with recreational activities provided through the Project Healing Waters Fly Fishing program.

## 26 27 **PART XXV. OFFICE OF THE STATE AUDITOR**

### 28 29 **STOP FRAUD AND ABUSE OF TAXPAYER DOLLARS**

30           **SECTION 25.1.(a)** G.S. 143-746 reads as rewritten:  
31 "**§ 143-746. Internal auditing required.**

32           ...  
33           (e) Insufficient Personnel. – If a State agency has insufficient personnel to comply with  
34 this section, the Office of State Budget and Management shall provide technical assistance.

35           (f) Reporting Fraudulent Activity. – If an internal audit conducted pursuant to this  
36 section results in a finding that a private person or entity has received public funds as a result of  
37 fraud, misrepresentation, or other deceptive acts or practices while doing business with the  
38 State agency, the internal auditor shall submit a detailed written report of the finding, and any  
39 additional necessary supporting documentation, to the State Purchasing Officer. A report  
40 submitted under this subsection may include a recommendation that the private person or entity  
41 be debarred from doing business with the State or a political subdivision thereof."

42           **SECTION 25.1.(b)** G.S. 147-64.6(c) is amended by adding a new subdivision to  
43 read:

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

- 45           ...  
46           (21) If an audit undertaken by the Auditor results in a finding that a private  
47 person or entity has received public funds as a result of fraud,  
48 misrepresentation, or other deceptive acts or practices while doing business  
49 with the State or a political subdivision thereof, the Auditor shall submit a  
50 detailed written report of the finding, and any additional necessary  
51 supporting documentation, to the State Purchasing Officer or the appropriate

1 political subdivision official, as applicable. A report submitted under this  
2 subsection may include a recommendation that the private person or entity  
3 be debarred from doing business with the State or a political subdivision  
4 thereof."

5 **SECTION 25.1.(c)** This section becomes effective October 1, 2015, and applies to  
6 audits conducted or undertaken on or after that date.

## 7 8 **PART XXV-A. HOUSING FINANCE AGENCY**

### 9 10 **EXPAND COMMUNITY LIVING HOUSING FUND USES**

11 **SECTION 25A.1.** G.S. 122E-3.1 reads as rewritten:

#### 12 **"§ 122E-3.1. Community Living Housing Fund.**

13 ...

14 (c) Use of Funds. – The North Carolina Housing Finance Agency, in consultation with  
15 the Department of Health and Human Services, shall be responsible for administering the  
16 Community Living Housing Fund. The monies in the Fund shall be available for expenditure  
17 only upon an act of appropriation by the General Assembly and only for the following  
18 purposes:

- 19 (1) To provide permanent community-based housing in integrated settings  
20 appropriate for individuals with severe mental illness and severe and  
21 persistent mental illness.
- 22 (2) To support an increase in the number of targeted units for individuals with  
23 disabilities located in housing projects funded by the Housing Finance  
24 Agency from ten percent (10%) to fifteen percent (15%). The additional  
25 targeted units funded shall be made available to the Department of Health  
26 and Human Services for use in the North Carolina Supportive Housing  
27 Program under Article 1B of Chapter 122C of the General Statutes. Priority  
28 for funding of the additional targeted units shall be given to units to be  
29 located in catchment areas identified by the Department of Health and  
30 Human Services, in consultation with the North Carolina Housing Finance  
31 Agency and LMECOs, as having the greatest need for targeted units.
- 32 (3) To provide property rehabilitation.
- 33 (4) To recruit property owners who are willing to rent targeted units to  
34 individuals with disabilities."

### 35 36 **USE S&P SETTLEMENT FUNDS TO SUPPORT WORKFORCE HOUSING LOAN** 37 **PROGRAM**

38 **SECTION 25A.2.** Of the funds received by the State pursuant to the settlement  
39 agreement in *North Carolina ex rel. Cooper v. The McGraw-Hill Companies, Inc., and*  
40 *Standard & Poor's Financial Services LLC*, No. 13CVS 001703, the sum of ten million dollars  
41 (\$10,000,000) shall be used to provide loans under the Workforce Housing Loan Program of  
42 the Housing Finance Agency for the 2015-2016 year, the sum of nine million three hundred  
43 thousand dollars (\$9,300,000) shall be used to provide loans under the Workforce Housing  
44 Loan Program of the Housing Finance Agency for the 2016-2017, and these funds are hereby  
45 appropriated for those purposes.

## 46 47 **PART XXVI. OFFICE OF STATE HUMAN RESOURCES**

### 48 49 **PERSONAL SERVICES CONTRACTS/TEMPORARY SOLUTIONS**

50 **SECTION 26.2.(a)** Article 3 of Chapter 143 of the General Statutes is amended by  
51 adding a new section to read:

1 **"§ 143-48.6. Personal services contracts subject to Article.**

2 (a) Requirement. – Notwithstanding any other provision of law, personal services  
3 contracts for executive branch agencies shall be subject to the same requirements and  
4 procedures as service contracts.

5 (b) Personal Services Contract Defined. – For purposes of this section, the term  
6 "personal services contract" means a contract for services provided by a professional individual  
7 as an independent contractor on a temporary or occasional basis.

8 (c) Rules Required. – The Department of Administration shall adopt rules consistent  
9 with this section."

10 **SECTION 26.2.(b)** Part 4 of Article 14 of Chapter 143B of the General Statutes, as  
11 enacted by this act, is amended by adding a new section to read:

12 **"§ 143B-1334A. Personal services contracts subject to Article.**

13 (a) Requirement. – Notwithstanding any other provision of law, information technology  
14 personal services contracts for executive branch agencies shall be subject to the same  
15 requirements and procedures as information technology service contracts, except as provided in  
16 this section.

17 (b) Certain Approvals Required. – Notwithstanding any provision of law to the  
18 contrary, no information technology personal services contract, nor any contract that provides  
19 personnel to perform information technology functions regardless of the cost of the contract,  
20 may be established or renewed without written approval from the Office of Information  
21 Technology Services and the Office of State Budget and Management. To facilitate compliance  
22 with this requirement, the Office of Information Technology Services shall develop and  
23 document the following:

24 (1) Standards for determining whether it is more appropriate for an agency to  
25 hire an employee or use the services of a vendor.

26 (2) A process to monitor all State agency information technology personal  
27 services contracts, as well as any other State contracts providing personnel to  
28 perform information technology functions.

29 (3) A process for obtaining approval of contractor positions.

30 (c) Creation of State Positions in Certain Cases. – The Office of Information  
31 Technology Services shall review current information technology personal services contracts  
32 on an ongoing basis and determine if each contractor is performing a function that could more  
33 appropriately be performed by a State employee. Where the determination is made that a State  
34 employee should be performing the function, the Office of Information Technology Services  
35 shall work with the impacted agency and the Office of State Personnel to identify or create the  
36 position.

37 (d) Compliance Audits Required. – The Office of Information Technology Services  
38 shall conduct periodic audits of State agencies that are subject to this Article to determine the  
39 degree to which those agencies are complying with the rules and procedures that govern  
40 information technology personal services contracts.

41 (e) Reporting Required. – The Office of Information Technology Services shall report  
42 biennially to the Joint Legislative Oversight Committee on Information Technology and the  
43 Fiscal Research Division on all of the following:

44 (1) Its progress toward standardizing information technology personal services  
45 contracts.

46 (2) The number of information technology service contractors in each State  
47 agency, the cost for each, and the comparable cost, including benefits, of a  
48 State employee serving in that capacity rather than a contractor.

49 (3) The results of the compliance audits conducted pursuant to subsection (d) of  
50 this section.

1       (f) Information Technology Personal Services Contract Defined. – For purposes of this  
2 section, the term "personal services contract" means a contract for services provided by a  
3 professional individual as an independent contractor on a temporary or occasional basis.

4       (g) Rules Required. – The Office of Information Technology Services shall adopt rules  
5 consistent with this section."

6       **SECTION 26.2.(c)** Personal services contracts and information technology  
7 personal services contracts in effect on the effective date of this act shall be allowed to expire  
8 in accordance with the terms of the contract. A personal services contract or an information  
9 technology personal services contract that can be terminated at any time shall be reviewed  
10 within 60 days of the effective date of this act and shall only be continued if the contract  
11 complies with the requirements of G.S. 143-48.6 and G.S. 143B-1334A, as enacted by  
12 subsections (a) and (b) of this section, respectively. A personal services contract or information  
13 technology personal services contract entered into after the effective date of this act shall  
14 comply with the requirements of G.S. 143-48.6 or G.S. 143B-1334A, as applicable.

15       **SECTION 26.2.(d)** G.S. 143-64.70 is repealed. The Office of State Budget and  
16 Management shall notify State agencies of the repeal of G.S. 143-64.70 and about the new  
17 requirements imposed by this act.

18       **SECTION 26.2.(e)** Article 1 of Chapter 126 of the General Statutes is amended by  
19 adding a new section to read:

20 **"§ 126-6.3. Temporary employment needs of State agencies shall be met through the**  
21 **Temporary Solutions Program.**

22       (a) Use of Temporary Solutions Required. – Notwithstanding G.S. 126-5 or any other  
23 provision of law, all State agencies that utilize temporary employees to perform work that is not  
24 information technology-related shall employ them through the Temporary Solutions Program  
25 administered by the Office of State Human Resources. The Director of the Office of State  
26 Human Resources may create exceptions to this requirement when doing so would be in the  
27 best interests of the State in the sole discretion of the Director. An exception shall be invalid  
28 unless it is in writing.

29       (b) Compliance Monitoring. – The Office of State Human Resources shall monitor the  
30 employment of temporary employees by agencies subject to this section and shall report  
31 biannually to the Joint Legislative Commission on Governmental Operations and to the Fiscal  
32 Research Division on agency compliance with this section and policies and rules adopted  
33 pursuant to it.

34       (c) State Agency Defined. – For purposes of this section, "State agency" means a unit  
35 of the executive branch of State government, such as a department, an institution, a division, a  
36 commission, a board, or a council, regardless of whether or not the agency is part of the  
37 Council of State."

38       **SECTION 26.2.(f)** G.S. 126-4 is amended by adding a new subdivision to read:  
39 **"§ 126-4. Powers and duties of State Human Resources Commission.**

40       Subject to the approval of the Governor, the State Human Resources Commission shall  
41 establish policies and rules governing each of the following:

42       ...

43       (19) The implementation of G.S. 126-6.3 in a manner that is consistent across all  
44 affected State agencies."

## 46 **PART XXVII. DEPARTMENT OF ADMINISTRATION**

### 48 **DOA PROVIDE ADMINISTRATIVE SUPPORT TO SEC FREE OF CHARGE**

49       **SECTION 27.1.** G.S. 138A-9 reads as rewritten:

50 **"§ 138A-9. Staff and offices.**



1 (a) The Commission may employ professional and clerical staff, including an executive  
2 director.

3 (b) The Commission shall be located within the Department of Administration for  
4 administrative purposes only, but shall exercise all of its powers, including the power to  
5 employ, direct, and supervise all personnel, independently of the Secretary of Administration,  
6 and is subject to the direction and supervision of the Secretary of Administration only with  
7 respect to the management functions of coordinating and reporting. The Department shall  
8 provide administrative support to the Commission free of charge."

## 10 ALLOW FOR ELECTRONIC ADVERTISEMENT OF LEASE PROPOSALS

11 SECTION 27.2. G.S. 146-25.1 reads as rewritten:

### 12 "§ 146-25.1. Proposals to be secured for leases.

13 (a) If pursuant to G.S. 146-25, the Department of Administration determines that it is in  
14 the best interest of the State to lease or rent land and the rental is estimated to exceed  
15 twenty-five thousand dollars (\$25,000) per year or the term will exceed three years, the  
16 Department shall require the State agency desiring to rent land to prepare and submit for its  
17 approval a set of specifications for its needs. Upon approval of specifications, the Department  
18 shall prepare a public advertisement. ~~The State agency shall place such advertisement in a~~  
19 ~~newspaper of general circulation in the county for proposals from prospective lessors of said~~  
20 ~~land and shall make such other distribution thereof as the Department directs. The~~  
21 ~~advertisement shall be run for at least five consecutive days, and shall provide that proposals~~  
22 ~~shall be received for at least seven days from the date of the last advertisement in the State~~  
23 ~~Property Office of the Department. The provisions of this section do not apply to property~~  
24 ~~owned by governmental agencies and leased to other governmental agencies.~~ advertisement and  
25 shall publish it by one or more of the following methods, as determined by the Department of  
26 Administration:

27 (1) Placement in a newspaper of general circulation in the county. The  
28 advertisement shall be run for at least five consecutive days and shall  
29 provide that proposals shall be received for at least seven days from the date  
30 of the last advertisement in the State Property Office.

31 (2) Through electronic means. If posted on a Web site, the advertisement shall  
32 be accessible for at least five consecutive days and shall provide that  
33 proposals shall be received for at least seven days from the date of the fifth  
34 day in the State Property Office.

35 (3) Through such other methods of distribution as the Department of  
36 Administration directs.

37 ...

38 (d) The provisions of this section do not apply to property owned by governmental  
39 agencies and leased to other governmental agencies."

## 41 STREAMLINE SEIZED VEHICLE DISPOSAL

42 SECTION 27.3.(a) G.S. 20-28.2(a1) is amended by adding a new subdivision to  
43 read:

44 "(a1) Definitions. – As used in this section and in G.S. 20-28.3, 20-28.4, 20-28.5, 20-28.7,  
45 20-28.8, 20-28.9, 20-54.1, and 20-141.5, the following terms mean:

46 ...

47 (9) State Surplus Property Agency. – The Department of Administration."

48 SECTION 27.3.(b) G.S. 20-28.3 reads as rewritten:

49 "§ 20-28.3. **Seizure, impoundment, forfeiture of motor vehicles for offenses involving**  
50 **impaired driving while license revoked or without license and insurance, and**  
51 **for felony speeding to elude arrest.**

1 ...  
2 (d) Custody of Motor Vehicle. – Unless the motor vehicle is towed pursuant to a  
3 statewide or regional contract, or a contract with the county board of education, the seized  
4 motor vehicle shall be towed by a commercial towing company designated by the law  
5 enforcement agency that seized the motor vehicle. Seized motor vehicles not towed pursuant to  
6 a statewide or regional contract or a contract with a county board of education shall be retrieved  
7 from the commercial towing company within a reasonable time, not to exceed 10 business  
8 days, by the county board of education or their agent who must pay towing and storage fees to  
9 the commercial towing company when the motor vehicle is retrieved. If either a statewide or  
10 regional contractor, or the county board of education, chooses to contract for local towing  
11 services, all towing companies on the towing list for each law enforcement agency with  
12 jurisdiction within the county shall be given written notice and an opportunity to submit  
13 proposals prior to a contract for local towing services being awarded. The seized motor vehicle  
14 is under the constructive possession of the county board of education for the county in which  
15 the operator of the vehicle is charged at the time the vehicle is delivered to a location  
16 designated by the county board of education or delivered to its agent pending release or sale, or  
17 in the event a statewide or regional contract is in place, under the constructive possession of the  
18 ~~Department of Public Instruction, State Surplus Property Agency~~ on behalf of the State at the  
19 time the vehicle is delivered to a location designated by the ~~Department of Public Instruction~~  
20 State Surplus Property Agency or delivered to its agent pending release or sale. Absent a  
21 statewide or regional contract that provides otherwise, each county board of education may  
22 elect to have seized motor vehicles stored on property owned or leased by the county board of  
23 education and charge a reasonable fee for storage, not to exceed ten dollars (\$10.00) per  
24 calendar day. In the alternative, the county board of education may contract with a commercial  
25 towing and storage facility or other private entity for the towing, storage, and disposal of seized  
26 motor vehicles, and a storage fee of not more than ten dollars (\$10.00) per calendar day may be  
27 charged. Except for gross negligence or intentional misconduct, neither the State Surplus  
28 Property Agency, the county board of education, ~~or nor~~ any of ~~its~~ their employees, shall ~~not~~ be  
29 liable to the owner or lienholder for damage to or loss of the motor vehicle or its contents, or to  
30 the owner of personal property in a seized vehicle, during the time the motor vehicle is being  
31 towed or stored pursuant to this subsection.

32 ...  
33 (i) Expedited Sale of Seized Motor Vehicles in Certain Cases. – In order to avoid  
34 additional liability for towing and storage costs pending resolution of the criminal proceedings  
35 of the defendant, the State Surplus Property Agency or county board of education may, after  
36 expiration of 90 days from the date of seizure, sell any motor vehicle having a fair market value  
37 of one thousand five hundred dollars (\$1,500) or less. The county board of education may also  
38 sell a motor vehicle, regardless of the fair market value, any time the outstanding towing and  
39 storage costs exceed eighty-five percent (85%) of the fair market value of the vehicle, or with  
40 the consent of all the motor vehicle owners. Any sale conducted pursuant to this subsection  
41 shall be conducted in accordance with the provisions of ~~G.S. 20-28.5(a)~~, G.S. 20-28.5(a) or  
42 G.S. 20-28.5(a1), as applicable, and the proceeds of the sale, after the payment of outstanding  
43 towing and storage costs or reimbursement of towing and storage costs paid by a person other  
44 than the defendant, shall be deposited with the clerk of superior court. If an order of forfeiture  
45 is entered by the court, the court shall order the proceeds held by the clerk to be disbursed as  
46 provided in G.S. 20-28.5(b). If the court determines that the motor vehicle is not subject to  
47 forfeiture, the court shall order the proceeds held by the clerk to be disbursed first to pay the  
48 sale, towing, and storage costs, second to pay outstanding liens on the motor vehicle, and the  
49 balance to be paid to the motor vehicle owners.

50 ...."

51 **SECTION 27.3.(c)** G.S. 20-28.5 reads as rewritten:

**"§ 20-28.5. Forfeiture of impounded motor vehicle or funds.**

(a) ~~Sale.~~ Sale of Vehicle in Possession of County Board of Education. – A motor vehicle in the possession or constructive possession of a county board of education ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or (4), subject to the notice requirements of this subsection, and shall be conducted by the county board of education or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be sold at the address shown by the records of the Division. Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the Division. Notices required to be given under this subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than the towing and storage fees. The county board of education, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf.

(a1) Sale of Vehicle in Possession of the State Surplus Property Agency. – A motor vehicle in the possession or constructive possession of the State Surplus Property Agency ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i) shall be sold at a public sale conducted in accordance with the provisions of Article 3A of Chapter 143 of the General Statutes, subject to the notice requirements of this subsection, and shall be conducted by the State Surplus Property Agency or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be sold at the address shown by the records of the Division. Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the State Surplus Property Agency. Notices required to be given under this subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than the towing and storage fees. The State Surplus Property Agency, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf.

(b) Proceeds of Sale. – Proceeds of any sale conducted under this section, 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 incurred by the State Surplus Property Agency or county board of education and then to satisfy towing and storage costs. The balance of the proceeds of sale, if any, shall be used to satisfy any other existing liens of record that were properly recorded prior to the date of initial seizure of the vehicle. Any remaining balance shall be paid to the county school fund in the county in which the motor vehicle was ordered forfeited. If there is more than one school board in the county, then the net proceeds of sale, after reimbursement to the county board of education of reasonable administrative costs incurred in connection with the forfeiture and sale of the motor vehicle, shall be distributed in the same manner as fines and other forfeitures. The sale of a motor vehicle pursuant to this section shall be deemed to extinguish all existing liens on the motor vehicle and the motor vehicle shall be transferred free and clear of any liens.

...."

**SECTION 27.3.(d)** G.S. 20-28.9 reads as rewritten:

1 "**§ 20-28.9. Authority for the ~~Department of Public Instruction~~ State Surplus Property**  
2 **Agency to administer a statewide or regional towing, storage, and sales**  
3 **program for vehicles forfeited.**

4 (a) The ~~Department of Public Instruction~~ State Surplus Property Agency is authorized  
5 to enter into a contract for a statewide service or contracts for regional services to tow, store,  
6 process, maintain, and sell motor vehicles seized pursuant to G.S. 20-28.3. All motor vehicles  
7 seized under G.S. 20-28.3 shall be subject to contracts entered into pursuant to this section.  
8 Contracts shall be let by the ~~Department of Public Instruction~~ State Surplus Property Agency in  
9 accordance with the provisions of Article 3 of Chapter 143 of the General Statutes. Nothing in  
10 this section shall be construed to prohibit the State Surplus Property Agency from entering into  
11 contracts pursuant to this section for some regions of the State while performing the work of  
12 towing, storing, processing, maintaining, and selling motor vehicles seized pursuant to  
13 G.S. 20-28.3 itself in other regions of the State. All contracts shall ensure the safety of the  
14 motor vehicles while held and any funds arising from the sale of any seized motor vehicle. The  
15 contract shall require the contractor to maintain and make available to the agency a  
16 computerized up-to-date inventory of all motor vehicles held under the contract, together with  
17 an accounting of all accrued charges, the status of the vehicle, and the county school fund to  
18 which the proceeds of sale are to be paid. The contract shall provide that the contractor shall  
19 pay the towing and storage charges owed on a seized vehicle to a commercial towing company  
20 at the time the seized vehicle is obtained from the commercial towing company, with the  
21 contractor being reimbursed this expense when the vehicle is released or sold. The ~~Department~~  
22 State Surplus Property Agency shall not enter into any contract under this section under which  
23 the State will be obligated to pay a deficiency arising from the sale of any forfeited motor  
24 vehicle.

25 (b) The ~~Department, State Surplus Property Agency,~~ through its contractor or  
26 contractors designated in accordance with subsection (a) of this section, may charge a  
27 reasonable fee for storage not to exceed ten dollars (\$10.00) per calendar day for the storage of  
28 seized vehicles pursuant to G.S. 20-28.3.

29 (c) ~~In order to help defray the administrative costs associated with the administration of~~  
30 ~~this section, the Department shall collect a ten dollar (\$10.00) administrative fee from a person~~  
31 ~~to whom a seized vehicle is released at the time the motor vehicle is released and shall collect a~~  
32 ~~ten dollar (\$10.00) administrative fee out of the proceeds of the sale of any forfeited motor~~  
33 ~~vehicle. The funds collected under this subsection shall be paid to the General Fund."~~

34 **SECTION 27.3.(e)** G.S. 143-64.02 is amended by adding two new subdivisions to  
35 read:

36 "**§ 143-64.02. Definitions.**

37 As used in Part 1 of this Article, except where the context clearly requires otherwise:

- 38 (1) "Agency" means an existing department, institution, commission,  
39 committee, board, division, or bureau of the State.
- 40 (2) "Nonprofit tax exempt organizations" means those nonprofit tax exempt  
41 medical institutions, hospitals, clinics, health centers, school systems,  
42 schools, colleges, universities, schools for the mentally retarded, schools for  
43 the physically handicapped, radio and television stations licensed by the  
44 Federal Communications Commission as educational radio or educational  
45 television stations, public libraries, and civil defense organizations, that have  
46 been certified by the Internal Revenue Service as tax-exempt nonprofit  
47 organizations under section 501(c)(3) of the United States Internal Revenue  
48 Code of 1954.
- 49 (3) "Recyclable material" means a recyclable material, as defined in  
50 G.S. 130A-290, that the Secretary of Administration determines, consistent  
51 with G.S. 130A-309.14, to be a recyclable material.

1           (4)    "State owned" means supplies, materials, and equipment in the possession of  
2           the State of North Carolina and purchased with State funds, personal  
3           property donated to the State, or personal property purchased with other  
4           funds that give ownership to the State.

5           (5)    "Surplus property" means personal property that is no longer needed by a  
6           State agency."

7           **SECTION 27.3.(f)** G.S. 143-64.03 reads as rewritten:

8    **"§ 143-64.03. Powers and duties of the State agency for surplus property.**

9           (a)    The State Surplus Property Agency is authorized and directed to:

10           (1)    Sell all State owned supplies, materials, and equipment that are surplus,  
11           obsolete, or ~~unused~~; unused and sell all seized vehicles and other  
12           conveyances that the State Surplus Property Agency is authorized to sell;

13           (2)    Warehouse such property; and

14           (3)    Distribute such property to tax-supported or nonprofit tax-exempt  
15           organizations.

16           (b)    The State Surplus Property Agency is authorized and empowered to act as a  
17           clearinghouse of information for agencies and private nonprofit tax-exempt organizations, to  
18           locate property available for acquisition from State agencies, to ascertain the terms and  
19           conditions under which the property may be obtained, to receive requests from agencies and  
20           private nonprofit tax-exempt organizations, and transmit all available information about the  
21           property, and to aid and assist the agencies and private nonprofit tax-exempt organizations in  
22           transactions for the acquisition of State surplus property.

23           (c)    The State agency for surplus property, in the administration of Part 1 of this Article,  
24           shall cooperate to the fullest extent consistent with the provisions of Part 1 of this Article, with  
25           the departments or agencies of the State.

26           (d)    The State agency for surplus property may sell or otherwise dispose of surplus  
27           property, including motor vehicles, through an electronic auction service."

28           **SECTION 27.3.(g)** G.S. 143-64.05(a) reads as rewritten:

29    **"§ 143-64.05. Service charge; receipts.**

30           (a)    The State agency for surplus property may assess and collect a service charge (i) for  
31           the acquisition, receipt, warehousing, distribution, or transfer of any State surplus ~~property and~~  
32           property; (ii) for the transfer or sale of recyclable ~~material~~—material; and (iii) for the towing,  
33           storing, processing, maintaining, and selling of motor vehicles seized pursuant to G.S. 20-28.3.  
34           The service charge authorized by this subsection does not apply to the transfer or sale of timber  
35           on land owned by the Wildlife Resources Commission or the Department of Agriculture and  
36           Consumer Services."  
37

## 38    **DOROTHEA DIX MEMORIAL**

39           **SECTION 27.4.** The Department of Administration, in consultation with the  
40           Department of Cultural Resources, shall appoint a task force to acquire historical documents,  
41           photographs, and memorabilia relating to Dorothea Lynde Dix, mental health efforts in the  
42           State, and the Dorothea Dix Hospital. The Department shall propose options to preserve a  
43           building or provide a space on the Dorothea Dix campus for the purpose of permanently  
44           exhibiting the acquired historical materials for the purposes of (i) memorializing and honoring  
45           the unique history of Dorothea Dix Hospital and the story of Dorothea Dix and (ii) educating  
46           the public about her advocacy for and innovations in the proper treatment of the mentally ill.  
47           The Department shall submit a report of its proposed options to the Joint Legislative Oversight  
48           Committee on Health and Human Services by April 1, 2016.  
49

## 50    **VEHICLES ASSIGNED TO SECTION OF COMMUNITY CORRECTION/EXEMPT** 51    **FROM MINIMUM MILEAGE REQUIREMENT**

1           **SECTION 27.6.(a)** Exemption. – For the 2015-2017 fiscal biennium and  
2 notwithstanding any law, rule, or regulation to the contrary, motor vehicles assigned from the  
3 central motor fleet established under G.S. 143-341 to the Section of Community Corrections of  
4 the Division of Adult Correction of the Department of Public Safety are exempt from any  
5 requirement that the motor vehicle be driven a minimum number of miles per month or quarter.

6           **SECTION 27.6.(b)** Report on Exemption. – The Department of Administration  
7 shall provide an interim report to the Joint Legislative Oversight Committee on General  
8 Government and the Joint Legislative Oversight Committee on Justice and Public Safety by  
9 March 1, 2016, and a final report to the Joint Legislative Oversight Committee on General  
10 Government and the Joint Legislative Oversight Committee on Justice and Public Safety by  
11 January 1, 2017. Each report shall include all of the following information:

- 12           (1) The number of motor vehicles assigned to the Section of Community  
13           Corrections of the Division of Adult Correction of the Department of Public  
14           Safety.
- 15           (2) The average miles per month the assigned motor vehicles were driven.
- 16           (3) The average costs per month for maintenance and motor fuel for the  
17           assigned motor vehicles.
- 18           (4) The number of months in which an assigned motor vehicle was not driven at  
19           all.

20           **SECTION 27.6.(c)** Report on Vehicles Managed. – Beginning on October 1, 2015,  
21 and quarterly thereafter, the Department of Administration shall provide a report to the Joint  
22 Legislative Oversight Committee on General Government and the Joint Legislative Oversight  
23 Committee on Justice and Public Safety on the status of all motor vehicles managed by the  
24 Department of Administration for the Department of Public Safety. The report shall include all  
25 of the following information:

- 26           (1) The number of motor vehicles managed by the Department of  
27           Administration for the Department of Public Safety.
- 28           (2) The condition of each motor vehicle, including the mileage on each motor  
29           vehicle.
- 30           (3) The average amount of time taken to repair or replace a motor vehicle.
- 31           (4) The number and condition of any backup motor vehicles managed by the  
32           Department of Administration and available for use by the Department of  
33           Public Safety, including the location and condition of each motor vehicle.

## 34 **ELIMINATE NC HUMAN RELATIONS COMMISSION**

35           **SECTION 27.7.(a)** The following are repealed:

- 36           (1) Part 9 of Article 9 of Chapter 143B of the General Statutes.
- 37           (2) G.S. 99D-1(b1), 143-157.1(d)(14), and 143-422.3.
- 38           (3) Chapter 41A of the General Statutes.

39           **SECTION 27.7.(b)** Notwithstanding any other provision of law, the Department of  
40 Justice shall assume and resolve all pending complaints filed with the North Carolina Human  
41 Relations Commission and shall be allowed to substitute for the North Carolina Human  
42 Relations Commission in any pending proceeding in the courts of this State.

43           **SECTION 27.7.(c)** This section does not affect the rights or liabilities of the State,  
44 a complainant, or another party arising under a statute repealed by this section before the  
45 effective date of its amendment or repeal, and the statutes that would be applicable but for this  
46 act remain applicable to those parties.

47           **SECTION 27.7.(d)** The North Carolina Human Relations Commission shall refer  
48 any complaints received after the enactment of this act to the Office of Fair Housing and Equal  
49 Opportunity with the United States Department of Housing and Urban Development if the  
50 Commission determines the complaint is unlikely to be resolved prior to July 1, 2016.  
51

1           **SECTION 27.7.(e)** Subsections (d) and (e) of this section are effective when this  
2 act becomes law. The remainder of this section becomes effective July 1, 2016.

#### 3 4 **ELIMINATE LICENSE TO GIVE TRUST FUND COMMISSION**

5           **SECTION 27.8.(a)** Subsection (c) of Section 5 of S.L. 2004-189, as amended by  
6 subsection (q) of Section 44.1 of S.L. 2005-276, reads as rewritten:

7           "**SECTION 5.(c)** The Division of Motor Vehicles shall retain a ~~portion of five cents~~  
8 (\$0.05) collected for the issuance of each drivers license and duplicate license to offset the  
9 actual cost of developing and maintaining the online Organ Donor Internet site established  
10 pursuant to Section 1 of this act. ~~The remainder of the five cents (\$0.05) shall be credited to the~~  
11 ~~License to Give Trust Fund established under G.S. 20-7.4 and shall be used for the purposes~~  
12 ~~authorized under G.S. 20-7.4 and G.S. 20-7.5."~~

13           **SECTION 27.8.(b)** G.S. 20-7.4 through G.S. 20-7.6 are repealed.

14           **SECTION 27.8.(c)** Prior to the effective date of subsection (b) of this section, the  
15 License to Give Trust Fund Commission shall expend all funds in the License to Give Trust  
16 Fund for the purposes set forth in G.S. 20-7.4. Any unencumbered State funds remaining in the  
17 License to Give Trust Fund after the effective date of subsection (b) of this section shall be  
18 transferred to the Highway Fund.

19           **SECTION 27.8.(d)** Subsections (a), (c), and (d) of this section are effective when  
20 this act becomes law. The remainder of this section becomes effective October 1, 2015.

#### 21 22 **PART XXVII-A. OFFICE OF THE STATE CONTROLLER**

##### 23 24 **OVERPAYMENTS AUDIT**

25           **SECTION 27A.1.(a)** During the 2015-2017 fiscal biennium, receipts generated by  
26 the collection of inadvertent overpayments by State agencies to vendors as a result of pricing  
27 errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds,  
28 erroneously paid excise taxes, and related errors are to be deposited in Special Reserve Account  
29 24172 as required by G.S. 147-86.22(c).

30           **SECTION 27A.1.(b)** For each year of the 2015-2017 fiscal biennium, five hundred  
31 thousand dollars (\$500,000) of the funds in the Special Reserve Account 24172 shall be used  
32 by the Office of the State Controller for data processing, debt collection, or e-commerce costs  
33 and are hereby appropriated for that purpose.

34           **SECTION 27A.1.(c)** All funds available in Special Reserve Account 24172 on  
35 June 30 of each year of the 2015-2017 fiscal biennium shall revert to the General Fund on that  
36 date.

37           **SECTION 27A.1.(d)** The State Controller shall report quarterly to the Joint  
38 Legislative Commission on Governmental Operations and the Fiscal Research Division on the  
39 revenue deposited into Special Reserve Account 24172 and the disbursement of that revenue.

#### 40 41 **PART XXVIII. DEPARTMENT OF REVENUE**

##### 42 43 **MODIFY COLLECTION ASSISTANCE FEE RULES**

44           **SECTION 28.2.** G.S. 105-243.1(e) reads as rewritten:

45           "(e) Use. – The fee is a receipt of the Department and must be applied to the costs of  
46 collecting overdue tax debts. The proceeds of the fee must be credited to a special account  
47 within the Department and may be expended only as provided in this subsection. The proceeds  
48 of the fee may not be used for any purpose that is not directly and primarily related to  
49 collecting overdue tax debts. The Department may apply the proceeds of the fee for the  
50 purposes listed in this subsection. The remaining proceeds of the fee may be spent only  
51 pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain

1 in the special account until spent for the costs of collecting overdue tax debts. The Department  
 2 and the Office of State Budget and Management must account for all expenditures using  
 3 accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts  
 4 from costs allocable to other purposes and must demonstrate that none of the fee proceeds are  
 5 used for any purpose other than collecting overdue tax debts.

6 The Department may apply the fee proceeds for the following purposes:

7 ...

- 8 (4) To pay for postage or other delivery charges for correspondence directly and  
 9 primarily relating to collecting overdue tax debts, not to exceed ~~five hundred~~  
 10 ~~thousand dollars (\$500,000)~~ one million dollars (\$1,000,000) a year.

11 ...."

## 12 STATE AGENCY/ENHANCED DEBT COLLECTION

13 **SECTION 28.3.** Article 1 of Chapter 105A of the General Statutes reads as  
 14 rewritten:

### 15 "Chapter 105A.

### 16 "Setoff Debt Collection Act.

#### 17 "Article 1.

#### 18 "In General.

### 19 "§ 105A-1. Purposes.

20 The purpose of this Chapter is to establish as policy that all claimant agencies and the  
 21 Department of Revenue shall cooperate in identifying debtors who owe money to the State or  
 22 to a local government through their various agencies and who qualify for refunds from the  
 23 Department of Revenue. It is also the intent of this Chapter that procedures be established for  
 24 setting off against any refund the sum of any debt owed to the State or to a local government.  
 25 Furthermore, it is the legislative intent that this Chapter be liberally construed so as to  
 26 effectuate these purposes as far as legally and practically possible.

### 27 "§ 105A-2. Definitions.

28 The following definitions apply in this Chapter:

- 29 (1) Claimant agency. – Either of the following:  
 30 a. A State agency.  
 31 b. A local agency acting through a clearinghouse or an organization  
 32 pursuant to G.S. 105A-3(b1).  
 33 c. A federal agency.  
 34 (2) Debt. – Any of the following, except as limited in sub-subdivision (f.) of this  
 35 subdivision:  
 36 a. A sum owed to a claimant agency that has accrued through contract,  
 37 subrogation, tort, operation of law, or any other legal theory  
 38 regardless of whether there is an outstanding judgment for the sum.  
 39 b. A sum a claimant agency is authorized or required by law to collect,  
 40 such as child support payments collectible under Title IV, Part D of  
 41 the Social Security Act.  
 42 c. A sum owed as a result of an intentional program violation or a  
 43 violation due to inadvertent household error under the Food and  
 44 Nutrition Services Program enabled by Part 5 of Article 2 of Chapter  
 45 108A of the General Statutes.  
 46 d. Reserved for future codification purposes.  
 47 e. A sum owed as a result of having obtained public assistance  
 48 payments under any of the following programs through an intentional  
 49 false statement, intentional misrepresentation, intentional failure to  
 50 disclose a material fact, or inadvertent household error:  
 51



- 1                   1.       The Work First Program provided in Article 2 of Chapter  
2                               108A of the General Statutes.
- 3                   2.       The State-County Special Assistance Program enabled by  
4                               Part 3 of Article 2 of Chapter 108A of the General Statutes.
- 5                   3.       A successor program of one of these programs.
- 6                   f.       For any school of medicine, clinical program, facility, or practice  
7                               affiliated with one of the constituent institutions of The University of  
8                               North Carolina that provides medical care to the general public and  
9                               for The University of North Carolina Health Care System and other  
10                              persons or entities affiliated with or under the control of The  
11                              University of North Carolina Health Care System, the term "debt" is  
12                              limited to the sum owed to one of these entities by law or by contract  
13                              following adjudication of a claim resulting from an individual's  
14                              receipt of hospital or medical services at a time when the individual  
15                              was covered by commercial insurance, Medicaid, Health Choice,  
16                              Medicare, Medicare Advantage, a Medicare supplement plan, or any  
17                              other government insurance.
- 18                   g.       A sum owed to the United States government or its federal agencies.
- 19                   (3)     Debtor. – A person who owes a debt.
- 20                   (4)     Department. – The Department of Revenue.
- 21                   (5)     Federal official. – A unit or official of the federal government charged with  
22                              the collection of nontax debts payable to the federal government pursuant to  
23                              31 U.S.C. § 3716.
- 24                   (6)     Local agency. – Any of the following:
- 25                              a.       A county, to the extent it is not considered a State agency.
- 26                              b.       A municipality.
- 27                              c.       A water and sewer authority created under Article 1 of Chapter 162A  
28                              of the General Statutes.
- 29                              d.       A regional joint agency created by interlocal agreement under Article  
30                              20 of Chapter 160A of the General Statutes between two or more  
31                              counties, cities, or both.
- 32                              e.       A public health authority created under Part 1B of Article 2 of  
33                              Chapter 130A of the General Statutes or other authorizing legislation.
- 34                              f.       A metropolitan sewerage district created under Article 5 of Chapter  
35                              162A of the General Statutes.
- 36                              g.       A sanitary district created under Part 2 of Article 2 of Chapter 130A  
37                              of the General Statutes.
- 38                              h.       A housing authority created under Chapter 157 of the General  
39                              Statutes, provided that the debt owed to a housing authority has been  
40                              reduced to a final judgment in favor of the housing authority.
- 41                              i.       A regional solid waste management authority created under Article  
42                              22 of Chapter 153A of the General Statutes.
- 43                   (7)     Net proceeds collected. – Gross proceeds collected through setoff against a  
44                              debtor's refund or nontax payment minus the collection assistance fees  
45                              provided in G.S. 105A-13.
- 46                   (7a)   Nontax payment. – A payment, including an expense reimbursement, made  
47                              by the State to a person. The term does not include a person's salary, wages,  
48                              or pension or a refund.
- 49                   (7b)   Person. – Defined in G.S. 105-228.90.
- 50                   (8)     Refund. – A debtor's North Carolina tax refund.
- 51                   (9)     State agency. – Any of the following:

- 1 a. A unit of the executive, legislative, or judicial branch of State
- 2 government.
- 3 b. A local agency, to the extent it administers a program supervised by
- 4 the Department of Health and Human Services or it operates a Child
- 5 Support Enforcement Program, enabled by Chapter 110, Article 9,
- 6 and Title IV, Part D of the Social Security Act.
- 7 c. A community college.

8 **"§ 105A-3. Remedy additional; mandatory State usage; optional local usage; obtaining**  
9 **identifying information; registration.**

10 (a) Remedy Additional. – The collection remedy under this Chapter is in addition to  
11 and not in substitution for any other remedy available by law.

12 (b) Mandatory State Usage. – A State agency must submit a debt owed to it for  
13 collection under this Chapter unless the State Controller has waived this requirement or the  
14 State agency has determined that the validity of the debt is legitimately in dispute, an  
15 alternative means of collection is pending and believed to be adequate, or such a collection  
16 attempt would result in a loss of federal funds. The State Controller may waive the requirement  
17 for a State agency, other than the Department of Health and Human Services or a county acting  
18 on behalf of that Department, to submit a debt owed to it for collection under this Chapter if the  
19 State Controller finds that collection by this means would not be practical or cost effective. A  
20 waiver may apply to all debts owed a State agency or a type of debt owed a State agency.

21 (b1) Optional Local Usage. – A local agency may submit a debt owed to it for collection  
22 under this Chapter. A local agency that decides to submit a debt owed to it for collection under  
23 this Chapter must establish the debt by following the procedure set in G.S. 105A-5 and must  
24 submit the debt through one of the following:

- 25 (1) A clearinghouse that is established pursuant to an interlocal agreement
- 26 adopted under Article 20 of Chapter 160A of the General Statutes and has
- 27 agreed to submit debts on behalf of any requesting local agency.
- 28 (2) The North Carolina League of Municipalities.
- 29 (3) The North Carolina Association of County Commissioners.

30 (c) Identifying Information. – All claimant agencies shall whenever possible obtain the  
31 full name, social security number or federal identification number, address, and any other  
32 identifying information required by the Department from any person for whom the agencies  
33 provide any service or transact any business and who the claimant agencies can foresee may  
34 become a debtor under this Chapter.

35 (d) Registration and Reports. – A State agency must register with the Department and  
36 with the State Controller. Every State agency must report annually to the State Controller the  
37 amount of debts owed to the agency for which the agency did not submit a claim for setoff and  
38 the reason for not submitting the claim.

39 A clearinghouse or an organization that submits debts on behalf of a local agency must  
40 register with the Department. Once a clearinghouse registers with the Department under this  
41 subsection, no other clearinghouse may register to submit debts for collection under this  
42 Chapter.

43 **"§ 105A-4. Minimum debt and ~~refund~~ refund or nontax payment.**

44 This Chapter applies only to a debt that is at least fifty dollars (\$50.00) and to a refund or  
45 nontax payment that is at least this same amount.

46 **"§ 105A-5. Local agency notice, hearing, and decision.**

47 (a) Prerequisite. – A local agency may not submit a debt for collection under this  
48 Chapter until it has given the notice required by this section and the claim has been finally  
49 determined as provided in this section.

50 (b) Notice. – A local agency must send written notice to a debtor that the agency  
51 intends to submit the debt owed by the debtor for collection by setoff. The notice must explain

1 the basis for the agency's claim to the debt, that the agency intends to apply the debtor's refund  
2 or nontax payment against the debt, and that a collection assistance fee ~~of fifteen dollars~~  
3 ~~(\$15.00)~~ provided in G.S. 105A-13 will be added to the debt if it is submitted for setoff. The  
4 notice must also inform the debtor that the debtor has the right to contest the matter by filing a  
5 request for a hearing with the local agency, must state the time limits and procedure for  
6 requesting the hearing, and must state that failure to request a hearing within the required time  
7 will result in setoff of the debt.

8 (c) Administrative Review. – A debtor who decides to contest a proposed setoff must  
9 file a written request for a hearing with the local agency within 30 days after the date the local  
10 agency mails a notice of the proposed action to the debtor. A request for a hearing is considered  
11 to be filed when it is delivered for mailing with postage prepaid and properly addressed. The  
12 governing body of the local agency or a person designated by the governing body must hold the  
13 hearing.

14 If the debtor disagrees with the decision of the governing body or the person designated by  
15 the governing body, the debtor may file a petition for a contested case under Article 3 of  
16 Chapter 150B of the General Statutes. The petition must be filed within 30 days after the debtor  
17 receives a copy of the local decision. Notwithstanding the provisions of G.S. 105-241.21, a  
18 local agency is considered an agency for purposes of contested cases and appeals under this  
19 Chapter.

20 In a hearing under this section, an issue that has previously been litigated in a court  
21 proceeding cannot be considered.

22 (d) Decision. – A decision made after a hearing under this section must determine  
23 whether a debt is owed to the local agency and the amount of the debt.

24 (e) Return of Amount Set Off. – If a local agency submits a debt for collection under  
25 this Chapter without sending the notice required by subsection (b) of this section, the agency  
26 must send the taxpayer the entire amount set off plus the collection assistance fees provided in  
27 G.S. 105A-13. Similarly, if a local agency submits a debt for collection under this Chapter after  
28 sending the required notice but before final determination of the debt and a decision finds that  
29 the local agency is not entitled to any part of the amount set off, the agency must send the  
30 taxpayer the entire amount set off plus the collection assistance fees provided in G.S. 105A-13.  
31 That portion of the amount returned that reflects the collection assistance fees must be paid  
32 from the local agency's funds.

33 If a local agency submits a debt for collection under this Chapter after sending the required  
34 notice and the net proceeds collected that are credited to the local agency for the debt exceed  
35 the amount of the debt, the local agency must send the balance to the debtor. No part of the  
36 collection assistance fees provided in G.S. 105A-13 may be returned when a notice was sent  
37 and a debt is owed but the debt is less than the amount set off.

38 Interest accrues on the amount of a refund returned to a taxpayer under this subsection in  
39 accordance with G.S. 105-241.21. A local agency that returns a refund to a taxpayer under this  
40 subsection must pay from the local agency's funds any interest that has accrued since the fifth  
41 day after the Department mailed the notice of setoff to the taxpayer.

42 **"§ 105A-6. Procedure Department to follow in making setoff.**

43 (a) Notice to Department. – A claimant agency seeking to attempt collection of a debt  
44 through setoff must notify the Department in writing and supply information necessary to  
45 identify the debtor whose refund or nontax payment is sought to be set off. The claimant  
46 agency may include with the notification the date, if any, that the debt is expected to expire.  
47 The agency must notify the Department in writing when a debt has been paid or is no longer  
48 owed the agency.

49 (b) Setoff by Department. – The Department, upon receipt of notification, must  
50 determine each year whether the debtor to the claimant agency is entitled to a refund ~~of or~~  
51 nontax payment and whether the amount is at least fifty dollars ~~(\$50.00) from the Department.~~

1 (\$50.00). Upon determination by the Department that a debtor specified by a claimant agency  
2 qualifies for such a ~~refund~~, refund or nontax payment, the Department must set off the debt  
3 against the refund or nontax payment to which the debtor would otherwise be entitled and must  
4 refund any remaining balance to the debtor. The Department must mail the debtor written  
5 notice that the setoff has occurred and must credit the net proceeds collected to the claimant  
6 agency. If the claimant agency is a State agency, that agency must credit the amount received to  
7 a nonreverting trust account and must follow the procedure set in G.S. 105A-8.

8 **"§ 105A-6.1. State Reciprocal Offset Program.**

9 (a) Agreement. – The Department is authorized to enter into an agreement with the  
10 Secretary of the Treasury to participate in the State Reciprocal Offset Program pursuant to 31  
11 U.S.C. § 3716 for the collection of any debts owed to the State or to State agencies from federal  
12 payments to vendors, contractors, and taxpayers. The agreement may provide for the United  
13 States to submit nontax debts owed to federal agencies for offset against State payments  
14 otherwise due and owing to taxpayers, vendors, and contractors providing goods or services to  
15 the State, its departments, agencies, or institutions.

16 (b) Federal Certification. – Pursuant to the agreement authorized in subsection (a) of  
17 this section, a federal official may certify to the Department the existence of a person's  
18 delinquent, nontax debt owed by the person to the federal government. To accept the  
19 certification provided by the federal official, the certification must include the name of the  
20 person, the person's Social Security number or federal tax identification number, and the  
21 amount of the person's nontax debt and may include any other information pursuant to the  
22 agreement authorized herein.

23 (c) Offset. – Upon receiving a federal certification complying with subsection (b) of  
24 this section and a request by the federal official that the Department withhold a refund or  
25 nontax payment, the following provisions, as required or permitted by State law, federal law, or  
26 the offset agreement, apply:

27 (1) The Department may determine if a person for whom the federal  
28 certification is received is due a refund or nontax payment.

29 (2) If the person for whom the federal certification is received is due a refund or  
30 nontax payment, the Department shall (i) withhold the refund or nontax  
31 payment due, (ii) notify the person of the amount withheld in the manner  
32 required by the offset agreement, and (iii) remit to the federal official the  
33 lesser of the entire amount of the refund or nontax payment or the amount  
34 certified.

35 (3) If the amount certified is less than the refund or nontax payment, the  
36 Department shall pay the excess to the person less the collection assistance  
37 fee provided in G.S. 105A-13.

38 (d) State Certification. – As permitted by State law, federal law, and the offset  
39 agreement, the Department may certify to a federal official a person's delinquent debt owed to  
40 the State by providing the federal official the name of the person, the person's Social Security  
41 number or tax identification number, the amount of the debt due the State, and any other  
42 information required by the offset agreement. The Department may request that the federal  
43 official withhold any federal vendor or other federal payment pursuant to the offset agreement  
44 to which the person is entitled.

45 (e) Proceeds Retention. – The retention of a portion of the proceeds of any federal  
46 administrative setoff pursuant to 31 C.F.R. § 285.6 does not affect the provisions of this  
47 section.

48 ...

49 **"§ 105A-8. State agency notice, hearing, decision, and refund of setoff.**

50 (a) Notice. – Within 10 days after a State agency receives a refund or nontax payment  
51 of a debtor, the agency must send the debtor written notice that the agency has received the

1 ~~debtor's refund.~~ refund or nontax payment. The notice must explain the debt that is the basis for  
2 the agency's claim to the debtor's refund or nontax payment and that the agency intends to  
3 apply the refund or nontax payment against the debt. The notice must also inform the debtor  
4 that the debtor has the right to contest the matter by filing a request for a hearing, must state the  
5 time limits and procedure for requesting the hearing, and must state that failure to request a  
6 hearing within the required time will result in setoff of the debt. A State agency that does not  
7 send a debtor a notice within the time required by this subsection must refund the amount set  
8 off plus the collection assistance fee, in accordance with subsection (d) of this section.

9 (b) Hearing. – A hearing on a contested claim of a State agency, except a constituent  
10 institution of The University of North Carolina or the Division of Employment Security, must  
11 be conducted in accordance with Article 3 of Chapter 150B of the General Statutes. A hearing  
12 on a contested claim of a constituent institution of The University of North Carolina must be  
13 conducted in accordance with administrative procedures approved by the Attorney General. A  
14 hearing on a contested claim of the Division of Employment Security must be conducted in  
15 accordance with rules adopted by that Division. A request for a hearing on a contested claim of  
16 any State agency must be filed within 30 days after the State agency mails the debtor notice of  
17 the proposed setoff. A request for a hearing is considered to be filed when it is delivered for  
18 mailing with postage prepaid and properly addressed. In a hearing under this section, an issue  
19 that has previously been litigated in a court proceeding cannot be considered.

20 (c) Decision. – A decision made after a hearing under this section must determine  
21 whether a debt is owed to the State agency and the amount of the debt.

22 (d) Return of Amount Set Off. – If a State agency fails to send the notice required by  
23 subsection (a) of this section within the required time or a decision finds that a State agency is  
24 not entitled to any part of an amount set off, the agency must send the taxpayer the entire  
25 amount set off plus the collection assistance fee retained by the Department. That portion of the  
26 amount returned that reflects the collection assistance fee must be paid from the State agency's  
27 funds.

28 If a debtor owes a debt to a State agency and the net proceeds credited to the State agency  
29 for the debt exceed the amount of the debt, the State agency must send the balance to the  
30 debtor. No part of the collection assistance fee retained by the Department may be returned  
31 when a debt is owed but it is less than the amount set off.

32 Interest accrues on the amount of a refund returned to a taxpayer under this subsection in  
33 accordance with G.S. 105-241.21. A State agency that returns a refund to a taxpayer under this  
34 subsection must pay from the State agency's funds any interest that has accrued since the fifth  
35 day after the Department mailed the notice of setoff to the taxpayer.

#### 36 **"§ 105A-9. Appeals from hearings.**

37 Appeals from hearings allowed under this Chapter, other than those conducted by the  
38 Division of Employment Security, shall be in accordance with the provisions of Chapter 150B  
39 of the General Statutes, the Administrative Procedure Act, except that the place of initial  
40 judicial review shall be the superior court for the county in which the debtor resides. Appeals  
41 from hearings allowed under this Chapter that are conducted by the Division of Employment  
42 Security shall be in accordance with the provisions of Chapter 96 of the General Statutes.

43 ...

#### 44 **"§ 105A-12. Priorities in claims to setoff.**

45 The Department has priority over all other claimant agencies for collection by setoff  
46 whenever it is a competing agency for a ~~refund.~~ refund or nontax payment. State agencies have  
47 priority over federal or local agencies for collection by setoff. When there are multiple claims  
48 by State agencies other than the Department, the claims have priority based on the date each  
49 agency registered with the Department under G.S. 105A-3. When there are multiple claims by  
50 two or more organizations submitting debts on behalf of federal or local agencies, the claims  
51 have priority based on the date each organization registered with the Department under

1 G.S. 105A-3. When there are multiple claims among federal or local agencies whose debts are  
2 submitted by the same organization, the claims have priority based on the date each federal or  
3 local agency requested the organization to submit debts on its behalf.

4 **"§ 105A-13. Collection assistance fees.**

5 (a) State Setoff. – ~~To~~ Except as provided in subsection (b1) of this section, to recover  
6 the costs incurred by the Department in collecting debts under this Chapter, a collection  
7 assistance fee of five dollars (\$5.00) is imposed on each debt collected through setoff. The  
8 Department must collect this fee as part of the debt and retain it. The collection assistance fee  
9 shall not be added to child support debts or collected as part of child support debts. Instead, the  
10 Department shall retain from collections under Division II of Article 4 of Chapter 105 of the  
11 General Statutes the cost of collecting child support debts under this Chapter.

12 (b) Repealed by Session Laws 2001-380, s. 3, effective November 1, 2001.

13 (b1) Federal Debts. – To recover the costs incurred by the Department in collecting debts  
14 on behalf of a federal agency under this Chapter, a collection assistance fee equal to the fee  
15 charged by the federal government for similar debt collection efforts is imposed on each debt  
16 collected through setoff. The Department must collect this fee as part of the debt and retain it.

17 (c) Local Debts. – To recover the costs incurred by local agencies in submitting debts  
18 for collection under this Chapter, a local collection assistance fee of fifteen dollars (\$15.00) is  
19 imposed on each local agency debt submitted under G.S. 105A-3(b1) and collected through  
20 setoff. The Department must collect this fee as part of the debt and remit it to the clearinghouse  
21 that submitted the debt. The local collection assistance fee does not apply to child support  
22 debts.

23 (d) Priority. – If the Department is able to collect only part of a debt through setoff, the  
24 collection assistance fee provided in subsection (a) of this section has priority over the local  
25 collection assistance fee and over the remainder of the debt. The local collection assistance fee  
26 has priority over the remainder of the debt.

27 **"§ 105A-14. Accounting to the claimant agency; credit to debtor's obligation.**

28 (a) Simultaneously with the transmittal of the net proceeds collected to a claimant  
29 agency, the Department must provide the agency with an accounting of the setoffs for which  
30 payment is being made. The accounting must whenever possible include the full names of the  
31 debtors, the debtors' social security numbers or federal identification numbers, the gross  
32 proceeds collected per setoff, the net proceeds collected per setoff, and the collection assistance  
33 fee added to the debt and collected per setoff.

34 (b) Upon receipt by a claimant agency of net proceeds collected on the claimant  
35 agency's behalf by the Department, a final determination of the claim if it is a State agency  
36 claim, and an accounting of the proceeds as specified under this section, the claimant agency  
37 must credit the debtor's obligation with the net proceeds collected.

38 **"§ 105A-15. Confidentiality exemption; nondisclosure.**

39 (a) Notwithstanding G.S. 105-259 or any other provision of law prohibiting disclosure  
40 by the Department of the contents of taxpayer records or information and notwithstanding any  
41 confidentiality statute of any claimant agency, the exchange of any information among the  
42 Department, the claimant agency, the organization submitting debts on behalf of a local agency,  
43 and the debtor necessary to implement this Chapter is lawful.

44 (b) The information a claimant agency or an organization submitting debts on behalf of  
45 a local agency obtains from the Department in accordance with the exemption allowed by  
46 subsection (a) may be used by the agency or organization only in the pursuit of its debt  
47 collection duties and practices and may not be disclosed except as provided in G.S. 105-259,  
48 153A-148.1, or 160A-208.1.

49 **"§ 105A-16. Rules.**

50 The Secretary of Revenue may adopt rules to implement this Chapter. The State Controller  
51 may adopt rules to implement this Chapter."

**PART XXIX. DEPARTMENT OF TRANSPORTATION****CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATION**

**SECTION 29.1.(a)** The General Assembly authorizes and certifies anticipated revenues for the Highway Fund as follows:

For Fiscal Year 2017-2018	\$1,960.9 million
For Fiscal Year 2018-2019	\$1,995.5 million
For Fiscal Year 2019-2020	\$2,031.0 million
For Fiscal Year 2020-2021	\$2,059.3 million

**SECTION 29.1.(b)** The General Assembly authorizes and certifies anticipated revenues for the Highway Trust Fund as follows:

For Fiscal Year 2017-2018	\$1,365.7 million
For Fiscal Year 2018-2019	\$1,389.0 million
For Fiscal Year 2019-2020	\$1,417.6 million
For Fiscal Year 2020-2021	\$1,445.9 million

**SECTION 29.1.(c)** The Department of Transportation, in collaboration with the Office of State Budget and Management, shall develop a four-year revenue forecast. The first fiscal year in the four-year forecast shall be the 2021-2022 fiscal year. The four-year revenue forecast developed under this subsection shall be used (i) to develop the four-year cash flow estimates included in the biennial budgets, (ii) to develop the Strategic Transportation Improvement Program, and (iii) by the Department of the State Treasurer to compute transportation debt capacity.

**SMALL CONSTRUCTION, CONTINGENCY, AND ECONOMIC DEVELOPMENT FUNDS**

**SECTION 29.2.(a)** Of the funds appropriated in this act to the Department of Transportation:

- (1) Two million five hundred thousand dollars (\$2,500,000) in nonrecurring funds shall be allocated in each fiscal year of the biennium for small construction projects recommended by the Chief Engineer in consultation with the Chief Operating Officer and approved by the Secretary of Transportation. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for small construction projects.
- (2) Twelve million dollars (\$12,000,000) shall be allocated statewide in each fiscal year of the biennium for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be approved by the Secretary of Transportation.

**SECTION 29.2.(b)** The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to construction. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

**SECTION 29.2.(c)** The funds appropriated in this act to the Economic Development fund shall be used for prioritized transportation improvements and infrastructure that expedite commercial growth as well as either job creation or job retention. Projects funded under this subsection shall be jointly approved by the Secretary of Transportation and the Secretary of Commerce in accordance with the guidelines and procedures developed under

1 subsection (c) of Section 34.7 of S.L. 2013-360, as amended by Section 34.29 of S.L.  
2 2014-100.

### 4 REPAIRS AND RENOVATIONS

5 **SECTION 29.2A.** There is appropriated from the Highway Fund to the Department  
6 of Transportation for the 2015-2017 fiscal biennium the following amounts for repairs and  
7 renovations:

9 Repairs and Renovations – Highway Fund	2015-2016	2016-2017
10 High-Rise Code Compliance Renovations	\$957,000	\$957,000
11 Roof Repairs & Replacements – Statewide	3,450,000	3,450,000
12 Chilled Water Piping and Insulation Replacement	612,700	612,700
13 TBC: Annex Building Window Replacement	0	724,000
14 DOT Elevator Modernization	0	251,000
15 DMV Field Facilities – Window Replacement		
16 Statewide	0	341,000
17 Rowan County Renovation and Addition	0	630,000
18		
19		
20		
21		
22		
23		
24		
25		
26 <b>TOTAL REPAIRS AND RENOVATIONS –</b>		
27 <b>HIGHWAY FUND</b>	<b>\$5,019,700</b>	<b>\$6,965,700</b>

### 29 REQUIRE COUNTY OR MUNICIPALITY TO PAY COSTS ASSOCIATED WITH 30 REQUESTED PROJECT IMPROVEMENTS

31 **SECTION 29.5.(a)** G.S. 136-66.3(e) reads as rewritten:

32 "(e) Authorization to Participate in Project Additions. – Pursuant to an agreement with  
33 the Department of Transportation, a county or municipality ~~may~~ shall reimburse the  
34 Department of Transportation for the cost of all ~~improvements~~, improvements requested by the  
35 county or municipality, including additional right-of-way, for a street, highway improvement  
36 projects, or other transportation system improvements approved by the Board of Transportation  
37 under G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of  
38 Transportation would normally include in the project. Requests for safety enhancements or  
39 increases to mobility shall not be considered improvements subject to the requirement of this  
40 subsection unless the increase or enhancement is in excess of the standard required by law."

41 **SECTION 29.5.(b)** This section is effective when it becomes law and applies to  
42 agreements entered into on or after that date.

### 44 BOARD OF TRANSPORTATION/OUT-OF-STATE TRAVEL

45 **SECTION 29.5A.** Expenditures for out-of-State travel by the Board of  
46 Transportation for the 2015-2016 fiscal year and each subsequent fiscal year shall not exceed  
47 twenty-five thousand dollars (\$25,000).

### 49 DEPARTMENT OF TRANSPORTATION OUT-OF-STATE TRAVEL

50 **SECTION 29.7.** Section 34.5 of S.L. 2014-100 reads as rewritten:



1 "SECTION 34.5. Expenditures for out-of-state travel by the Department of Transportation  
2 for the 2014-2015 fiscal year and ~~all each~~ subsequent fiscal ~~years-year~~ shall not exceed the  
3 amount expended during the 2009-2010 fiscal year. For purposes of this section, "expenditures  
4 for out-of-state travel" includes transportation, conference, registration, and education  
5 expenses, lodging, and meals for Department of Transportation employees traveling outside of  
6 the ~~State-State~~, but does not include expenditures charged to federal projects."  
7

#### 8 DOT/OUTSIDE COUNSEL

9 SECTION 29.8.(a) Section 34.27 of S.L. 2013-360, as amended by Section  
10 34.24(a) of S.L. 2014-100, is repealed.

11 SECTION 29.8.(b) Subsections (b), (c), and (e) of Section 34.24 of S.L. 2014-100  
12 are repealed.

13 SECTION 29.8.(c) G.S. 136-103.1 is repealed.

14 SECTION 29.8.(d) Article 2 of Chapter 136 of the General Statutes is amended by  
15 adding a new section to read:

#### 16 "§ 136-18.03. Outside counsel.

17 (a) Intent. – It is the intent of the General Assembly that the Department of  
18 Transportation exercise the authority granted by this section to maximize operational and  
19 project delivery benefits attributed to the avoidance or successful defense of litigation.

20 (b) Authorization. – The Department of Transportation may engage the services of  
21 private counsel with the pertinent expertise to provide legal services related to any project  
22 undertaken by the Department. The Department shall supervise and manage the private counsel  
23 engaged under this section and, excluding legal services related to workers' compensation  
24 claims brought by Department employees, shall not be required to obtain written permission or  
25 approval from the Attorney General under G.S. 114-2.3.

26 (c) Performance Metrics. – The Department shall develop performance metrics to  
27 evaluate its utilization of in-house counsel and private counsel, to include the following:

28 (1) A summary of new matters opened by legal area.

29 (2) Case cycle times.

30 (3) Resolution of cases.

31 (4) A comparison of in-house costs to billable rates for private counsel.

32 (5) The process for procurement for legal services.

33 (d) Report. – The Department shall provide a semiannual report to the Joint Legislative  
34 Transportation Oversight Committee and the Joint Legislative Justice and Public Safety  
35 Oversight Committee on the performance metrics set forth in subsection (c) of this section."  
36

#### 37 RIGHT-OF-WAY ACQUISITIONS/REDUCE REMNANT PROPERTY

38 SECTION 29.9.(a) Plan. – The Department of Administration, in collaboration  
39 with the Department of Transportation, shall develop a plan to reduce the amount of remnant  
40 property resulting from the acquisition of rights-of-way. The plan shall include a method or  
41 methods for disseminating information to contiguous or adjoining landowners and other  
42 members of the general public about (i) remnant property eligible for sale or other disposition  
43 and (ii) the process for placing a bid or offer on the remnant property, including posting the  
44 information required under this subdivision on the Web sites for both Departments.

45 SECTION 29.9.(b) Report. – The Departments shall jointly report to the Joint  
46 Legislative Transportation Oversight Committee by February 1, 2016, on the development of  
47 the plan required under this section. The report shall include all of the following:

48 (1) An identification of all remnant property eligible for sale or other  
49 disposition.

50 (2) An identification of the amount and types of costs incurred by the State from  
51 retaining remnant property.

- 1 (3) An identification of the estimated fair market value, as determined by the  
2 Department of Administration, for each remnant property eligible for sale or  
3 other disposition.  
4 (4) An identification of any legal issues that may prohibit, or arise from, the sale  
5 or other disposition of other remnant property, if any.  
6 (5) Any other matters or information the Departments jointly deem relevant to  
7 the development of the plan.

8 **SECTION 29.9.(c)** Implementation. – The Department of Administration shall  
9 implement the plan required under this section by July 1, 2016.

10 **SECTION 29.9.(d)** This section is effective when this act becomes law.  
11

## 12 **ROADSIDE ENVIRONMENTAL UNIT/LITTER PROGRAM**

13 **SECTION 29.9A.** The Department of Transportation shall reclassify two vacant  
14 positions within the Division of Highways as Office Assistant IV positions within the Roadside  
15 Environmental Unit, and the duties of the positions shall include managing the litter program.  
16 The Department shall transfer from the highway maintenance units to the Roadside  
17 Environmental Unit all functions and funding related to the litter program and lawn mowing.  
18

## 19 **EXTEND SUNSET/MINORITY-OWNED AND WOMEN-OWNED BUSINESSES IN** 20 **TRANSPORTATION CONTRACTS**

21 **SECTION 29.9B.** G.S. 136-28.4(e) reads as rewritten:

22 "(e) This section expires August 31, ~~2015~~2017."  
23

## 24 **VARIOUS REPORTING CHANGES**

25 **SECTION 29.12.(a)** G.S. 136-89.183(a)(5) reads as rewritten:

26 "(5) To fix, revise, charge, retain, enforce, and collect tolls and fees for the use of  
27 the Turnpike Projects. ~~Prior~~Thirty days prior to the effective date of any toll  
28 or fee for use of a Turnpike Facility, the Authority shall submit a description  
29 of the proposed toll or fee to the Board of Transportation, the Joint  
30 Legislative Transportation Oversight Committee and the Joint Legislative  
31 Commission on Governmental Operations for review."  
32

33 **SECTION 29.12.(b)** G.S. 143B-350(f)(4) reads as rewritten:

34 "(4) To approve a schedule of all major transportation improvement projects and  
35 their anticipated cost. This schedule is designated the Transportation  
36 Improvement Program. The Board shall publish the schedule in a format that  
37 is easily reproducible for distribution and make copies available for  
38 distribution.distribution in accordance with the process established for  
39 public records in Chapter 132 of the General Statutes. The document that  
40 contains the Transportation Improvement Program, or a separate document  
41 that is published at the same time as the Transportation Improvement  
42 Program, shall include the anticipated funding sources for the improvement  
43 projects included in the ~~Program,~~Program and a list of any changes made  
44 from the previous year's Program, and the reasons for the changes."  
45

46 **SECTION 29.12.(c)** G.S. 136-44.8(a1) reads as rewritten:

47 "(a1) In each county having unpaved roads programmed for paving, representatives of the  
48 Department of Transportation shall annually provide to the board of county commissioners in  
49 those counties a list of roads proposed for the annual paving program approved by the Board of  
50 Transportation. The paving priority list shall include the priority rating of each secondary road  
51 paving project included in the proposed paving program according to the criteria and standards  
52 adopted by the Board of Transportation. In addition to the list required under this subsection,  
53 the Department of Transportation shall annually provide to the board of county commissioners

1 a summary of unpaved secondary road projects completed in the particular county for the prior  
2 calendar year, including an indication as to which projects were not completed on schedule and  
3 a detailed explanation as to why the projects were not completed on schedule."

4 **SECTION 29.12.(d)** G.S. 136-44.9 is repealed.

5 **SECTION 29.12.(e)** G.S. 136-28.6(h) reads as rewritten:

6 "(h) The Secretary shall report in writing, on a ~~quarterly~~ an annual basis, to the Joint  
7 Legislative ~~Commission on Governmental Operations~~ Transportation Oversight Committee on  
8 all agreements entered into between a private developer and the Department of Transportation  
9 for participation in private engineering and construction contracts under this section, as well as  
10 (i) agreements by counties and municipalities to participate in private engineering and  
11 construction contracts under subsection (i) of this section and (ii) pass-through funding from  
12 private developers to counties or municipalities for State transportation projects. The  
13 information in the report required by this subsection shall be set forth separately for each  
14 division of the Department of Transportation."

15 **SECTION 29.12.(f)** G.S. 136-66.3(f) reads as rewritten:

16 "(f) Report to General Assembly. – The Department shall report in writing, on a  
17 ~~monthly~~ an annual basis, to the Joint Legislative ~~Commission on Governmental Operations~~  
18 Transportation Oversight Committee on all agreements entered into between counties,  
19 municipalities and the Department of Transportation. The report shall state in summary form  
20 the contents of ~~such~~ the agreements. The information in the report required by this subsection  
21 shall be set forth separately for each division of the Department of Transportation."

22 **SECTION 29.12.(g)** G.S. 136-28.10(c) reads as rewritten:

23 "(c) The Secretary of Transportation shall report ~~quarterly~~ annually to the Joint  
24 Legislative Transportation Oversight Committee on the implementation of this section. The  
25 information in the report required by this subsection shall be set forth separately for each  
26 division of the Department of Transportation."

27 **SECTION 29.12.(h)** G.S. 143B-350 is amended by adding a new subsection to  
28 read:

29 "(p) Reports. – Notwithstanding any other provision of law, any report required to be  
30 submitted by the Board to the General Assembly or a committee thereof is due by the 15th day  
31 of the month that the report is due."

## 32 **OUTSOURCING OF PRECONSTRUCTION ACTIVITY**

33 **SECTION 29.13.(a)** Section 34.13(a) of S.L. 2014-100 reads as rewritten:

34 **"SECTION 34.13.(a)** The Department of Transportation shall seek to increase the use of  
35 contracts to further privatize preconstruction work where practical, economical, and likely to  
36 lead to increased efficiency. In doing so, the Department of Transportation shall meet each of  
37 the following privatization requirements:

- 38 (1) Increase the outsourcing of all activities performed by the Department's  
39 Preconstruction and Technical Services units to seventy percent (70%) of the  
40 total cost of activities performed by those units in fiscal year ~~2014-2015,~~  
41 2015-2016, excluding the cost of activities performed by the Turnpike  
42 Authority, the Structures Design and Management unit, and the Bridge  
43 Program.
- 44 (2) Increase the outsourcing of all activities performed by the Department's  
45 Roadway Design unit to fifty percent (50%) of the total cost of activities  
46 performed by that unit in fiscal year ~~2014-2015,~~  
47 2015-2016.
- 48 (3) Increase the outsourcing of all activities performed by the Department's  
49 Project Development and Environmental Analysis unit to sixty-five percent  
50 (65%) of the total cost of activities performed by that unit in fiscal year  
51 ~~2014-2015,~~  
2015-2016.

(4) ~~The~~ Based on the total expenditures for outsourced activity in fiscal year 2013-2014, the Department's Right-of-Way unit shall increase the total expenditures for outsourced activity by five percent (5%) in fiscal year ~~2014-2015.~~2015-2016."

**SECTION 29.13.(b)** Section 34.13(d) of S.L. 2014-100 reads as rewritten:

"**SECTION 34.13.(d)** The Department shall report no later than October 1, ~~2014,~~2015, and quarterly thereafter, to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division regarding its implementation of this section, including any reductions in force used to meet privatization requirements."

## RECLASSIFY FUNDING SOURCE FOR CERTAIN POSITIONS

**SECTION 29.14.** No later than May 1, 2016, the Department of Transportation, in consultation with the Fiscal Research Division and the Office of State Budget and Management, shall reclassify to appropriation the funding source for all full-time positions that are budgeted as receipt-supported on the basis of charging to projects and shall adjust budgeted funds accordingly. Employees in the Division of Highways shall be attributed to the respective Highway Division fund codes within the Highway Fund. Notwithstanding any other provision of law, the Department of Transportation is authorized to reallocate sufficient funds from the Primary Maintenance, Secondary Maintenance, and General Maintenance Reserve fund codes to each Highway Division to pay for salary and related costs associated with the reclassified positions. Receipt-supported positions in other organizational units within the Department of Transportation shall be funded through existing fund codes and funding sources for their assigned organizational units.

## DOT/STREAMLINING AND REORGANIZATION

**SECTION 29.14A.(a)** Intent. – It is the intent of the General Assembly to reduce costs and increase efficiencies within the Department of Transportation. To achieve this intent, the General Assembly finds that the elimination and reorganization of certain positions, units, and programs is necessary.

**SECTION 29.14A.(b)** Position Eliminations. – In accordance with G.S. 126-7.1, but by no later than 60 days after the effective date of this section, the Department of Transportation shall eliminate the following positions:

<u>Position number</u>	<u>Title</u>
60026819	Processing Assistant III
60026963	Technical Support Analyst
60026961	Technical Support Analyst
60026964	Engineering Technician
60026962	Technology Support Analyst
60015475	Engineering Technician
60027682	Processing Assistant V
60024002	Management Engineer III
60029011	Engineer
60029012	Architect Supervisor
60029019	Engineering Technician
60015784	Engineer
60015785	Environmental Specialist
60018852	Marine Welder
60024003	Technology Support Analyst
60024034	Administrative Officer II
60024046	Radio Communications Engineer
60024055	Technical Trainer II

1	60024057	Technical Trainer II
2	60024058	Technical Trainer II
3	60024072	Radio Engineer I
4	60024011	Information Processing Technician
5	60024012	Information Processing Technician
6	60024041	Information Processing Technician
7	60024068	Administrative Assistant III
8	60027194	Engineer
9	60026559	Engineer
10	60026603	Engineer
11	60026472	Engineer
12	60026509	Engineer
13	60026843	Engineering Supervisor
14	60027171	Engineering Manager
15	60029468	Engineer
16	60029009	Engineering Technician
17	60029014	Engineering Technician
18	60029015	Engineering Supervisor
19	60029018	Engineering Technician
20	60025908	Engineering Supervisor
21	60025855	Engineer
22	60025937	Engineering Supervisor
23	60025980	Engineer
24	60025919	Engineering Technician
25	60026010	Engineer
26	60025859	Engineer
27	60025846	Engineer
28	60026005	Engineering Supervisor
29	60026015	Engineer
30	60025862	Engineer
31	60025999	Engineer
32	60025877	Engineer
33	60025945	Engineering Supervisor
34	60026805	Engineering Technician
35	60026944	Engineering Technician
36	60025069	Engineering Manager
37	60027023	Engineering Director
38	60027025	Engineer

39 **SECTION 29.14A.(c)** Vacant Positions. – The Office of State Budget and  
40 Management shall eliminate all vacant positions within units or programs of the Department of  
41 Transportation in which all filled positions have been eliminated.

42 **SECTION 29.14A.(d)** Reorganization and Consolidation. – Notwithstanding any  
43 other provision of law, the Department of Transportation may, when it deems necessary for  
44 purposes of eliminating redundancies and achieving efficiencies, reorganize or consolidate any  
45 unit or program within the Department of Transportation in which a filled position has been  
46 eliminated under this section.

47 **SECTION 29.14A.(e)** Plan for Future Position Elimination and Reorganization. –  
48 It is the intent of the General Assembly for the 2016-2017 fiscal year to reduce the number of  
49 administrative, managerial, supervisory, and oversight functions centrally or regionally based  
50 in offices of the Department of Transportation and shift decision making on project  
51 development to the highway divisions. To achieve this intent, the Department of Transportation

1 shall submit a plan to eliminate at least ten percent (10%) of the total amount of filled positions  
2 that are centrally or regionally based as of June 30, 2015, and that perform administrative,  
3 managerial, supervisory, or oversight functions. In addition, the plan shall describe the  
4 functions performed at the centrally and regionally based offices, including justification as to  
5 why each function cannot be outsourced, consolidated, or shifted to the highway divisions. The  
6 Department of Transportation shall submit the plan required under this subsection to the chairs  
7 of the Senate Appropriations Committee on the Department of Transportation and the House of  
8 Representatives Committee on Transportation Appropriations and the Joint Legislative  
9 Transportation Oversight Committee by January 1, 2016.

10 **SECTION 29.14A.(f)** Effective Date. – This section is effective when it becomes  
11 law.

#### 12 **STUDY/TURNPIKE AUTHORITY PROCESSING FEE**

13 **SECTION 29.15.(a)** Study. – The Department of Transportation shall study  
14 whether the amount of the processing fee set forth in G.S. 136-89.215 is in excess of the actual  
15 cost to collect and process unpaid open road tolls. The following information, set forth  
16 separately for each calendar year since the fee's enactment, shall be included within the study:

- 17 (1) The amount of the processing fee.
- 18 (2) The total amount of proceeds generated by the imposition of the processing  
19 fee.
- 20 (3) The total amount of costs incurred by the Turnpike Authority to collect and  
21 process unpaid open road tolls and a description of how the Department  
22 determined the total amount of costs incurred.
- 23 (4) An identification of whether the processing fees collected exceeded,  
24 equaled, or fell short of the costs incurred by the Turnpike Authority for  
25 collecting and processing unpaid open road tolls.

26 **SECTION 29.15.(b)** Report. – The Department shall report its findings to the Joint  
27 Legislative Transportation Oversight Committee by March 1, 2016.

#### 28 **ADJUST CAP ON TURNPIKE PROJECTS**

29 **SECTION 29.15A.** G.S. 136-89.183(a)(2) reads as rewritten:

##### 30 **"§ 136-89.183. Powers of the Authority.**

31 (a) The Authority shall have all of the powers necessary to execute the provisions of  
32 this Article, including the following:

- 33 ...
- 34 (2) To study, plan, develop, and undertake preliminary design work on ~~up to~~  
35 ~~nine~~ Turnpike Projects. At the conclusion of these activities, the Turnpike  
36 Authority is authorized to design, establish, purchase, construct, operate, and  
37 maintain no more than eleven projects, which shall include the following  
38 ~~projects:~~following:

39 a. Triangle Expressway, including segments also known as N.C. 540,  
40 Triangle Parkway, and the Western Wake Freeway in Wake and  
41 Durham Counties. The described segments constitute ~~three~~  
42 projects:one project.

43 b. Repealed by Session Laws 2013-183, s. 5.1, effective July 1, 2013.

44 c. Monroe Connector/Bypass.

45 d., e. Repealed by Session Laws 2013-183, s. 5.1, effective July 1, 2013.

46 f. Repealed by Session Laws 2008-225, s. 4, effective August 17, 2008.

47 Any other project proposed by the Authority in addition to the projects listed  
48 in this subdivision requires prior consultation with the Joint Legislative  
49 Commission on Governmental Operations pursuant to G.S. 120-76.1 no less  
50  
51

1 than 180 days prior to initiating the process required by Article 7 of Chapter  
2 159 of the General Statutes.

3 With the exception of the ~~four~~ two projects set forth in sub-subdivisions a.  
4 and c. of this subdivision, the Turnpike projects selected for construction by  
5 the Turnpike Authority, prior to the letting of a contract for the project, shall  
6 meet the following conditions: (i) two of the projects must be ranked in the  
7 top 35 based on total score on the Department-produced list entitled  
8 "Mobility Fund Project Scores" dated June 6, 2012, and, in addition, may be  
9 subject to G.S. 136-18(39a); (ii) of the projects not ranked as provided in (i),  
10 one may be subject to G.S. 136-18(39a); (iii) the projects shall be included  
11 in any applicable locally adopted comprehensive transportation plans; (iv)  
12 the projects shall be shown in the current State Transportation Improvement  
13 Program; and (v) toll projects must be approved by all affected Metropolitan  
14 Planning Organizations and Rural Transportation Planning Organizations for  
15 tolling."  
16

## 17 USE OF FUNDS FOR PAVEMENT PRESERVATION PROGRAM

18 SECTION 29.17.(a) G.S. 136-44.17 reads as rewritten:

### 19 "§ 136-44.17. Pavement preservation program.

20 ...

21 (b) Eligible Activities or Treatments. – Applications eligible for funding under the  
22 pavement preservation program include the following preservation activities or treatments for  
23 asphalt pavement structures:

- 24 (1) Chip seals, slurry seals, fog seals, sand seals, scrub seals, and cape seals.
- 25 (2) Microsurfacing.
- 26 (3) Profile milling not covered by resurfacing.
- 27 (4) Asphalt rejuvenators.
- 28 (5) Open graded asphalt friction course.
- 29 (6) Overlays less than 1,000 feet in length.
- 30 (7) Diamond grinding.
- 31 (8) Joint sealing.
- 32 (9) Dowel bar retrofit.
- 33 (10) Partial-depth or full-depth repairs and reclamations.
- 34 (11) Ultra-thin whitetopping.
- 35 (12) Thin lift and sand asphalt overlays.
- 36 (13) Asphalt crack sealing.

37 (c) Ineligible Activities or Treatments. – The pavement preservation program shall not  
38 include the following preservation activities or treatments:

- 39 (1) Contract resurfacing activities or major pavement rehabilitation treatments  
40 and pretreatments that are used in combination with a resurfacing treatment,  
41 such as profile milling or chip seals.
- 42 (2) Routine maintenance activities used to maintain and preserve the condition  
43 of roads. Treatments include, but are not limited to, ~~asphalt crack sealing,~~  
44 pothole patching, rut filling, cleaning of roadside ditches and structures,  
45 shoulder maintenance, and retracing of pavement markings.
- 46 (3) Maintenance and preservation activities performed on bridges or culverts.
- 47 (4) Activities related to positive guidance or signal maintenance program  
48 functions.

49 (d) Encumbrance Schedule. – Beginning in the 2015-2016 fiscal year, the Department  
50 of Transportation shall spend or encumber all funds appropriated by the General Assembly to

1 the Department for the pavement preservation program by June 30 of the fiscal year for which  
2 the funds were appropriated."

3 **SECTION 29.17.(b)** Subsection (k) of Section 34.11 of S.L. 2014-100 is repealed.

4 **SECTION 29.17.(c)** Subdivision (3) of subsection (l) of Section 34.11 of S.L.  
5 2014-100 reads as rewritten:

6 "(3) The statewide cost per lane mile (hereafter "unit cost") along with unit cost  
7 for each division and for each type of treatment. The Department shall  
8 provide an explanation for unit costs that vary by more than ~~twenty percent~~  
9 (20%)ten percent (10%) from the statewide unit cost."

10 **SECTION 29.17.(d)** Subsection (c) of this section is effective when this act  
11 becomes law and applies to reports submitted on or after that date.

## 12 **FUNDS FOR CONTRACT RESURFACING**

13 **SECTION 29.17C.(a)** Subsection (e) of Section 34.11 of S.L. 2014-100 is  
14 repealed.

15 **SECTION 29.17C.(b)** G.S. 136-44.3A reads as rewritten:

16 **"§ 136-44.3A. Highway Maintenance Improvement Program.**

17 ...

18 ~~(d) Contract Maintenance Resurfacing Program Letting Schedule.—Beginning in the~~  
19 ~~2015-2016 fiscal year, and based on the amount of funds appropriated in the prior fiscal year by~~  
20 ~~the General Assembly to the Department for the contract maintenance resurfacing program, the~~  
21 ~~Department shall let contracts that total at least seventy percent (70%) of contract resurfacing~~  
22 ~~program funds included in the certified budget annually by September 1.~~

23 (d1) Encumbrance Schedule. – Beginning in the 2015-2016 fiscal year, the Department  
24 of Transportation shall spend or encumber all funds appropriated by the General Assembly to  
25 the Department for the contract maintenance resurfacing program by June 30 of the fiscal year  
26 for which the funds were appropriated.

27 ...."

## 28 **STABILIZATION OF FUNDING FOR STATE AID TO MUNICIPALITIES**

29 **SECTION 29.17D.** G.S. 136-41.1(a) reads as rewritten:

30 "(a) ~~There is annually appropriated out of the State Highway Fund a sum equal to ten~~  
31 ~~and four tenths percent (10.4%) of the net amount after refunds that was produced during the~~  
32 ~~fiscal year by the tax imposed under Article 36C of Chapter 105 of the General Statutes and on~~  
33 ~~the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. One half~~  
34 ~~Upon appropriation of funds by the General Assembly to the Department of Transportation for~~  
35 ~~State aid to municipalities, one-half of the amount appropriated shall be allocated in cash on or~~  
36 ~~before October 1 of each year to the cities and towns of the State in accordance with this~~  
37 ~~section. The second one-half of the amount appropriated shall be allocated in cash on or before~~  
38 ~~January 1 of each year to the cities and towns of the State in accordance with this section. The~~  
39 ~~appropriation from the Highway Fund shall be based on revenue collected during the fiscal year~~  
40 ~~preceding the date the distribution is made.~~

41 Seventy-five percent (75%) of the funds appropriated for cities and towns shall be  
42 distributed among the several eligible municipalities of the State in the percentage proportion  
43 that the population of each eligible municipality bears to the total population of all eligible  
44 municipalities according to the most recent annual estimates of population as certified to the  
45 Secretary of Revenue by the State Budget Officer. This annual estimation of population shall  
46 include increases in the population within the municipalities caused by annexations  
47 accomplished through July 1 of the calendar year in which these funds are distributed.  
48 Twenty-five percent (25%) of said fund shall be distributed among the several eligible  
49 municipalities of the State in the percentage proportion that the mileage of public streets in  
50  
51



1 each eligible municipality which does not form a part of the State highway system bears to the  
2 total mileage of the public streets in all eligible municipalities which do not constitute a part of  
3 the State highway system.

4 It shall be the duty of the mayor of each municipality to report to the Department of  
5 Transportation such information as it may request for its guidance in determining the eligibility  
6 of each municipality to receive funds under this section and in determining the amount of  
7 allocation to which each is entitled. Upon failure of any municipality to make such report  
8 within the time prescribed by the Department of Transportation, the Department of  
9 Transportation may disregard such defaulting unit in making said allotment.

10 The funds to be allocated under this section shall be paid in cash to the various eligible  
11 municipalities on or before October 1 and January 1 of each year as provided in this section.  
12 Provided that eligible municipalities are authorized within the discretion of their governing  
13 bodies to enter into contracts for the purpose of maintenance, repair, construction,  
14 reconstruction, widening, or improving streets of such municipalities at any time after January  
15 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount  
16 received by such municipality during the preceding fiscal year, in anticipation of the receipt of  
17 funds under this section during the next fiscal year, to be paid for out of such funds when  
18 received.

19 The Department of Transportation may withhold each year an amount not to exceed one  
20 percent (1%) of the total amount appropriated for distribution under this section for the purpose  
21 of correcting errors in allocations: Provided, that the amount so withheld and not used for  
22 correcting errors will be carried over and added to the amount to be allocated for the following  
23 year.

24 The word "street" as used in this section is hereby defined as any public road maintained by  
25 a municipality and open to use by the general public, and having an average width of not less  
26 than 16 feet. In order to obtain the necessary information to distribute the funds herein  
27 allocated, the Department of Transportation may require that each municipality eligible to  
28 receive funds under this section submit to it a statement, certified by a registered engineer or  
29 surveyor of the total number of miles of streets in such municipality. The Department of  
30 Transportation may in its discretion require the certification of mileage on a biennial basis."  
31

## 32 **STUDY/IMPROVING SAFETY ON SECONDARY ROADS**

33 **SECTION 29.17E.(a)** Study. – The Department of Transportation shall study ways  
34 to improve safety and decrease the number of traffic accidents and fatalities occurring on  
35 secondary roads. The study shall include all of the following:

- 36 (1) An identification of the secondary roads with the highest number of traffic  
37 accidents and fatalities.
- 38 (2) An identification of the most common causes listed for traffic accidents and  
39 fatalities occurring on secondary roads.
- 40 (3) Any other matters or information the Department deems relevant to the  
41 completion of the study.

42 **SECTION 29.17E.(b)** Report. – The Department shall report its findings and  
43 recommendations, including any legislative proposals, to the Joint Legislative Transportation  
44 Oversight Committee by February 1, 2016.  
45

## 46 **RELOCATION COSTS/SALE OF VISITOR CENTER IN BOONE, NC**

47 **SECTION 29.17F.** If the visitor center located in the Town of Boone is sold or  
48 otherwise disposed of during the 2015-2017 fiscal biennium, there is appropriated from the  
49 Special Registration Plate Account the sum of fifty thousand dollars (\$50,000) in nonrecurring  
50 funds to the North Carolina High Country Host, Inc., for the purpose of covering costs incurred  
51 from renovating or upfitting the relocated visitor center. These funds shall be in addition to any

1 other funds the North Carolina High Country Host, Inc., may receive under G.S. 20-79.7 for the  
2 operation of a visitor center.

#### 3 4 **REPORT/USE OF COAL COMBUSTION RESIDUALS**

5 **SECTION 29.18.** Report. – By January 15, 2016, the Utilities Commission shall  
6 submit a report to the Joint Legislative Commission on Governmental Operations, the Joint  
7 Legislative Transportation Oversight Committee, and the Environmental Review Commission  
8 on the incremental cost incentives related to coal combustion residuals surface impoundments  
9 for investor-owned public utilities. The report shall include all of the following:

- 10 (1) The Utilities Commission policy on allowed incremental cost recoupment.
- 11 (2) The impact on utility customers' rates under the current policy on allowed  
12 incremental cost recoupment.
- 13 (3) Possible revisions to the current policy on allowed incremental cost  
14 recoupment that would promote reprocessing and other technologies that  
15 allow the reuse of coal combustion residuals stored in surface impoundments  
16 for concrete and other beneficial end uses.

#### 17 18 **RAIL DIVISION/STUDY ESTABLISHING COMMERCIAL FREIGHT RAIL** 19 **SERVICE IN JACKSONVILLE**

20 **SECTION 29.21.(a)** Study. – The Rail Division of the Department of  
21 Transportation, in collaboration with the Camp Lejeune Marine Corps Air Base, the  
22 Jacksonville Urban Area Metropolitan Planning Organization, the City of Jacksonville, Onslow  
23 County, and the Norfolk Southern Railway Company, shall study the feasibility and  
24 advisability of establishing a commercial freight rail service along the Camp Lejeune rail line  
25 located in Onslow County, North Carolina. The study shall include all of the following:

- 26 (1) An evaluation of the maintenance needs of the existing rail line and any  
27 enhancements needed to support commercial freight access.
- 28 (2) An evaluation of the use of partnership opportunities to complete long-term  
29 maintenance and enhancements in order to minimize the cost burden for all  
30 parties involved.
- 31 (3) Any other matters that the Rail Division deems relevant to the study.

32 **SECTION 29.21.(b)** Report. – The Rail Division shall report its findings to the  
33 Chairs of the Senate Appropriations Committee on the Department of Transportation and the  
34 House of Representatives Committee on Transportation Appropriations by July 1, 2016.

#### 35 36 **PASSENGER RAIL RECEIPT-GENERATING ACTIVITIES**

37 **SECTION 29.22.(a)** G.S. 136-18 is amended by adding a new subdivision to read:

38 "(44a) Where the Department owns or leases the passenger rail facility, owns or  
39 leases the rail equipment, or holds leasehold or license rights for the purpose  
40 of operating passenger stations, the Department may operate or contract for  
41 the following receipt-generating activities and use the proceeds to fund  
42 passenger rail operations:

- 43 a. Where the Department owns the passenger rail facility or owns or  
44 leases the rail equipment, operation of concessions on State-funded  
45 passenger trains and at passenger rail facilities to provide to  
46 passengers food, drink, and other refreshments, personal comfort  
47 items, Internet access, and souvenirs publicizing the passenger rail  
48 system.
- 49 b. Where the Department holds leasehold or license rights for the  
50 purpose of operating passenger stations, operation of concessions at  
51 rail passenger facilities to provide food, drink, and other

1 refreshments, personal comfort items, Internet access, and souvenirs  
2 publicizing the passenger rail system, in accordance with the terms of  
3 the leasehold or license.

4 c. Advertising on or within the Department's passenger rail equipment  
5 or facility, including display advertising and advertising delivered to  
6 passengers through the use of video monitors, public address systems  
7 installed in passenger areas, and other electronic media.

8 d. The sale of naming rights to Department-owned passenger rail  
9 equipment or facilities."

10 **SECTION 29.22.(b)** G.S. 66-58(c)(21) reads as rewritten:

11 "(21) Any activity conducted or contracted for by the Department of  
12 Transportation that is authorized by G.S. 136-18(44a) or G.S. 136-82(f)."  
13

## 14 **FREIGHT RAIL & RAIL CROSSING SAFETY IMPROVEMENT FUND USES**

15 **SECTION 29.23.** G.S. 124-5.1 reads as rewritten:

### 16 **"§ 124-5.1. North Carolina Railroad Company dividends deposited to Highway Fund.**

17 Any dividends of the North Carolina Railroad Company received by the State shall be  
18 deposited into the Freight Rail & Rail Crossing Safety Improvement Fund within the Highway  
19 Fund and administered by the Rail Division of the Department of Transportation. The Fund  
20 shall be used for the enhancement of freight rail service and railroad-roadway crossing safety,  
21 which may include the following project types:

22 (1) Track and associated infrastructure improvements for freight service.

23 (2) Grade crossing protection, elimination, and hazard removal.

24 (3) Signalization improvements.

25 (4) Assistance for projects to improve rail access to industrial, port, and military  
26 facilities and for freight intermodal facility improvements, provided that  
27 funding assistance under this subdivision shall be subject to the same limits  
28 as that for short-line railroads under G.S. 136-44.39.

29 (5) Corridor protection and reactivation.

30 The Fund may also be used to supplement funds allocated for freight rail or  
31 railroad-roadway crossing safety projects approved as part of the Transportation Improvement  
32 Program."  
33

## 34 **USE OF PROCEEDS GENERATED FROM SHIPYARD**

35 **SECTION 29.23A.** G.S. 136-82 reads as rewritten:

### 36 **"§ 136-82. Department of Transportation to establish and maintain ferries.**

37 ...

38 (d) Use of Toll Proceeds. – The Department of Transportation shall credit the proceeds  
39 from tolls collected on North Carolina Ferry System routes and certain receipts generated under  
40 subsection (f) of this section to reserve accounts within the Highway Fund for each of the  
41 Highway Divisions in which system terminals are located and fares are earned. For the  
42 purposes of this subsection, fares are earned based on the terminals from which a passenger trip  
43 originates and terminates. Commuter pass receipts shall be credited proportionately to each  
44 reserve account based on the distribution of trips originating and terminating in each Highway  
45 Division. The proceeds credited to each reserve account shall be used exclusively for  
46 prioritized North Carolina Ferry System ferry passenger vessel replacement projects in the  
47 Division in which the proceeds are earned. Proceeds may be used to fund ferry passenger vessel  
48 replacement projects or supplement funds allocated for ferry passenger vessel replacement  
49 projects approved in the Transportation Improvement Program.  
50 ...

1 (f) Authority to Generate Certain Receipts. – The Department of Transportation,  
2 notwithstanding any other provision of law, may operate or contract for the following  
3 receipt-generating activities ~~and~~ and, except as otherwise provided in subsection (f1) of this  
4 section, use the proceeds for ferry passenger vessel replacement projects in the manner set forth  
5 in subsection (d) of this section:

6 ...  
7 (f1) Use of Receipts Generated From Shipyard. – The Department of Transportation  
8 shall credit the proceeds from receipts generated under subsection (f) of this section from  
9 activities performed by the North Carolina State Shipyard to a reserve account within the  
10 Highway Fund to be used exclusively for improvements to the Shipyard, including equipment  
11 and associated infrastructure. Notwithstanding the restrictions on the use of proceeds set forth  
12 in subsections (d) and (f) of this section, the Department may use a proportional amount of the  
13 proceeds credited to each reserve account described in subsection (d) of this section to replace  
14 or repair equipment in accordance with this subsection if there is an insufficient amount of  
15 funds in the reserve account within the Highway Fund for the Shipyard.

16 ...."

## 17 18 SET FEE FOR PRIORITY BOARDING ON FERRY

19 SECTION 29.23B.(a) G.S. 136-82(f) is amended by adding a new subdivision to  
20 read:

21 "(3a) Issuance of annual passes to individual passengers that entitle the passengers  
22 to priority when boarding a ferry passenger vessel. The Department of  
23 Transportation shall charge an annual fee of one hundred fifty dollars  
24 (\$150.00) for each pass issued under this subdivision. The fee shall be in  
25 addition to any applicable ferry toll. In addition to the purposes set forth in  
26 this subsection, proceeds from fees collected under this subdivision may be  
27 used for operating expenses of the route in which the fee was collected.  
28 Notwithstanding any other provision of law, the Department of  
29 Transportation shall not provide free of charge annual passes to individual  
30 passengers that entitle the passengers to priority when boarding a ferry  
31 passenger vessel."

32 SECTION 29.23B.(b) This section becomes effective July 1, 2015, and applies to  
33 passes issued on or after that date.

## 34 35 RFI AND STUDY/PRIVATIZATION OF FERRY SYSTEM

36 SECTION 29.23C.(a) Intent. – The General Assembly finds that the privatization  
37 of the North Carolina Ferry System would provide a more cost-effective service model for the  
38 citizens of the State. Therefore, it is the intent of the General Assembly to ascertain market  
39 interest for the private operation of the North Carolina Ferry System or its component parts.

40 SECTION 29.23C.(b) Request for Information. – The Board of Transportation  
41 shall issue a request for information (RFI) for the privatization of the North Carolina Ferry  
42 System.

43 SECTION 29.23C.(c) Report. – The Board of Transportation shall report to the  
44 Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later  
45 than February 1, 2016, on the results of the RFI and whether it is more cost-effective to  
46 privatize the North Carolina Ferry System.

47 SECTION 29.23C.(d) Study. – The Joint Legislative Transportation Oversight  
48 Committee shall study the feasibility and desirability of privatizing the North Carolina Ferry  
49 System. The study shall include ownership, governance, and regulatory issues related to (i)  
50 potential privatization of the North Carolina Ferry System and (ii) privately owned ferries  
51 currently operating in North Carolina. The Joint Legislative Transportation Oversight

1 Committee shall report its findings and any legislative proposals to the 2016 Regular Session of  
2 the 2015 General Assembly.

#### 3 4 **USE OF FUNDS APPROPRIATED TO DIVISION OF AVIATION**

5 **SECTION 29.27.** Of the funds appropriated in this act to the Division of Aviation  
6 of the Department of Transportation, the Division shall allocate (i) the sum of three million five  
7 hundred thousand dollars (\$3,500,000) in nonrecurring funds for the 2015-2016 fiscal year to  
8 the Cape Fear Regional Jetport to be used for improvements to the Jetport and (ii) the sum of  
9 one million dollars (\$1,000,000) in nonrecurring funds for the 2015-2016 fiscal year to the  
10 Albert J. Ellis Airport to be used for the establishment of an air traffic control tower. The  
11 remaining funds appropriated in this act to the Division may be used for time-sensitive,  
12 aviation-related economic development projects.

#### 13 14 **ADJUST MUNICIPAL VEHICLE TAX**

15 **SECTION 29.27A.(a)** G.S. 20-97 reads as rewritten:

#### 16 **"§ 20-97. Taxes credited to Highway Fund; municipal vehicle taxes.**

17 (a) State Taxes to Highway Fund. – All taxes levied under this Article are  
18 compensatory taxes for the use and privileges of the public highways of this State. The taxes  
19 collected shall be credited to the State Highway Fund. Except as provided in this section, no  
20 county or municipality shall levy any license or privilege tax upon any motor vehicle licensed  
21 by the State.

22 ~~(b) General Municipal Vehicle Tax. — Cities and towns may levy a tax of not more than~~  
23 ~~five dollars (\$5.00) per year upon any vehicle resident in the city or town. The proceeds of the~~  
24 ~~tax may be used for any lawful purpose.~~

25 (b1) Municipal Vehicle Tax. – A city or town may levy an annual municipal vehicle tax  
26 upon any vehicle resident in the city or town. The aggregate annual municipal vehicle tax  
27 levied, including any annual municipal vehicle tax authorized by local legislation, may not  
28 exceed thirty dollars (\$30.00) per vehicle. A city or town may use the net proceeds from the  
29 municipal vehicle tax as follows:

30 (1) General purpose. – Not more than five dollars (\$5.00) of the tax levied may  
31 be used for any lawful purpose.

32 (2) Public transportation. – Not more than five dollars (\$5.00) of the tax levied  
33 may be used for financing, constructing, operating, and maintaining local  
34 public transportation systems. This subdivision only applies to a city or town  
35 that operates a public transportation system as defined in G.S. 105-550.

36 (3) Public streets. – The remainder of the tax levied may be used for  
37 maintaining, repairing, constructing, reconstructing, widening, or improving  
38 public streets in the city or town that do not form a part of the State highway  
39 system.

40 ~~(c) Municipal Vehicle Tax for Public Transportation. — A city or town that operates a~~  
41 ~~public transportation system as defined in G.S. 105-550 may levy a tax of not more than five~~  
42 ~~dollars (\$5.00) per year upon any vehicle resident in the city or town. The tax authorized by~~  
43 ~~this subsection is in addition to the tax authorized by subsection (b) of this section. A city or~~  
44 ~~town may not levy a tax under this section, however, to the extent the rate of tax, when added~~  
45 ~~to the general motor vehicle taxes levied by the city or town under subsection (b) of this section~~  
46 ~~and under any local legislation, would exceed thirty dollars (\$30.00) per year. The proceeds of~~  
47 ~~the tax may be used only for financing, constructing, operating, and maintaining local public~~  
48 ~~transportation systems. Cities and towns shall use the proceeds of the tax to supplement and not~~  
49 ~~to supplant or replace existing funds or other resources for public transportation systems. This~~  
50 ~~subsection does not apply to the cities and towns in Gaston County.~~

1 (d) Municipal Taxi Tax. – Cities and towns may levy a tax of not more than fifteen  
2 dollars (\$15.00) per year upon each vehicle operated in the city or town as a taxicab. The  
3 proceeds of the tax may be used for any lawful purpose.

4 (e) No Additional Local Tax. – No county, city or town may impose a franchise tax,  
5 license tax, or other fee upon a motor carrier unless the tax is authorized by this section."

6 **SECTION 29.27A.(b)** This section is effective when it becomes law. This section  
7 does not change, repeal, or affect any local modifications to G.S. 20-97(b) enacted on or before  
8 the effective date.

9  
10 **ADJUST DISTRIBUTION OF REVENUE FROM MOTOR FUEL EXCISE TAX RATE**

11 **SECTION 29.27B.(a)** G.S. 105-449.125 reads as rewritten:

12 **"§ 105-449.125. Distribution of tax revenue among various funds and accounts.**

13 The Secretary shall allocate the amount of revenue collected under this Article from an  
14 excise tax of one-half cent (1/2¢) a gallon to the following funds and accounts in the fraction  
15 indicated:

<u>Fund or Account</u>	<u>Amount</u>
Commercial Leaking Petroleum	
Underground Storage Tank Cleanup Fund	Nineteen thirty-seconds
Noncommercial Leaking Petroleum	
Underground Storage Tank Cleanup Fund	Three thirty-seconds
Water and Air Quality Account	Five-sixteenths.

22 The Secretary shall allocate ~~seventy-five percent (75%)~~ seventy percent (70%) of the remaining  
23 excise tax revenue collected under this Article to the Highway Fund and shall allocate  
24 ~~twenty-five percent (25%)~~ thirty percent (30%) to the Highway Trust Fund.

25 The Secretary shall charge a proportionate share of a refund allowed under this Article to  
26 each fund or account to which revenue collected under this Article is credited. The Secretary  
27 shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis."

28 **SECTION 29.27B.(b)** G.S. 105-449.125, as amended by subsection (a) of this  
29 section, reads as rewritten:

30 **"§ 105-449.125. Distribution of tax revenue among various funds and accounts.**

31 The Secretary shall allocate the amount of revenue collected under this Article from an  
32 excise tax of one-half cent (1/2¢) a gallon to the following funds and accounts in the fraction  
33 indicated:

<u>Fund or Account</u>	<u>Amount</u>
Commercial Leaking Petroleum	
Underground Storage Tank Cleanup Fund	Nineteen thirty-seconds
<del>Noncommercial Leaking Petroleum</del>	
<del>Underground Storage Tank Cleanup Fund</del>	<del>Three thirty-seconds</del>
Water and Air Quality Account	Five-sixteenths.

40 The Secretary shall allocate seventy percent (70%) of the remaining excise tax revenue  
41 collected under this Article to the Highway Fund and shall allocate thirty percent (30%) to the  
42 Highway Trust Fund.

43 The Secretary shall charge a proportionate share of a refund allowed under this Article to  
44 each fund or account to which revenue collected under this Article is credited. The Secretary  
45 shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis."

46 **SECTION 29.27B.(c)** Subsection (b) of this section becomes effective July 1,  
47 2016, and applies to revenue collected on or after that date.

48  
49 **INCREASE AND ADJUST DMV FEES**

50 **SECTION 29.30.(a)** G.S. 20-7(i1) reads as rewritten:

"(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to the provisions of this Chapter, other than G.S. 20-17(a)(2) shall pay a restoration fee of fifty dollars (\$50.00). A person whose drivers license has been revoked under G.S. 20-17(a)(2) shall pay a restoration fee of one hundred dollars (\$100.00). The fee shall be paid to the Division prior to the issuance to such person of a new drivers license or the restoration of the drivers license. The restoration fee shall be paid to the Division in addition to any and all fees which may be provided by law. This restoration fee shall not be required from any licensee whose license was revoked or voluntarily surrendered for medical or health reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The fifty-dollar (\$50.00) fee, and the ~~first fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) of the one-hundred-dollar (\$100.00) fee, shall be deposited in the Highway Fund. Twenty-five dollars (\$25.00) of the one-hundred-dollar (\$100.00) fee shall be used to fund a statewide chemical alcohol testing program administered by the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services. ~~The remainder of the one hundred dollar (\$100.00) fee shall be deposited in the General Fund.~~ The Office of State Budget and Management shall annually report to the General Assembly the amount of fees deposited in the General Fund and transferred to the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services under this subsection.

~~Effective with the 2011-2012 fiscal year, from the funds deposited in the General Fund under this subsection the sum of five hundred thirty seven thousand four hundred fifty five dollars (\$537,455) shall be transferred annually to the Board of Governors of The University of North Carolina to be used for the operating expenses of the Bowles Center for Alcohol Studies at The University of North Carolina at Chapel Hill."~~

**SECTION 29.30.(a1)** G.S. 20-7, as amended by subsection (a) of this section, reads as rewritten:

**"§ 20-7. Issuance and renewal of drivers licenses.**

...

(i) Fees. – The fee for a regular drivers license is the amount set in the following table multiplied by the number of years in the period for which the license is issued:

Class of Regular License	Fee for Each Year
Class A	<del>\$4.00</del> <u>\$5.00</u>
Class B	<del>\$4.00</del> <u>\$5.00</u>
Class C	<del>\$4.00</del> <u>\$5.00</u>

The fee for a motorcycle endorsement is ~~one dollar and seventy five cents (\$1.75)~~ two dollars (\$2.00) for each year of the period for which the endorsement is issued. The appropriate fee shall be paid before a person receives a regular drivers license or an endorsement.

(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to the provisions of this Chapter, other than G.S. 20-17(a)(2) shall pay a restoration fee of ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00). A person whose drivers license has been revoked under G.S. 20-17(a)(2) shall pay a restoration fee of ~~one hundred dollars (\$100.00)~~ one hundred twenty dollars (\$120.00). The fee shall be paid to the Division prior to the issuance to such person of a new drivers license or the restoration of the drivers license. The restoration fee shall be paid to the Division in addition to any and all fees which may be provided by law. This restoration fee shall not be required from any licensee whose license was revoked or voluntarily surrendered for medical or health reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The ~~fifty dollar (\$50.00)~~ sixty-dollar (\$60.00) fee, and the first ~~seventy five dollars (\$75.00)~~ ninety-five dollars (\$95.00) of the ~~one hundred dollar (\$100.00)~~ one-hundred-twenty-dollar (\$120.00) fee, shall be deposited in the Highway Fund. Twenty-five dollars (\$25.00) of the ~~one hundred dollar (\$100.00)~~ one-hundred-twenty-dollar (\$120.00) fee shall be used to fund a statewide chemical alcohol testing program administered by the

1 Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department
2 of Health and Human Services. The Office of State Budget and Management shall annually
3 report to the General Assembly the amount of fees transferred to the Forensic Tests for Alcohol
4 Branch of the Chronic Disease and Injury Section of the Department of Health and Human
5 Services under this subsection.

6 ...

7 (l) Learner's Permit. - A person who is at least 18 years old may obtain a learner's
8 permit. A learner's permit authorizes the permit holder to drive a specified type or class of
9 motor vehicle while in possession of the permit. A learner's permit is valid for a period of 18
10 months after it is issued. The fee for a learner's permit is ~~fifteen dollars (\$15.00)~~ eighteen
11 dollars (\$18.00). A learner's permit may be renewed, or a second learner's permit may be
12 issued, for an additional period of 18 months. The permit holder must, while operating a motor
13 vehicle over the highways, be accompanied by a person who is licensed to operate the motor
14 vehicle being driven and is seated beside the permit holder.

15 ...."

16 SECTION 29.30.(b) G.S. 20-11(j) reads as rewritten:

17 "(j) Duration and Fee. - A limited learner's permit expires on the eighteenth birthday of
18 the permit holder. A limited provisional license expires on the eighteenth birthday of the
19 license holder. A limited learner's permit or limited provisional license issued under this section
20 that expires on a weekend or State holiday shall remain valid through the fifth regular State
21 business day following the date of expiration. A full provisional license expires on the date set
22 under G.S. 20-7(f). The fee for a limited learner's permit or a limited provisional license is
23 ~~fifteen dollars (\$15.00)~~ eighteen dollars (\$18.00). The fee for a full provisional license is the
24 amount set under G.S. 20-7(i)."

25 SECTION 29.30.(c) G.S. 20-14 reads as rewritten:

26 "§ 20-14. Duplicate licenses.

27 A person may obtain a duplicate of a license issued by the Division by paying a fee of ~~ten
28 dollars (\$10.00)~~ twelve dollars (\$12.00) and giving the Division satisfactory proof that any of
29 the following has occurred:

- 30 (1) The person's license has been lost or destroyed.
31 (2) It is necessary to change the name or address on the license.
32 (3) Because of age, the person is entitled to a license with a different color
33 photographic background or a different color border.
34 (4) The Division revoked the person's license, the revocation period has expired,
35 and the period for which the license was issued has not expired."

36 SECTION 29.30.(d) G.S. 20-16(e) reads as rewritten:

37 "(e) The Division may conduct driver improvement clinics for the benefit of those who
38 have been convicted of one or more violations of this Chapter. Each driver attending a driver
39 improvement clinic shall pay a fee of ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)."

40 SECTION 29.30.(e) G.S. 20-26(c) reads as rewritten:

41 "(c) The Division shall furnish copies of license records required to be kept by
42 subsection (a) of this section in accordance with G.S. 20-43.1 to other persons for uses other
43 than official upon prepayment of the following fees:

- 44 (1) Limited extract copy of license record,
45 for period up to three years ..... ~~\$8.00~~ \$10.00
46 (2) Complete extract copy of license record ..... ~~8.00~~ 10.00
47 (3) Certified true copy of complete license record ..... ~~11.00~~ 13.00

48 All fees received by the Division under this subsection shall be credited to the Highway Fund."

49 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."

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.....	<del>\$18.00</del> <u>\$22.00</u>
	2-passenger capacity.....	<del>22.00</del> <u>26.00</u>
	3-passenger capacity.....	<del>26.00</del> <u>31.00</u>
Automobiles:	15 or fewer passengers .....	<del>\$51.00</del> <u>\$61.00</u>
Buses:	16 or more passengers .....	<del>\$2.00</del> <u>\$2.40</u> per
		hundred
		pounds of
		empty weight
Trucks under		
7,000 pounds		
that do not		
haul products		
for hire:	4,000 pounds.....	<del>\$41.50</del> <u>\$50.00</u>
	5,000 pounds.....	<del>\$51.00</del> <u>\$61.00</u>
	6,000 pounds.....	<del>\$61.00</del> <u>\$73.00</u>

- (5) Private Passenger Vehicles. – There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of private passenger vehicles, fees according to the following classifications and schedules:

Private passenger vehicles of not more than		
fifteen passengers .....		<del>\$28.00</del> <u>\$34.00</u>
Private passenger vehicles over fifteen passengers.....		<del>31.00</del> <u>37.00</u>

Provided, that a fee of only ~~one dollar (\$1.00)~~ one dollar and twenty cents (\$1.20) shall be charged for any vehicle given by the federal government to any veteran on account of any disability suffered during war so long as such vehicle is owned by the original donee or other veteran entitled to receive such gift under Title 38, section 252, United States Code Annotated.

- (6) Private Motorcycles. – The base fee on private passenger motorcycles shall be ~~fifteen dollars (\$15.00); eighteen dollars (\$18.00);~~ except that when a motorcycle is equipped with an additional form of device designed to transport persons or property, the base fee shall be ~~twenty two dollars (\$22.00)~~ twenty-six dollars (\$26.00). An additional fee of three dollars (\$3.00) is imposed on each private motorcycle registered under this subdivision in addition to the base fee. The revenue from the additional fee, in addition to any other funds appropriated for this purpose, shall be used to fund the Motorcycle Safety Instruction Program created in G.S. 115D-72.

(9) House Trailers. – In lieu of other registration and license fees levied on house trailers under this section or G.S. 20-88, the registration and license fee on house trailers shall be ~~eleven dollars (\$11.00)~~ thirteen dollars (\$13.00) for the license year or any portion thereof.

(11) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of ~~three dollars (\$3.00)~~ four dollars (\$4.00) to arrive at the total fee.

(13) Additional fee for certain electric vehicles. – At the time of an initial registration or registration renewal, the owner of a plug-in electric vehicle that is not a low-speed vehicle and that does not rely on a nonelectric source of power shall pay a fee in the amount of ~~one hundred dollars (\$100.00)~~ one hundred twenty dollars (\$120.00) in addition to any other required registration fees."

**SECTION 29.30.(1)** G.S. 20-88 reads as rewritten:

**"§ 20-88. Property-hauling vehicles.**

(b) The following fees are imposed on the annual registration of self-propelled property-hauling vehicles; the fees are based on the type of vehicle and its weight:

SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight

	Farmer Rate
Not over 4,000 pounds	<del>\$0.29</del> <u>\$0.35</u>
4,001 to 9,000 pounds inclusive	<del>.400</del> <u>.48</u>
9,001 to 13,000 pounds inclusive	<del>.500</del> <u>.60</u>
13,001 to 17,000 pounds inclusive	<del>.680</del> <u>.82</u>
Over 17,000 pounds	<del>.770</del> <u>.92</u>

Rates Per Hundred Pound Gross Weight

	General Rate
Not over 4,000 pounds	<del>\$0.59</del> <u>\$0.71</u>
4,001 to 9,000 pounds inclusive	<del>.810</del> <u>.97</u>
9,001 to 13,000 pounds inclusive	<del>1.001</del> <u>1.20</u>
13,001 to 17,000 pounds inclusive	<del>1.361</del> <u>1.63</u>
Over 17,000 pounds	<del>1.541</del> <u>1.85</u>

(1) The minimum fee for a vehicle licensed under this subsection is ~~twenty-four dollars (\$24.00)~~ twenty-nine dollars (\$29.00) at the farmer rate and ~~twenty-eight dollars (\$28.00)~~ thirty-four dollars (\$34.00) at the general rate.

(6) There shall be paid to the Division annually the following fees for "wreckers" as defined under G.S. 20-4.01(50): a wrecker fully equipped weighing 7,000 pounds or less, ~~seventy-five dollars (\$75.00)~~; ninety dollars (\$90.00); wreckers weighing in excess of 7,000 pounds shall pay ~~one hundred forty-eight dollars (\$148.00)~~; one hundred seventy-eight dollars (\$178.00). Fees to be prorated monthly. Provided, further, that nothing herein shall prohibit a licensed dealer from using a dealer's license plate to tow a vehicle for a customer.

(c) The fee for a semitrailer or trailer is ~~nineteen dollars (\$19.00)~~ twenty-three dollars (\$23.00) for each year or part of a year. The fee is payable each year. Upon the application of the owner of a semitrailer or trailer, the Division may issue a multiyear plate and registration

1 card for the semitrailer or trailer for a fee of ~~seventy five dollars (\$75.00)~~ ninety dollars  
 2 (\$90.00). A multiyear plate and registration card for a semitrailer or trailer are valid until the  
 3 owner transfers the semitrailer or trailer to another person or surrenders the plate and  
 4 registration card to the Division. A multiyear plate may not be transferred to another vehicle.

5 The Division shall issue a multiyear semitrailer or trailer plate in a different color than an  
 6 annual semitrailer or trailer plate and shall include the word "multiyear" on the plate. The  
 7 Division may not issue a multiyear plate for a house trailer.

8 ...  
 9 (i) Any vehicle fee determined under this section according to the weight of the vehicle  
 10 shall be increased by the sum of ~~three dollars (\$3.00)~~ four dollars (\$4.00) to arrive at the total  
 11 fee.

12 ...."

13 **SECTION 29.30.(m)** G.S. 20-289(a) reads as rewritten:

14 "(a) The license fee for each fiscal year, or part thereof, shall be as follows:

- 15 (1) For motor vehicle dealers, distributors, distributor branches, and  
 16 wholesalers, ~~seventy dollars (\$70.00)~~ eighty-four dollars (\$84.00) for each  
 17 place of business.
- 18 (2) For manufacturers, ~~one hundred fifty dollars (\$150.00)~~ one hundred eighty  
 19 dollars (\$180.00) and for each factory branch in this State, ~~one hundred~~  
 20 ~~dollars (\$100.00)~~ one hundred twenty dollars (\$120.00).
- 21 (3) For motor vehicle sales representatives, ~~fifteen dollars (\$15.00)~~ eighteen  
 22 dollars (\$18.00).
- 23 (4) For factory representatives, or distributor representatives, ~~fifteen dollars~~  
 24 ~~(\$15.00)~~ eighteen dollars (\$18.00).
- 25 (5) Repealed by Session Laws 1991, c. 662, s. 4."

26 **SECTION 29.30.(n)** G.S. 20-385(a) reads as rewritten:

27 "(a) The fees listed in this section apply to a motor carrier. These fees are in addition to  
 28 any fees required under the Unified Carrier Registration Agreement.

- 29 (1) Repealed by Session Laws 2007-492, s. 5, effective August 30, 2007.
- 30 (2) Application by an intrastate motor carrier for a  
 31 certificate of exemption 45.0054.00
- 32 (3) Certification by an interstate motor carrier that it is  
 33 not regulated by the United States Department  
 34 of Transportation 45.0054.00
- 35 (4) Application by an interstate motor carrier for an  
 36 emergency trip permit 18.00-22.00."

37 **SECTION 29.30.(o)** G.S. 44A-4(b)(1) reads as rewritten:

38 "(b) Notice and Hearings. –

- 39 (1) If the property upon which the lien is claimed is a motor vehicle that is  
 40 required to be registered, the lienor following the expiration of the relevant  
 41 time period provided by subsection (a) shall give notice to the Division of  
 42 Motor Vehicles that a lien is asserted and sale is proposed and shall remit to  
 43 the Division a fee of ~~ten dollars (\$10.00)~~ twelve dollars (\$12.00). The  
 44 Division of Motor Vehicles shall issue notice by certified mail, return receipt  
 45 requested, to the person having legal title to the property, if reasonably  
 46 ascertainable, to the person with whom the lienor dealt if different, and to  
 47 each secured party and other person claiming an interest in the property who  
 48 is actually known to the Division or who can be reasonably ascertained. The  
 49 notice shall state that a lien has been asserted against specific property and  
 50 shall identify the lienor, the date that the lien arose, the general nature of the  
 51 services performed and materials used or sold for which the lien is asserted,

1 the amount of the lien, and that the lienor intends to sell the property in  
2 satisfaction of the lien. The notice shall inform the recipient that the  
3 recipient has the right to a judicial hearing at which time a determination  
4 will be made as to the validity of the lien prior to a sale taking place. The  
5 notice shall further state that the recipient has a period of 10 days from the  
6 date of receipt in which to notify the Division by certified mail, return  
7 receipt requested, that a hearing is desired and that if the recipient wishes to  
8 contest the sale of his property pursuant to such lien, the recipient should  
9 notify the Division that a hearing is desired. The notice shall state the  
10 required information in simplified terms and shall contain a form whereby  
11 the recipient may notify the Division that a hearing is desired by the return  
12 of such form to the Division. The Division shall notify the lienor whether  
13 such notice is timely received by the Division. In lieu of the notice by the  
14 lienor to the Division and the notices issued by the Division described  
15 above, the lienor may issue notice on a form approved by the Division  
16 pursuant to the notice requirements above. If notice is issued by the lienor,  
17 the recipient shall return the form requesting a hearing to the lienor, and not  
18 the Division, within 10 days from the date the recipient receives the notice if  
19 a judicial hearing is requested. If the certified mail notice has been returned  
20 as undeliverable and the notice of a right to a judicial hearing has been given  
21 to the owner of the motor vehicle in accordance with G.S. 20-28.4, no  
22 further notice is required. Failure of the recipient to notify the Division or  
23 lienor, as specified in the notice, within 10 days of the receipt of such notice  
24 that a hearing is desired shall be deemed a waiver of the right to a hearing  
25 prior to the sale of the property against which the lien is asserted, and the  
26 lienor may proceed to enforce the lien by public or private sale as provided  
27 in this section and the Division shall transfer title to the property pursuant to  
28 such sale. If the Division or lienor, as specified in the notice, is notified  
29 within the 10-day period provided above that a hearing is desired prior to  
30 sale, the lien may be enforced by sale as provided in this section and the  
31 Division will transfer title only pursuant to the order of a court of competent  
32 jurisdiction.

33 If the certified mail notice has been returned as undeliverable, or if the  
34 name of the person having legal title to the vehicle cannot reasonably be  
35 ascertained and the fair market value of the vehicle is less than eight hundred  
36 dollars (\$800.00), the lienor may institute a special proceeding in the county  
37 where the vehicle is being held, for authorization to sell that vehicle. Market  
38 value shall be determined by the schedule of values adopted by the  
39 Commissioner under G.S. 105-187.3.

40 In such a proceeding a lienor may include more than one vehicle, but the  
41 proceeds of the sale of each shall be subject only to valid claims against that  
42 vehicle, and any excess proceeds of the sale shall be paid immediately to the  
43 Treasurer for disposition pursuant to Chapter 116B of the General Statutes.

44 The application to the clerk in such a special proceeding shall contain the  
45 notice of sale information set out in subsection (f) hereof. If the application  
46 is in proper form the clerk shall enter an order authorizing the sale on a date  
47 not less than 14 days therefrom, and the lienor shall cause the application  
48 and order to be sent immediately by first-class mail pursuant to G.S. 1A-1,  
49 Rule 5, to each person to whom notice was mailed pursuant to this  
50 subsection. Following the authorized sale the lienor shall file with the clerk a  
51 report in the form of an affidavit, stating that the lienor has complied with

1 the public or private sale provisions of G.S. 44A-4, the name, address, and  
2 bid of the high bidder or person buying at a private sale, and a statement of  
3 the disposition of the sale proceeds. The clerk then shall enter an order  
4 directing the Division to transfer title accordingly.

5 If prior to the sale the owner or legal possessor contests the sale or lien in  
6 a writing filed with the clerk, the proceeding shall be handled in accordance  
7 with G.S. 1-301.2."

8 **SECTION 29.30.(p)** Article 1 of Chapter 20 of the General Statutes is amended by  
9 adding a new section to read:

10 **"§ 20-4.02. Quadrennial adjustment of certain fees.**

11 (a) Adjustment for Inflation. – Beginning July 1, 2020, and every four years thereafter,  
12 the Division shall adjust the fees charged pursuant to the statutes listed in this subsection for  
13 inflation in accordance with the Consumer Price Index computed by the Bureau of Labor  
14 Statistics, rounded to the nearest twenty-five cents (25¢):

15 (1) G.S. 20-7.

16 (2) G.S. 20-11.

17 (3) G.S. 20-14.

18 (4) G.S. 20-16.

19 (5) G.S. 20-26.

20 (6) G.S. 20-37.15.

21 (7) G.S. 20-37.16.

22 (8) G.S. 20-42(b).

23 (9) G.S. 20-85(a)(1) through (10).

24 (10) G.S. 20-85.1.

25 (11) G.S. 20-87, except for the additional fee set forth in G.S. 20-87(6) for private  
26 motorcycles.

27 (12) G.S. 20-88.

28 (13) G.S. 20-289.

29 (14) G.S. 20-385.

30 (15) G.S. 44A-4(b)(1).

31 (b) Computation. – In determining the rate of inflation to use when adjusting the fees  
32 pursuant to subsection (a) of this section, the Division shall base the rate on the percent change  
33 in the annual Consumer Price Index over the preceding four-year period.

34 (c) Rules. – The provisions of Chapter 150B of the General Statutes shall not apply to  
35 the adjustment of fees required by this section.

36 (d) Consultation and Publication. – At least 90 days prior to adjusting the fees pursuant  
37 to subsection (a) of this section, the Division shall (i) consult with the Joint Legislative  
38 Commission on Governmental Operations, (ii) provide a report to the chairs of the Senate  
39 Appropriations Committee on the Department of Transportation and the House of  
40 Representatives Committee on Transportation Appropriations, and (iii) publish notice of the  
41 fees that will be in effect in the offices of the Division and on the Division's Web site."

42 **SECTION 29.30.(q)** G.S. 150B-1(d) is amended by adding a new subdivision to  
43 read:

44 "(27) The Division of Motor Vehicles with respect to fee adjustments under  
45 G.S. 20-4.02."

46 **SECTION 29.30.(r)** Subsections (a) and (r) of this section become effective July 1,  
47 2015. Subsections (p) and (q) of this section become effective July 1, 2020. The remainder of  
48 this section becomes effective January 1, 2016, and applies to issuances, renewals, restorations,  
49 and requests on or after that date.

50  
51 **DMV HEARING FEE SCHEDULE IMPLEMENTATION DATE**

1           **SECTION 29.30A.** Subsection (c) of Section 34.9 of S.L. 2014-100 reads as  
2 rewritten:

3           "**SECTION 34.9.(c)** From funds appropriated to the Department of Transportation,  
4 Information Technology Section for the 2014-2015 fiscal year, the Department shall implement  
5 modifications to supporting information technology systems necessary to timely implement the  
6 hearing fee schedule required by subsection (a) of this section. The Department shall  
7 implement the hearing fee schedule required by subsection (a) of this section by no later than  
8 ~~January 1, 2016.~~July 1, 2017."

## 10 **DISTRIBUTION OF FUNDS IN SPECIAL REGISTRATION PLATE ACCOUNT**

11           **SECTION 29.30B.** G.S. 20-79.7(c)(3) reads as rewritten:

12           "(3) The Division shall transfer fifty percent (50%) of the remaining revenue in  
13 the Special Registration Plate Account quarterly, and funds are hereby  
14 appropriated, as follows:to the Department of Transportation to be used  
15 solely for the purpose of beautification of highways. These funds shall be  
16 administered by the Department of Transportation for beautification  
17 purposes not inconsistent with good landscaping and engineering principles.  
18 The Division shall transfer the remaining revenue in the Special Registration  
19 Plate Account quarterly to the Highway Fund.

20           ~~a. Thirty three percent (33%) to the account of the Department of~~  
21 ~~Commerce to aid in financing out of state print and other media~~  
22 ~~advertising under the program for the promotion of travel and~~  
23 ~~industrial development in this State.~~

24           ~~b. Fifty percent (50%) to the Department of Transportation to be used~~  
25 ~~solely for the purpose of beautification of highways. These funds~~  
26 ~~shall be administered by the Department of Transportation for~~  
27 ~~beautification purposes not inconsistent with good landscaping and~~  
28 ~~engineering principles.~~

29           ~~e. Seventeen percent (17%) to the account of the Department of Health~~  
30 ~~and Human Services to promote travel accessibility for disabled~~  
31 ~~persons in this State. These funds shall be used to collect and update~~  
32 ~~site information on travel attractions designated by the Department of~~  
33 ~~Commerce in its publications, to provide technical assistance to~~  
34 ~~travel attractions concerning accommodation of disabled tourists, and~~  
35 ~~to develop, print, and promote the publication ACCESS NORTH~~  
36 ~~CAROLINA as provided in G.S. 168-2. Any funds allocated for~~  
37 ~~these purposes that are neither spent nor obligated at the end of the~~  
38 ~~fiscal year shall be transferred to the Department of Administration~~  
39 ~~for removal of man-made barriers to disabled travelers at~~  
40 ~~State funded travel attractions. Guidelines for the removal of~~  
41 ~~man-made barriers shall be developed in consultation with the~~  
42 ~~Department of Health and Human Services."~~

## 44 **ENFORCING PENALTIES FOR LAPSE IN FINANCIAL RESPONSIBILITY**

45           **SECTION 29.31.(a)** G.S. 20-311 reads as rewritten:

46           "**§ 20-311. Action by the Division when notified of a lapse in financial responsibility.**

47           (a) Action. – When the Division receives evidence, by a notice of termination of a  
48 motor vehicle liability policy or otherwise, that the owner of a motor vehicle registered or  
49 required to be registered in this State does not have financial responsibility for the operation of  
50 the vehicle, the Division shall send the owner a letter. The letter shall notify the owner of the  
51 evidence and inform the owner that the owner shall respond to the letter within 10 days of the

1 date on the letter and explain how the owner has met the duty to have continuous financial  
 2 responsibility for the vehicle. Based on the owner's response, the Division shall take the  
 3 appropriate action listed:

4 (1) Division correction. – If the owner responds within the required time and the  
 5 response establishes that the owner has not had a lapse in financial  
 6 responsibility, the Division shall correct its records.

7 (2) Penalty only. – If the owner responds within the required time and the  
 8 response establishes all of the following, the Division shall assess the owner  
 9 a penalty in the amount set in subsection (b) of this section:

- 10 a. The owner had a lapse in financial responsibility, but the owner now  
 11 has financial responsibility.
- 12 b. The vehicle was not involved in an accident during the lapse in  
 13 financial responsibility.
- 14 c. The owner did not operate the vehicle or allow the vehicle to be  
 15 operated during the lapse with knowledge that the owner had no  
 16 financial responsibility for the vehicle.

17 (3) Penalty and revocation. – If the owner responds within the required time and  
 18 the response establishes ~~any~~ either of the following, the Division shall assess  
 19 the owner a penalty in the amount set in subsection (b) of this section and  
 20 revoke the registration of the owner's vehicle for the period set in subsection  
 21 (c) of this section:

- 22 a. The owner had a lapse in financial responsibility and still does not  
 23 have financial responsibility.
- 24 b. The owner now has financial responsibility even though the owner  
 25 had a lapse, but the response also establishes any of the following:  
 26 1. The vehicle was involved in an accident during the lapse, the  
 27 lapse.  
 28 2. The owner operated the vehicle during the lapse with  
 29 knowledge that the owner had no financial responsibility for  
 30 the vehicle, or both vehicle.  
 31 3. The owner allowed the vehicle to be operated during the lapse  
 32 with knowledge that the owner had no financial responsibility  
 33 for the vehicle.

34 (4) ~~Revocation pending response.~~ Penalty and revocation for failure to respond.  
 35 ~~– If Except as otherwise provided in this subdivision, if the owner does not~~  
 36 ~~respond within the required time, the Division shall assess a penalty in the~~  
 37 ~~applicable amount set forth in subsection (b) of this section and shall revoke~~  
 38 ~~the registration of the owner's vehicle for the period set in subsection (c) of~~  
 39 ~~this section. When the owner responds, the Division shall take the~~  
 40 ~~appropriate action listed in subdivisions (1) through (3) of this subsection as~~  
 41 ~~if the response had been timely.~~ If the owner does not respond within the  
 42 required time, but later responds and establishes that the owner has not had a  
 43 lapse in financial responsibility, the Division shall correct its records, rescind  
 44 any revocation under this subdivision of the registration of the owner's  
 45 vehicle, and the owner shall not be responsible for any fee or penalty arising  
 46 under this section from the owner's failure to timely respond.

47 (b) Penalty Amount. – The following table determines the amount of a penalty payable  
 48 under this section by an owner who has had a lapse in financial responsibility; the amount is  
 49 based on the number of times the owner has been assessed a penalty under this section during  
 50 the three-year period before the date the owner's current lapse began:

Number of Lapses in Previous Three Years	Penalty Amount
--	----------------



1	None	\$50.00
2	One	\$100.00
3	Two or More	\$150.00

4 (c) Revocation Period. – The revocation period for a revocation based on a response  
 5 that establishes that a vehicle owner does not have financial responsibility is indefinite and ends  
 6 when the owner obtains financial responsibility or transfers the vehicle to an owner who has  
 7 financial responsibility. The revocation period for a revocation based on a response that  
 8 establishes the occurrence of an accident during a lapse in financial responsibility or the  
 9 knowing operation of a vehicle without financial responsibility is 30 days. The revocation  
 10 period for a revocation based on failure of a vehicle owner to respond is indefinite and ends  
 11 when the owner ~~responds~~. (i) establishes that the owner has not had a lapse in financial  
 12 responsibility, (ii) obtains financial responsibility, or (iii) transfers the vehicle to an owner who  
 13 has financial responsibility, whichever occurs first.

14 (d) Revocation Notice. – When the Division revokes the registration of an owner's  
 15 vehicle, it shall notify the owner of the revocation. The notice shall inform the owner of the  
 16 following:

- 17 (1) That the owner shall return the vehicle's registration plate and registration  
 18 card to the Division, if the owner has not done so already, and that failure to  
 19 do so is a Class 2 misdemeanor under G.S. 20-45.
- 20 (2) That the vehicle's registration plate and registration card are subject to  
 21 seizure by a law enforcement officer.
- 22 (3) That the registration of the vehicle cannot be renewed while the registration  
 23 is revoked.
- 24 (4) That the owner shall pay any penalties ~~assessed~~, assessed within 30 days of  
 25 the date of the notice, a restoration fee, and the fee for a registration plate  
 26 when the owner applies to the Division to register a vehicle whose  
 27 registration was revoked.
- 28 (5) That failure of an owner to pay any penalty or fee assessed pursuant to this  
 29 section shall result in the Division withholding the registration renewal of  
 30 any motor vehicle registered in that owner's name.

31 (e) Registration After Revocation. – A vehicle whose registration has been revoked  
 32 may not be registered during the revocation period in the name of the owner, a child of the  
 33 owner, the owner's spouse, or a child of the owner's spouse. This restriction does not apply to a  
 34 spouse who is living separate and apart from the owner. At the end of a revocation period, a  
 35 vehicle owner who has financial responsibility may apply to register a vehicle whose  
 36 registration was revoked. The owner shall provide proof of current financial responsibility and  
 37 pay any penalty assessed, a restoration fee of fifty dollars (\$50.00), and the fee for a  
 38 registration plate. Pursuant to G.S. 20-54, failure of an owner to pay any penalty or fee assessed  
 39 pursuant to this section shall result in the Division withholding the registration renewal of any  
 40 motor vehicle registered in that owner's name.

41 ...

42 (g) Military Waiver. – Notwithstanding the penalty and restoration fee provisions of  
 43 this section, any monetary penalty or restoration fee shall be waived for any person who, at the  
 44 time of notification of a lapse in ~~coverage~~, financial responsibility, was deployed as a member  
 45 of the Armed Forces of the United States outside of the continental United States for a total of  
 46 45 or more days. In addition, no insurance points under the Safe Driver Incentive Plan shall be  
 47 assessed for any violation for which a monetary penalty or restoration fee is waived pursuant to  
 48 this subsection. ~~Any~~ All of the following apply to a person qualifying under this subsection  
 49 shall: subsection:

- 1           (1) ~~Have~~ The person shall have an affirmative defense to any criminal charge  
2           based upon the failure to return any registration card or registration plate to  
3           the ~~Division~~; Division.
- 4           (2) Upon reregistration, the person shall receive without cost from the Division  
5           all necessary registration cards or ~~plates~~; and plates.
- 6           (3) Upon notice of revocation, the person shall be permitted to transfer the  
7           vehicle's registration immediately to his or her spouse, child, or spouse's  
8           child, notwithstanding the provisions of subsection (e) of this section.

9           (h) Applicability. – The penalty and revocation imposed under this section do not apply  
10 when the sole owner of a vehicle dies and that owner had financial responsibility for the vehicle  
11 as of the date of the owner's death."

12           **SECTION 29.31.(b)** G.S. 20-54 is amended by adding a new subdivision to read:

13           "(12) The owner of the vehicle has failed to pay any penalty or fee imposed  
14 pursuant to G.S. 20-311."

15           **SECTION 29.31.(c)** G.S. 20-311(h), as enacted by subsection (a) of this section, is  
16 effective when this act becomes law. The remainder of this section becomes effective  
17 December 1, 2015, and applies to lapses in financial responsibility occurring on or after that  
18 date.

## 19 LPA CONTRACT STANDARDS

20           **SECTION 29.32.(a)** G.S. 20-63(h) reads as rewritten:

21           "(h) Commission Contracts for Issuance of Plates and Certificates. – All registration  
22 plates, registration certificates, and certificates of title issued by the Division, outside of those  
23 issued from the office of the Division located in Wake, Cumberland, or Mecklenburg Counties  
24 and those issued and handled through the United States mail, shall be issued insofar as  
25 practicable and possible through commission contracts entered into by the Division for the  
26 issuance of the plates and certificates in localities throughout North Carolina, including military  
27 installations within this State, with persons, firms, corporations or governmental subdivisions  
28 of the State of North Carolina. The Division shall make a reasonable effort in every locality,  
29 except as noted above, to enter into a commission contract for the issuance of the plates and  
30 certificates and a record of these efforts shall be maintained in the Division. In the event the  
31 Division is unsuccessful in making commission contracts, it shall issue the plates and  
32 certificates through the regular employees of the Division. Whenever registration plates,  
33 registration certificates, and certificates of title are issued by the Division through commission  
34 contract arrangements, the Division shall provide proper supervision of the distribution.  
35 Nothing contained in this subsection allows or permits the operation of fewer outlets in any  
36 county in this State than are now being operated.

37           ~~Commission contracts entered into by the Division under this subsection shall provide for~~  
38 ~~the payment of compensation~~ The terms of a commission contract entered under this subsection  
39 shall specify the duration of the contract and either include or incorporate by reference  
40 standards by which the Division may supervise and evaluate the performance of the  
41 commission contractor. The duration of an initial commission contract may not exceed eight  
42 years and the duration of a renewal commission contract may not exceed two years. The  
43 Division may award monetary performance bonuses, not to exceed an aggregate total of ninety  
44 thousand dollars (\$90,000) annually, to commission contractors based on their performance.

45           The amount of compensation payable to a commission contractor is determined on a per  
46 transaction basis. The collection of the highway use tax is considered a separate transaction for  
47 which one dollar and ~~twenty seven cents (\$1.27)~~ thirty cents (\$1.30) compensation shall be  
48 paid. The issuance of a limited registration "T" sticker and the collection of property tax are  
49 each considered a separate transaction for which compensation at the rate of one dollar and  
50 ~~twenty seven cents (\$1.27)~~ thirty cents (\$1.30) and one dollar and ~~six cents (\$1.06)~~ eight cents  
51 shall be paid."

1 (\$1.08) respectively, shall be paid by counties and municipalities as a cost of the combined  
 2 motor vehicle registration renewal and property tax collection system. The performance at the  
 3 same time of one or more of the transactions below is considered a single transaction for which  
 4 one dollar and ~~forty three cents (\$1.43)~~ forty-six cents (\$1.46) compensation shall be paid:

- 5 (1) Issuance of a registration plate, a registration card, a registration sticker, or a  
 6 certificate of title.
- 7 (2) Issuance of a handicapped placard or handicapped identification card.
- 8 (3) Acceptance of an application for a personalized registration plate.
- 9 (4) Acceptance of a surrendered registration plate, registration card, or  
 10 registration renewal sticker, or acceptance of an affidavit stating why a  
 11 person cannot surrender a registration plate, registration card, or registration  
 12 renewal sticker.
- 13 (5) Cancellation of a title because the vehicle has been junked.
- 14 (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax,  
 15 other than the highway use tax.
- 16 (7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial  
 17 responsibility or receipt of the restoration fee imposed by that statute.
- 18 (8) Acceptance of a notice of failure to maintain financial responsibility for a  
 19 motor vehicle.
- 20 (8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
- 21 (8b), (9) Repealed by Session Laws 2013-372, s. 2(a), effective July 1, 2013.
- 22 (10) Acceptance of a temporary lien filing.
- 23 (11) Conversion of an existing paper title to an electronic lien upon request of a  
 24 primary lienholder."

25 **SECTION 29.32.(b)** All commission contracts entered into by the Division of  
 26 Motor Vehicles under G.S. 20-63(h) after the effective date of this subsection shall specify the  
 27 duration of the contract and include or incorporate by reference the standards required under  
 28 subsection (a) of this section. No later than July 1, 2018, all other commission contracts entered  
 29 into by the Division of Motor Vehicles shall specify the duration of the contract and include or  
 30 incorporate by reference the standards required under subsection (a) of this section.

31 **SECTION 29.32.(c)** This section becomes effective July 1, 2015, and applies to  
 32 transactions on or after that date.

### 33 **DMV/UMSTEAD ACT CLARIFICATION**

34 **SECTION 29.33.** G.S. 66-58(c) is amended by adding a new subdivision to read:

35 "(c) The provisions of subsection (a) shall not prohibit:

36 ...

37 (22) The operation by the Division of Motor Vehicles of digital advertising and  
 38 automated teller machines in offices of the Division or contract license plate  
 39 agencies."

### 40 **HIGHWAY USE TAX CLARIFICATION**

41 **SECTION 29.34.(a)** G.S. 105-187.6(c) reads as rewritten:

42 "(c) Out-of-state Vehicles. – A maximum tax of one hundred fifty dollars (\$150.00)  
 43 applies when a certificate of title is issued for a motor vehicle that, at the time of applying for a  
 44 certificate of title, is and has been titled in the name of the owner of the motor vehicle in  
 45 another state for at least 90 days ~~days~~ prior to the date of application for a certificate of title in  
 46 this State."

47 **SECTION 29.34.(b)** This section is effective when this act becomes law.

**ADJUST MAXIMUM HIGHWAY USE TAX IMPOSED FOR CERTAIN MOTOR VEHICLES**

**SECTION 29.34A.(a)** G.S. 105-187.3(a1) reads as rewritten:

"(a1) Tax Rate. – The tax rate is three percent (3%). The maximum tax is ~~one two~~ thousand dollars ~~(\$1,000)-(\$2,000)~~ for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in ~~G.S. 20-4.01. The maximum tax is one thousand five hundred dollars (\$1,500) G.S. 20-4.01,~~ and for each certificate of title issued for a recreational vehicle that is not subject to the ~~one thousand dollar (\$1,000) maximum tax-vehicle.~~ The tax is payable as provided in G.S. 105-187.4."

**SECTION 29.34A.(b)** G.S. 105-187.6(c), as amended by Section 29.34 of this act, reads as rewritten:

"(c) Out-of-state Vehicles. – A maximum tax of ~~one two~~ hundred fifty dollars ~~(\$150.00) (\$250.00)~~ applies when a certificate of title is issued for a motor vehicle that, at the time of applying for a certificate of title, is and has been titled in the name of the owner of the motor vehicle in another state for at least 90 days prior to the date of application for a certificate of title in this State."

**SECTION 29.34A.(c)** This section becomes effective January 1, 2016, and applies 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.

- 1 (4) If it is lost or stolen, the person who applied for it must notify the Division.  
2 (5) It may not be issued by a dealer.  
3 (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license  
4 plates apply to temporary license plates insofar as possible."

5 **SECTION 29.35.(c)** Ten-day trip permits issued under G.S. 20-183.4C(b) prior to  
6 the effective date of this section shall remain valid for the duration of the issuance.

7 **SECTION 29.35.(d)** This section becomes effective July 1, 2015, and applies to  
8 temporary license plates issued on or after that date.  
9

## 10 **TECHNICAL CORRECTION/REMOTE RENEWAL OF DRIVERS LICENSE**

11 **SECTION 29.36.** G.S. 20-7(f)(6) reads as rewritten:

12 "(6) Remote renewal. – ~~The~~ Subject to the following requirements and  
13 limitations, the Division may offer remote renewal of a drivers license issued  
14 by the Division. ~~For purposes of this subdivision, "remote renewal" means~~  
15 ~~renewal of a drivers license by mail, telephone, electronic device, or other~~  
16 ~~secure means approved by the Commissioner.~~ Division:

- 17 a. Requirements. – To be eligible for remote renewal under this  
18 subdivision, a person must meet all of the following requirements:  
19 1. The license holder possesses a valid, unexpired Class C  
20 drivers license that was issued when the person was at least  
21 18 years old.  
22 2. The license holder's current license includes no restrictions  
23 other than a restriction for corrective lenses.  
24 3. The license holder attests, in a manner designated by the  
25 Division, that (i) the license holder is a resident of the State  
26 and currently resides at the address on the license to be  
27 renewed, (ii) the license holder's name as it appears on the  
28 license to be renewed has not changed, and (iii) all other  
29 information required by the Division for an in-person renewal  
30 under this Article has been provided completely and  
31 truthfully.  
32 4. The most recent renewal was an in-person renewal and not a  
33 remote renewal under this subdivision.  
34 5. The license holder is otherwise eligible for renewal under this  
35 subsection.  
36 b. Waiver of requirements. – When renewing a drivers license pursuant  
37 to this subdivision, the Division may waive the examination and  
38 photograph that would otherwise be required for the renewal.  
39 c. Duration of remote renewal. – A renewed drivers license issued to a  
40 person by remote renewal under this subdivision expires according to  
41 the following schedule:  
42 1. For a person at least 18 years old but less than 66 years old,  
43 on the birthday of the licensee in the eighth year after  
44 issuance.  
45 2. For a person at least 66 years old, on the birthday of the  
46 licensee in the fifth year after issuance.  
47 d. Rules. – The Division shall adopt rules to implement this  
48 subdivision.  
49 e. Federal law. – Nothing in this subdivision shall be construed to  
50 supersede any more restrictive provisions for renewal of drivers  
51 licenses prescribed by federal law or regulation.

1                   f.       Definition. – For purposes of this subdivision, "remote renewal"  
2                               means renewal of a drivers license by mail, telephone, electronic  
3                               device, or other secure means approved by the Commissioner."  
4

#### 5 VISITOR CENTERS FUNDING TECHNICAL CORRECTION

6       **SECTION 29.36A.** G.S. 20-79.7(c)(2)d. reads as rewritten:

7       "(c) Use of Funds in Special Registration Plate Account. –

8                   ...

9       (2) From the funds remaining in the Special Registration Plate Account after the  
10           deductions in accordance with subdivision (1) of this subsection, there is  
11           annually appropriated from the Special Registration Plate Account the sum  
12           of one million three hundred thousand dollars (\$1,300,000) to provide  
13           operating assistance for the Visitor Centers:

14                   ...

15           d.       in ~~the Town of Boone,~~ Watauga County, ninety-two thousand eight  
16                   hundred fifty-seven dollars (\$92,857);

17                   ...."

#### 18 STOP LAMPS ON MOTOR VEHICLE/CLARIFICATION

19       **SECTION 29.36B.(a)** G.S. 20-129(g), as amended by Section 1 of S.L. 2015-31,  
20       reads as rewritten:

21       "(g) No person shall sell or operate on the highways of the State any motor vehicle  
22       manufactured after December 31, 1955, and on or before December 31, 1970, unless it shall be  
23       equipped with a stop lamp on the rear of the vehicle. No person shall sell or operate on the  
24       highways of the State any motor vehicle, manufactured after December 31, 1970, unless it shall  
25       be equipped with stop lamps, one on each side of the rear of the vehicle. No person shall sell or  
26       operate on the highways of the State any motorcycle or motor-driven cycle, manufactured after  
27       December 31, ~~1970,~~ 1955, unless it shall be equipped with a stop lamp on the rear of the  
28       motorcycle or motor-driven cycle. The stop lamps shall emit, reflect, or display a red or amber  
29       light visible from a distance of not less than 100 feet to the rear in normal sunlight, and shall be  
30       actuated upon application of the service (foot) brake. The stop lamps may be incorporated into  
31       a unit with one or more other rear lamps."

32       **SECTION 29.36B.(b)** This section becomes effective October 1, 2015, and applies  
33       to offenses committed on or after that date.  
34

#### 35 POSITIONS IN SUPPORT OF THE COMBINED MOTOR VEHICLE 36 REGISTRATION AND PROPERTY TAX COLLECTION SYSTEM

37       **SECTION 29.37.** Section 24.10(a) of S.L. 2012-142 reads as rewritten:

38       "**SECTION 24.10.(a)** Upon request from the Department of Transportation and  
39       notwithstanding any other provision of law to the contrary, the Office of State Budget and  
40       Management may authorize the creation of time-limited, full-time equivalent positions within  
41       the Department of Transportation and its Division of Motor Vehicles in excess of the positions  
42       authorized by this act for the sole purposes of implementing and administering the combined  
43       motor vehicle registration and property tax collection system, in accordance with the funding  
44       authorizations in G.S. 105-330.5 and G.S. 105-330.10. Positions created under this  
45       authorization shall terminate no later than ~~June 30, 2014.~~ June 30, 2017. Following the  
46       approval of a request, the Office of State Budget and Management shall direct the transfer of  
47       funds from the Combined Motor Vehicle and Registration Account, also known as the Division  
48       of Motor Vehicles Taxation Interest Fund for Integrated Computer System, to support  
49       personnel and related operating costs for the positions approved under this section."  
50

**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 this State may obtain one of the following upon the submission of a driving eligibility certificate or a high school diploma or its equivalent:

- (1) ~~A temporary permit, if the person has not completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but is currently enrolled in a drivers education program that meets these requirements. A temporary permit is valid for the period specified in the permit and authorizes the holder of the permit to drive a specified type or class of motor vehicle when in possession of the permit, subject to any restrictions imposed by the Division concerning time of driving, supervision, and passenger limitations. The period must end within 10 days after the expected completion date of the drivers education program in which the applicant is enrolled.~~
- (2) A full provisional license, if the person ~~has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction,~~ has held the license issued by the other state for at least 12 ~~months,~~ months and has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.
- (2a) A full provisional license, if the person ~~has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction,~~ has held both a learner's permit and a restricted license from another state for at least six months each, the Commissioner finds that the requirements for the learner's permit and restricted license are comparable to the requirements for a learner's permit and restricted license in this State, and the person has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a moving violation or a seat belt infraction if committed in this State.
- (3) A limited provisional license, if the person ~~has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but either~~ did not hold the license issued by the other state for at least 12 months or was convicted during the preceding six months of a

1 motor vehicle moving violation, a seat belt infraction, or an offense  
2 committed in another jurisdiction that would be a motor vehicle moving  
3 violation or seat belt infraction if committed in this State."

4 **SECTION 29.39.(c)** G.S. 20-11(h1) reads as rewritten:

5 "(h1) Exception for Persons 16 to 18 Who Have an Out-of-State Restricted License. — A  
6 person who is at least 16 years old but less than 18 years old, who was a resident of another  
7 state and has a restricted drivers license issued by that state, and who becomes a resident of this  
8 State may obtain one of the following:

9 (1) A limited provisional license, if the person ~~has completed a drivers~~  
10 ~~education program that meets the requirements of the Superintendent of~~  
11 ~~Public Instruction,~~ held the restricted license issued by the other state for at  
12 least 12 ~~months,~~ months and ~~whose the person's~~ parent or guardian certifies  
13 that the person has not been convicted during the preceding six months of a  
14 motor vehicle moving violation, a seat belt infraction, or an offense  
15 committed in another jurisdiction that would be a motor vehicle moving  
16 violation or seat belt infraction if committed in this State.

17 (2) A limited learners permit, if the person ~~has completed a drivers education~~  
18 ~~program that meets the requirements of the Superintendent of Public~~  
19 ~~Instruction but either~~ did not hold the restricted license issued by the other  
20 state for at least 12 months or was convicted during the preceding six  
21 months of a motor vehicle moving violation, a seat belt infraction, or an  
22 offense committed in another jurisdiction that would be a motor vehicle  
23 moving violation or seat belt infraction if committed in this State. A person  
24 who qualifies for a limited learners permit under this subdivision and whose  
25 parent or guardian certifies that the person has not been convicted of a  
26 moving violation in the preceding six months shall be deemed to have held a  
27 limited learners permit in this State for each month the person held a  
28 restricted license in another state."

29 **SECTION 29.39.(d)** G.S. 20-11(h2) reads as rewritten:

30 "(h2) Exception for Persons Age 15 Who Have an Out-of-State Unrestricted or Restricted  
31 License. — A person who is age 15, who was a resident of another state, has an unrestricted or  
32 restricted drivers license issued by that state, and who becomes a resident of this State may  
33 obtain a limited learners permit if the ~~person has completed a drivers education program that~~  
34 ~~meets the requirements of the Superintendent of Public Instruction. A person who qualifies for~~  
35 ~~a limited learners permit under this subsection and whose person's~~ parent or guardian certifies  
36 that the person has not been convicted of a moving violation in the preceding six ~~months~~  
37 months. A person who qualifies for a limited learners permit under this subsection shall be  
38 deemed to have held a limited learners permit in this State for each month the person held an  
39 unrestricted or restricted license in another state."

40 **SECTION 29.39.(e)** G.S. 20-11(h3) reads as rewritten:

41 "(h3) Exception for Persons Less Than Age 18 Who Have a Federally Issued Unrestricted  
42 or Restricted License. — A person who is less than age 18, who has an unrestricted or  
43 restricted drivers license issued by the federal government, and who becomes a resident of this  
44 State may obtain a limited provisional license or a provisional license if the ~~person has~~  
45 ~~completed a drivers education program substantially equivalent to the drivers education~~  
46 ~~program that meets the requirements of the Superintendent of Public Instruction. A person who~~  
47 ~~qualifies for a limited provisional license or a provisional license under this subsection and~~  
48 ~~whose person's~~ parent or guardian certifies that the person has not been convicted of a moving  
49 violation in the preceding six ~~months~~ months. A person who qualifies for a limited provisional  
50 license or a provisional license under this subsection shall be deemed to have held a limited



1 provisional license or a provisional license in this State for each month the person held an  
2 unrestricted or restricted license issued by the federal government."

3 **SECTION 29.39.(f)** G.S. 20-11(d)(5) reads as rewritten:

4 "(5) Has completed a driving log, on a form approved by the Division, detailing a  
5 minimum of ~~60~~85 hours as the operator of a motor vehicle of a class for  
6 which the driver has been issued a limited learner's permit. The log must  
7 show at least 10 hours of the required driving occurred during nighttime  
8 hours. Driving completed by the driver as part of a course of driver  
9 instruction offered in accordance with G.S. 115D-76.5 or at a licensed  
10 commercial driver training school may be counted toward the 85-hour  
11 requirement upon the driver providing proof acceptable to the Division of  
12 the number of hours he or she drove as part of the course. No more than 10  
13 hours of driving per week may be counted toward the ~~60-hour~~85-hour  
14 requirement. The driving log must be signed by the supervising driver and  
15 submitted to the Division at the time the applicant seeks to obtain a limited  
16 provisional license. If the Division has cause to believe that a driving log has  
17 been falsified, the limited learner's permit holder shall be required to  
18 complete a new driving log with the same requirements and shall not be  
19 eligible to obtain a limited provisional license for six months."

20 **SECTION 29.39.(g)** G.S. 20-7(c) reads as rewritten:

21 "(c) Tests. – To demonstrate physical and mental ability, a person must pass an  
22 examination. The examination may include road tests, vision tests, oral tests, and, in the case of  
23 literate applicants, written tests, as the Division may require. The tests must ensure that an  
24 applicant recognizes the handicapped international symbol of access, as defined in  
25 G.S. 20-37.5. If the Division requires a written test on the person's knowledge of the rules of  
26 the road, the person must answer at least eighty-five percent (85%) of the questions correctly in  
27 order to pass the test. The Division may not require a person who applies to renew a license  
28 that has not expired to take a written test or a road test unless one or more of the following  
29 applies:

- 30 (1) The person has been convicted of a traffic violation since the person's license  
31 was last issued.  
32 (2) The applicant suffers from a mental or physical condition that impairs the  
33 person's ability to drive a motor vehicle.

34 The Division may not require a person who is at least 60 years old to parallel park a motor  
35 vehicle as part of a road test."

36 **SECTION 29.39.(h)** G.S. 20-11(b)(2) reads as rewritten:

37 "(2) Passes a written test administered by the Division. The person must answer  
38 at least eighty-five percent (85%) of the questions correctly in order to pass  
39 the test."

40 **SECTION 29.39.(i)** Subsections (a) through (e) and (i) of this section are effective  
41 when this act becomes law. The remainder of this section becomes effective July 1, 2016, and  
42 applies to applications for permits and licenses received by the Division on or after that date.

## 43 **PART XXX. SALARIES AND BENEFITS**

### 44 **GOVERNOR AND COUNCIL OF STATE**

45 **SECTION 30.1.(a)** The salary of the Governor as provided by G.S. 147-11(a) shall  
46 remain unchanged for the 2015-2017 fiscal biennium.

47 **SECTION 30.1.(b)** The annual salaries for members of the Council of State,  
48 payable monthly, shall remain unchanged for the 2015-2017 fiscal biennium, as follows:

49 Council of State

50 Annual Salary

1	Lieutenant Governor	\$125,676
2	Attorney General	125,676
3	Secretary of State	125,676
4	State Treasurer	125,676
5	State Auditor	125,676
6	Superintendent of Public Instruction	125,676
7	Agriculture Commissioner	125,676
8	Insurance Commissioner	125,676
9	Labor Commissioner	125,676

10           **SECTION 30.1.(c)** The Office of State Human Resources shall study the  
 11 compensation of the Council of State, as follows:

- 12           (1) Examine the salary, retirement and deferred compensation plans, health and  
 13 other insurance coverages, per diem rates, travel reimbursement rates, use of  
 14 State vehicles, and any other expense reimbursements or benefits other than  
 15 salary.
- 16           (2) Review any comparative information from other states and current salary  
 17 levels for similar statewide elected constitutional officers.
- 18           (3) Review market data for any comparable private sector executive positions.
- 19           (4) Consider whether Council of State salaries should be restructured and set in  
 20 a different manner.
- 21           (5) Consider any other matters pertaining to the compensation of the Council of  
 22 State.

23           **SECTION 30.1.(d)** By May 1, 2016, the Office of State Human Resources shall  
 24 report to the chairs of the Senate Appropriations/Base Budget Committee and the House of  
 25 Representatives Appropriations Committee on the review of Council of State compensation  
 26 required by subsection (c) of this section.

27  
 28 **CERTAIN EXECUTIVE BRANCH OFFICIALS**

29           **SECTION 30.2.** The annual salaries, payable monthly, for the following executive  
 30 branch officials shall remain unchanged for the 2015-2017 fiscal biennium, as follows:

31	<u>Executive Branch Officials</u>	<u>Annual Salary</u>
32	Chairman, Alcoholic Beverage Control Commission	\$111,868
33	State Controller	156,159
34	Commissioner of Banks	125,676
35	Chair, Board of Review, Division of Employment Security	123,255
36	Members, Board of Review, Division of Employment Security	121,737
37	Chairman, Parole Commission	102,235
38	Members of the Parole Commission	94,464
39	Chairman, Utilities Commission	139,849
40	Members of the Utilities Commission	125,676
41	Executive Director, North Carolina	
42	Agricultural Finance Authority	108,915

43  
 44 **JUDICIAL BRANCH SALARIES**

45           **SECTION 30.3.(a)** The annual salaries, payable monthly, for specified judicial  
 46 branch officials shall remain unchanged for the 2015-2017 fiscal biennium, as follows:

47	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
48	Chief Justice, Supreme Court	\$143,623
49	Associate Justice, Supreme Court	139,896
50	Chief Judge, Court of Appeals	137,682
51	Judge, Court of Appeals	134,109

1	Judge, Senior Regular Resident Superior Court	130,492
2	Judge, Superior Court	126,875
3	Chief Judge, District Court	115,301
4	Judge, District Court	111,684
5	District Attorney	121,737
6	Administrative Officer of the Courts	129,259
7	Assistant Administrative Officer of the Courts	118,152
8	Public Defender	121,737
9	Director of Indigent Defense Services	125,498

10           **SECTION 30.3.(b)** The annual salaries of permanent full-time employees of the  
 11 Judicial Department whose salaries are not itemized in this act shall not be legislatively  
 12 increased for the 2015-2017 fiscal biennium, but may be increased as otherwise allowed by  
 13 law.

14           **SECTION 30.3.(c)** Salary reserves generated by the clerk of superior court offices  
 15 during the 2015-2016 fiscal year shall be used exclusively by the clerks of superior court. The  
 16 clerks of superior court may use these funds to award salary increases in addition to those  
 17 specifically provided for deputy and assistant clerks under the respective salary plans. Any  
 18 additional increases may be awarded at the discretion of each elected clerk of superior court.  
 19 The Administrative Office of the Courts shall (i) allocate funds for additional discretionary  
 20 salary adjustments on a per capita basis and (ii) adopt a plan for distribution of the funds in  
 21 consultation with the Conference of Clerks of Superior Court.

22  
 23 **LEGISLATIVE BRANCH SALARIES**

24           **SECTION 30.4.(a)** For the 2015-2017 fiscal biennium, the salaries of members  
 25 and officers of the General Assembly shall remain unchanged at the amounts set under  
 26 G.S. 120-3, as provided in 1994 by the 1993 General Assembly.

27           **SECTION 30.4.(b)** The annual salaries of the Legislative Services Officer and of  
 28 nonelected employees of the General Assembly in effect on June 30, 2015, shall not be  
 29 legislatively increased for the 2015-2017 fiscal biennium, but may be increased as otherwise  
 30 allowed by law.

31  
 32 **COMMUNITY COLLEGES PERSONNEL**

33           **SECTION 30.5.(a)** The minimum salaries for nine-month, full-time curriculum  
 34 community college faculty for the 2015-2017 fiscal biennium shall remain unchanged as  
 35 follows:

<u>Education Level</u>	<u>Minimum Salary</u>
36 Vocational Diploma/Certificate or Less	\$35,314
37 Associate Degree or Equivalent	35,819
38 Bachelor's Degree	38,009
39 Master's Degree or Education Specialist	39,952
40 Doctoral Degree	42,753

41  
 42           No full-time faculty member shall earn less than the minimum salary for his or her  
 43 education level.

44           The pro rata hourly rate of the minimum salary for each education level shall be  
 45 used to determine the minimum salary for part-time faculty members.

46           **SECTION 30.5.(b)** For the 2015-2017 fiscal biennium, the community college  
 47 boards of trustees may provide instructional personnel a salary increase pursuant to the policies  
 48 adopted by the State Board of Community Colleges. Funds for compensation increases may be  
 49 used for any one or more of the following purposes: (i) merit pay, (ii) across-the-board  
 50 increases, (iii) recruitment bonuses, (iv) retention increases, and (v) any other compensation  
 51 increase pursuant to policies adopted by the State Board of Community Colleges. The State

1 Board of Community Colleges shall make a report on the use of these funds to the 2016  
2 Regular Session of the 2015 General Assembly no later than March 1, 2016.

#### 3 4 **UNIVERSITY OF NORTH CAROLINA SYSTEM**

5 **SECTION 30.6.** Effective for the 2015-2017 fiscal biennium, the annual  
6 compensation of all full-time University of North Carolina SHRA and EHRA employees shall  
7 not be legislatively increased for the 2015-2017 fiscal biennium, but may be increased as  
8 otherwise allowed by law.

#### 9 10 **STATE AGENCY TEACHERS**

11 **SECTION 30.7.** Employees of schools operated by the Department of Health and  
12 Human Services, the Department of Public Safety, and the State Board of Education who are  
13 paid on the Teacher Salary Schedule shall receive any experience step increases authorized in  
14 Section 9.1 of this act.

#### 15 16 **ALL STATE-SUPPORTED PERSONNEL**

17 **SECTION 30.8.(a)** For the 2015-2017 fiscal biennium, except as provided by Part  
18 9 and Section 30.5 of this act, the annual compensation of all employees subject to or exempt  
19 from the North Carolina Human Resources Act shall not be legislatively increased, but may be  
20 increased as otherwise provided by law.

21 **SECTION 30.8.(b)** Salaries and Related Benefits for Positions That Are Funded. –

- 22 (1) Partially from the General Fund or Highway Fund and partially from sources  
23 other than the General Fund or Highway Fund shall be increased from the  
24 General Fund or Highway Fund appropriation only to the extent of the  
25 proportionate part of the salaries paid from the General Fund or Highway  
26 Fund.  
27 (2) Fully from sources other than the General Fund or Highway Fund shall be  
28 increased as provided by this act. The Director of the Budget may increase  
29 expenditures of receipts from these sources by the amount necessary to  
30 provide the legislative increase to receipt-supported personnel in the  
31 certified budget.

32 **SECTION 30.8.(c)** The salary increases provided in this act become effective July  
33 1, 2015, and do not apply to persons separated from State service due to resignation, dismissal,  
34 reduction in force, death, or retirement, or whose last workday is prior to July 1, 2015.

35 **SECTION 30.8.(d)** Payroll checks issued to employees after July 1, 2015, that  
36 represent payment of services provided prior to July 1, 2015, shall not be eligible for salary  
37 increases provided for in this act. This subsection applies to all employees paid from State  
38 funds, whether or not subject to or exempt from the North Carolina Human Resources Act,  
39 including employees of public schools, community colleges, and The University of North  
40 Carolina.

41 **SECTION 30.8.(e)** Nothing in this act authorizes the transfer of funds between the  
42 General Fund and the Highway Fund for salary increases.

#### 43 44 **MOST STATE EMPLOYEES**

45 **SECTION 30.9.** For the 2015-2017 fiscal biennium, the salaries in effect June 30,  
46 2015, for the following employees shall not be legislatively increased, but may be increased as  
47 otherwise allowed by law:

- 48 (1) Permanent full-time State officials and persons whose salaries are set in  
49 accordance with the State Human Resources Act.  
50 (2) Permanent full-time State officials and persons in positions exempt from the  
51 State Human Resources Act.

- 1 (3) Permanent part-time State employees.
- 2 (4) Temporary and permanent hourly State employees.
- 3

#### 4 **USE OF FUNDS APPROPRIATED FOR COMPENSATION INCREASES**

5 **SECTION 30.10.(a)** The appropriations set forth in Section 2.1 of this act include  
6 appropriations for compensation increases in amounts set forth in the committee report  
7 described in Section 33.2 of this act. The Office of State Budget and Management shall ensure  
8 that those funds are used only for salary increases as provided by this act or otherwise allowed  
9 by law.

10 **SECTION 30.10.(b)** If the Director of the Budget determines that funds  
11 appropriated to a State agency for salary increases exceed the amount required by that agency  
12 for that purpose, the Director may reallocate those funds to other State agencies that received  
13 insufficient funds for salary increases.

14 **SECTION 30.10.(c)** No later than January 1, 2016, the Office of State Budget and  
15 Management shall report to the Joint Legislative Commission on Governmental Operations on  
16 the expenditure of funds for salary increases. This report shall include at least the following  
17 information for each State agency for the 2015-2016 fiscal year:

- 18 (1) The total amount of funds that the agency received for salary increases.
- 19 (2) The total amount of funds transferred from the agency to other State  
20 agencies pursuant to subsection (b) of this section. This section of the report  
21 shall identify the amounts transferred to each recipient State agency.
- 22 (3) The total amount of funds used by the agency for salary increases.
- 23 (4) The total amount of funds received by the agency for salary increases that  
24 are anticipated to revert at the end of the fiscal year.
- 25

#### 26 **MONITOR SALARY INCREASES**

27 **SECTION 30.11.(a)** The Office of State Budget and Management and the Office  
28 of State Human Resources shall submit a semiannual report to the Joint Legislative  
29 Commission on Governmental Operations on nonlegislative salary increases in (i) State  
30 agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the  
31 judicial branch; and (iii) The University of North Carolina and its constituent institutions. The  
32 reports required by this section shall include the following information:

- 33 (1) For agencies reporting through the BEACON HR/Payroll system, (i) a  
34 breakdown by action type (including, but not limited to, promotion,  
35 reallocation, career progression, salary adjustment, and any similar actions  
36 increasing employee pay) of the number and annual amount of those  
37 increases and (ii) a breakdown by action reason (including in-range higher  
38 level, acting pay, trainee adjustment, and other similar action reasons) of the  
39 number and annual amount of those action types coded as salary adjustment.
- 40 (2) For The University of North Carolina and its constituent institutions, a  
41 breakdown of the number and annual amount of those increases categorized  
42 by the University as promotions, changes in job duties or responsibilities,  
43 Distinguished Professorships, retention pay, career progression, and any  
44 other similar actions increasing employee pay.
- 45 (3) A summary of actions taken by the Office of State Budget and Management  
46 and the Office of State Personnel with respect to unauthorized salary  
47 increases.

48 **SECTION 30.11.(b)** The Legislative Services Officer shall report semiannually to  
49 the President Pro Tempore of the Senate and the Speaker of the House of Representatives on  
50 nonlegislative salary increases.  
51

**COMPENSATION LIMITATIONS/LOTTERY COMMISSION**

**SECTION 30.12.** For the 2015-2017 fiscal biennium, notwithstanding the provisions of G.S. 18C-114(a)(11) and G.S. 18C-120(b)(3), the Lottery Commission shall not expend funds for compensation bonuses or for merit-based or performance-based increases.

**SALARY ADJUSTMENT FUND**

**SECTION 30.12A.(a)** Funds appropriated or otherwise transferred to the General Fund Salary Adjustment by this act or any other provision of law shall be used to fund agency requests for salary range revisions, special minimum rates, grade to band transfers, and geographic site differential adjustments to provide competitive salary rates for affected job classifications or groups in response to changes in labor market rates as documented through data collection and analysis according to accepted human resource professional practices and standards. Funds shall only be used for salary adjustments that are in compliance with State Human Resources Commission policies. Funding shall not be used for other purposes, including in-range adjustments, career progression adjustments, or other adjustments as these terms may be defined by State human resources policy.

**SECTION 30.12A.(b)** The Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations prior to transferring any salary adjustment funds for any State agency.

**SECTION 30.12A.(c)** The Director of the Budget may transfer to General Fund budget codes from the General Fund Salary Adjustment Fund amounts required to support salary adjustments authorized by this section.

**SECTION 30.12A.(d)** The Judicial Department is eligible for the funding authorized in subsection (a) of this section.

**SECTION 30.12A.(e)** Employees of The University of North Carolina system, the community colleges, and local school boards are ineligible for the funding authorized in this section.

**SECTION 30.12A.(f)** Funds may not be used to increase the compensation of job classes that receive other compensation increases provided by law.

**SALARY DETERMINATIONS FOR CERTAIN LICENSED HEALTH PROFESSIONALS**

**SECTION 30.14.** State agencies, departments, and institutions shall have salary administration flexibility for licensed physicians, dentists, nurses, physicians assistants, pharmacists, and other allied health professionals and may exercise the flexibility within existing resources. No salary determination made under this section may exceed the maximum of the applicable salary range established by the Office of State Human Resources under Chapter 126 of the General Statutes. Beginning September 1, 2015, and then annually thereafter, the Office of State Human Resources shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the salary actions taken under this section.

**STATE WORKERS' COMPENSATION REFORM**

**SECTION 30.18.(a)** The Director of the Budget shall establish a statewide reserve in the amount of five million dollars (\$5,000,000) for closure of workers' compensation claims. The Office of State Budget and Management shall distribute funds from the reserve to the Office of State Human Resources to pay the settlement cost of workers' compensation claims in agencies.

**SECTION 30.18.(b)** Article 63 of Chapter 143 of the General Statutes reads as rewritten:

"Article 63.

1 "State Employees Workplace Requirements Program for ~~Safety and Health~~, Safety, Health, and  
2 Workers' Compensation.

3 "Part 1. Executive Branch Programs.

4 "**§ 143-580. Definition.**

5 As used in this Article, "State agency" means any department, commission, division, board,  
6 or institution of the State within the executive branch of ~~government~~ government, including  
7 The University of North Carolina system, and the Office of Administrative Hearings.

8 "**§ 143-581. Program goals.**

9 ~~Each State agency~~ The Office of State Human Resources shall establish a written program  
10 for State employee workplace ~~safety and health~~ safety, health, and workers' compensation. The  
11 program shall promote safe and healthful working conditions and shall be based on clearly  
12 stated goals and objectives for meeting the goals. The program shall provide managers,  
13 supervisors, and employees with a clear and firm understanding of the State's concern for  
14 protecting employees from job-related injuries and health impairment; preventing accidents and  
15 fires; planning for emergencies and emergency medical procedures; identifying and controlling  
16 physical, chemical, and biological hazards in the workplace; communicating potential hazards  
17 to employees; and assuring adequate housekeeping and sanitation.

18 "**§ 143-582. Program requirements.**

19 The written program required under this Article shall describe at a minimum:

- 20 (1) The methods to be used to identify, analyze, and control new or existing  
21 hazards, conditions, and operations.
- 22 (2) How managers, supervisors, and employees are responsible for  
23 implementing the program, controlling accident-related expenditures, and  
24 how continued participation of management and employees will be  
25 established, measured, and maintained.
- 26 (3) How the plan will be communicated to all affected employees so that they  
27 are informed of work-related physical, chemical, or biological hazards, and  
28 controls necessary to prevent injury or illness.
- 29 (4) How managers, supervisors, and employees will receive training in  
30 avoidance of job-related injuries and health impairment.
- 31 (5) How workplace accidents will be reported and investigated and how  
32 corrective actions will be implemented.
- 33 (6) How safe work practices and rules will be communicated and enforced.
- 34 (7) The safety and health training program that will be made available to  
35 employees.
- 36 (8) How employees can make complaints concerning safety and health problems  
37 without fear of retaliation.
- 38 (9) How employees will receive medical attention following a work-related  
39 injury or illness.

40 "**§ 143-583. Model program; technical assistance; reports.**

41 (a) ~~The State Human Resources Commission, through the~~ Office of State Human  
42 ~~Resources, shall:~~ Resources shall:

- 43 (1) Maintain a model program of safety and health requirements to guide State  
44 agencies in the development of their individual programs and in complying  
45 with the provisions of G.S. 95-148 and this Article.
- 46 (2) Establish guidelines for the creation and operation of State agency safety and  
47 health committees.
- 48 (3) Adopt policies that shall govern the administration of the workers'  
49 compensation program and monitor compliance with Chapter 97 of the  
50 General Statutes.

1           (4) Establish guidelines for the delegation of certain administrative functions as  
2           necessary for the administration of the workers' compensation program to  
3           State agencies, as defined in this section.

4       (b) ~~The Office of State Human Resources shall:~~

5           (1) ~~Provide consultative and technical services to assist State agencies in~~  
6           ~~establishing and administering their workplace safety and health programs~~  
7           ~~and to address specific technical problems.~~

8           (2) ~~Monitor compliance with this Article.~~

9       (c) ~~The Office of State Human Resources Commission~~ shall report by September 1, and  
10       annually thereafter, to the Joint Legislative Commission on Governmental Operations on the  
11       ~~safety and health~~ safety, health, and workers' compensation activities of State agencies,  
12       compliance with this Article, and the fines levied against State agencies pursuant to Article 16  
13       of Chapter 95 of the General Statutes.

14       **"§ 143-584. State agency safety and health committees.**

15       ~~Each State agency~~ The Office of State Human Resources shall create, pursuant to  
16       guidelines adopted under subsection (a) of G.S. 143-583, ~~safety and health~~ committees to  
17       perform workplace inspections, review injury and illness records, make advisory  
18       recommendations to the agency's managers, and perform other functions determined by the  
19       Office of State Human Resources Commission to be necessary for the effective implementation  
20       of the State Employees Workplace Requirements Program for Safety and ~~Health~~ the workers'  
21       compensation program.

22       **"§§ 143-585 through 143-588. Reserved for future codification purposes.**

23                       "Part 2. Legislative and Judicial Branch Programs.

24       **"§ 143-589. Legislative and judicial branch safety and health programs.**

25       The Legislative Services Commission and the Administrative Office of the Courts are  
26       authorized to separately establish safety and health programs for their employees."

27       **SECTION 30.18.(c)** G.S. 143-166.14 reads as rewritten:

28       **"§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation**  
29       **Act applicable after two years; duration of payment.**

30       The salary of any eligible person shall be paid as long as the person's employment in that  
31       position continues, notwithstanding the person's total or partial incapacity to perform any duties  
32       to which the person may be lawfully assigned, if that incapacity is the result of an injury or  
33       injuries ~~proximately caused by the heightened risk and special hazards directly related to the~~  
34       ~~violent nature of~~ resulting from or arising out of an episode of violence, resistance, or due to  
35       other special hazards that occur while the eligible person's person is performing official duties,  
36       except if that incapacity continues for more than two years from its inception, the person shall,  
37       during the further continuance of that incapacity, be subject to the provisions of Chapter 97 of  
38       the General Statutes pertaining to workers' compensation. The time period for which an eligible  
39       person receives benefits pursuant to this section shall be deducted from the eligible person's  
40       total eligibility for benefits pursuant to G.S. 97-29 and G.S. 97-30. For purposes of this section,  
41       the term "salary" shall be defined as the total base pay of the person reflected on the person's  
42       salary statement and shall not include overtime pay, shift differential pay, holiday pay, or other  
43       additional earnings to which the person may have been entitled prior to such incapacity. Salary  
44       paid to an eligible person pursuant to this Article shall cease upon the resumption of the  
45       person's regularly assigned duties, retirement, resignation, or death, whichever first occurs,  
46       except that temporary return to duty shall not prohibit payment of salary for a subsequent  
47       period of incapacity which can be shown to be directly related to the original injury."

48       **SECTION 30.18.(d)** By February 1, 2016, the Office of State Human Resources  
49       shall report to the Joint Legislative Commission on Governmental Operations and Fiscal  
50       Research Division on the implementation of this section.



1           **SECTION 30.18.(e)** The Department of Administration shall reclassify three  
2 vacant positions within the Department and assign the positions to the Office of State Human  
3 Resources to staff the Office's Workers' Compensation program for implementation of the  
4 provisions of Article 63 of Chapter 143 of the General Statutes as amended by this act.  
5

#### 6 **SALARY-RELATED CONTRIBUTIONS**

7           **SECTION 30.20.(a)** Effective for the 2015-2017 fiscal biennium, required  
8 employer salary-related contributions for employees whose salaries are paid from department,  
9 office, institution, or agency receipts shall be paid from the same source as the source of the  
10 employee's salary. If an employee's salary is paid in part from the General Fund or Highway  
11 Fund and in part from department, office, institution, or agency receipts, required employer  
12 salary-related contributions may be paid from the General Fund or Highway Fund only to the  
13 extent of the proportionate part paid from the General Fund or Highway Fund in support of the  
14 salary of the employee, and the remainder of the employer's requirements shall be paid from the  
15 source that supplies the remainder of the employee's salary. The requirements of this section as  
16 to source of payment are also applicable to payments on behalf of the employee for hospital  
17 medical benefits, longevity pay, unemployment compensation, accumulated leave, workers'  
18 compensation, severance pay, separation allowances, and applicable disability income benefits.

19           **SECTION 30.20.(b)** Effective July 1, 2015, the State's employer contribution rates  
20 budgeted for retirement and related benefits as a percentage of covered salaries for the  
21 2015-2017 fiscal biennium are (i) fifteen and twenty-one hundredths percent (15.21%) –  
22 Teachers and State Employees; (ii) twenty and twenty-one hundredths percent (20.21%) – State  
23 Law Enforcement Officers; (iii) twelve and seventy-four hundredths percent (12.74%) –  
24 University Employees' Optional Retirement Program; (iv) twelve and seventy-four hundredths  
25 percent (12.74%) – Community College Optional Retirement Program; (v) thirty-two and  
26 seventy hundredths percent (32.70%) – Consolidated Judicial Retirement System; and (vi)  
27 seven and twenty-nine hundredths percent (7.29%) – Legislative Retirement System. Each of  
28 the foregoing contribution rates includes five and forty-nine hundredths percent (5.49%) for  
29 hospital and medical benefits. The rate for the Teachers and State Employees, State Law  
30 Enforcement Officers, University Employees' Optional Retirement Program, and the  
31 Community College Optional Retirement Program includes forty-one hundredths percent  
32 (0.41%) for the Disability Income Plan. The rates for Teachers and State Employees and State  
33 Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits  
34 Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental  
35 Retirement Income. The rate for Teachers and State Employees and State Law Enforcement  
36 Officers includes one hundredth percent (0.01%) for the Qualified Excess Benefit  
37 Arrangement.

38           **SECTION 30.20.(c)** Effective July 1, 2015, the maximum annual employer  
39 contributions, payable monthly, by the State for each covered employee or retiree for the  
40 2015-2016 fiscal year to the State Health Plan for Teachers and State Employees are (i)  
41 Medicare-eligible employees and retirees – four thousand one hundred seventy-nine dollars  
42 (\$4,179) and (ii) non-Medicare-eligible employees and retirees – five thousand three hundred  
43 seventy-eight dollars (\$5,378).  
44

#### 45 **ALLOW RETIREES WHO RETURN TO WORK FOR THE STATE IN** 46 **NONPERMANENT POSITIONS TO RETAIN THEIR COVERAGE OPTIONS** 47 **UNDER THE STATE HEALTH PLAN FOR TEACHERS AND STATE** 48 **EMPLOYEES RATHER THAN LIMITING SUCH RETIREES' COVERAGE** 49 **OPTIONS TO THE "BRONZE LEVEL" HIGH-DEDUCTIBLE HEALTH PLAN** 50 **NECESSITATED BY THE AFFORDABLE CARE ACT**

51           **SECTION 30.25.(a)** G.S. 135-48.40 reads as rewritten:

1 "§ 135-48.40. Categories of eligibility.

2 ...  
3 (b) Partially Contributory Coverage. – The following persons are eligible for coverage  
4 under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:

5 (1) All permanent full-time employees of an employing unit who meet either of  
6 the following conditions:

7 a. Paid from general or special State funds.

8 b. Paid from non-State funds and in a group for which his or her  
9 employing unit has agreed to provide coverage.

10 Employees of State agencies, departments, institutions, boards, and  
11 commissions not otherwise covered by the Plan who are employed in  
12 permanent job positions on a recurring basis and who work 30 or more hours  
13 per week for nine or more months per calendar year are covered by the  
14 provisions of this subdivision.

15 (1a) All retirees who (i) are employed by an employing unit, (ii) do not qualify  
16 for coverage under subdivision (1) of this subsection, and (iii) are  
17 determined to be "full-time" by their employing unit in accordance with  
18 section 4980H of the Internal Revenue Code and the applicable regulations,  
19 as amended. The employing unit shall pay the employer premiums for  
20 retirees who enroll under this subdivision.

21 ...  
22 (e) Other Contributory Coverage. – Any employee of an employing unit is eligible for  
23 coverage under this section on a contributory basis, subject to the provisions of G.S. 135-48.43  
24 and of this section, if (i) the employee's employing unit determines that the employee is a  
25 full-time employee and (ii) the employee does not qualify for coverage under subdivision (1),  
26 (1a), (5), (6), (7), (8), (9), or (10) of G.S. 135-48.40(b). For the purposes of this subsection, the  
27 full-time status of an employee shall be determined by the employing unit, in its sole discretion,  
28 in accordance with Section 4980H of the Internal Revenue Code and the applicable regulations,  
29 as amended. The coverage offered and the contribution required for coverage under this section  
30 shall be determined by the Treasurer and approved by the Board of Trustees. Such coverage  
31 shall do all of the following:

32 (1) Be designed to meet the requirements of minimum essential coverage under  
33 the Patient Protection and Affordable Care Act, P.L. 111-148, and the  
34 applicable regulations, as amended (Affordable Care Act).

35 (2) Provide no greater coverage than a bronze-level plan, as defined under the  
36 Affordable Care Act.

37 (3) Minimize the required employer contribution in an administratively feasible  
38 manner."

39 **SECTION 30.25.(b)** G.S. 135-48.41(j) reads as rewritten:

40 "(j) If a retiree has been hired by an employing unit and is eligible for coverage under  
41 subdivision (1), (1a), (5), (6), (7), (8), (9), or (10) of G.S. 135-48.40(b) or under  
42 G.S. 135-48.40(e), then the hired retiree shall not, during the time of employment, be eligible  
43 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  
44 G.S. 135-48.40(d)(11)."

45  
46 **INTEREST RATE USED TO CALCULATE EMPLOYER CONTRIBUTION RATES**

47 **SECTION 30.29.(a)** G.S. 135-6(o) reads as rewritten:

48 "(o) On the basis of such tables and interest assumption rate as the Board of Trustees  
49 shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds  
50 of the System created by this Chapter. Notwithstanding the Board's general authority to set  
51 interest assumption rates for the annual valuation, for purposes of the calculation of employer

1 contribution rates, the Board shall use an interest rate of seven and twenty-hundredths percent  
2 (7.20%) in the valuation prepared as of December 31, 2013, and shall reduce that interest rate  
3 in each subsequent annual valuation by five-hundredths percent (0.05%) relative to the  
4 previous year's valuation."

5 **SECTION 30.29.(b)** G.S. 135-69(e) reads as rewritten:

6 "(e) The normal contribution rate and the accrued liability contribution rate shall be  
7 determined after each annual valuation of the Retirement System and shall remain in effect  
8 until a new valuation is made. In setting the contribution rates under this section, the Board  
9 shall use the same interest rate as that required under G.S. 135-6(o)."

10  
11 **CLARIFY AND AMEND THE LAW PROVIDING FOR PURCHASE OF SERVICE BY**  
12 **MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT**  
13 **SYSTEM FOR EDUCATIONAL LEAVE**

14 **SECTION 30.30.** G.S. 135-8(b)(5) reads as rewritten:

15 "(5) The Board of Trustees may approve the purchase of creditable service by  
16 any member for leaves of absence or for interrupted service to an employer  
17 for the sole ~~purpose~~purposes of acquiring knowledge, talents, or abilities and  
18 ~~to increase~~increasing the efficiency of service to the ~~employer.~~ employer,  
19 subject to the provisions of this subdivision. A leave of absence or  
20 interrupted service may be approved for purchase under this subdivision for  
21 a period of employment as a teacher in a charter school. Any other leave of  
22 absence or interrupted service shall qualify for purchase under this  
23 subdivision only if (i) during the time of the leave or interrupted service the  
24 member is enrolled and participates in a full-time degree program at an  
25 accredited institution of higher education, (ii) the member is not paid for the  
26 activity in which he or she is acquiring knowledge, talents, or abilities, and  
27 (iii) the service is not purchased for any month in which the member  
28 performed any services for any of the organizations listed in G.S. 135-27(a)  
29 or G.S. 135-27(f), or a successor to any of those organizations. This approval  
30 Approval by the Board under this subdivision shall be made prior to the  
31 purchase of the creditable service, is limited to a career total of six years for  
32 each member, and may be obtained in the following manner:

- 33 a. Approved leave of absence. – Where the employer grants an  
34 approved leave of absence, a member may make monthly  
35 contributions to the annuity savings fund on the basis of  
36 compensation the member was earning immediately prior to such  
37 leave of absence. The employer shall make monthly contributions  
38 equal to the normal and accrued liability contribution on such  
39 compensation or, in lieu thereof, the member may pay into the  
40 annuity savings fund monthly an amount equal to the employer's  
41 normal and accrued liability contribution when the policy of the  
42 employer is not to make such payment.
- 43 b. No educational leave policy. – Where the employer has a policy of  
44 not granting educational leaves of absence or the member has  
45 unsuccessfully petitioned for leave of absence and the member has  
46 interrupted service for educational purposes, the member may make  
47 monthly contributions into the annuity savings fund in an amount  
48 equal to the employee contribution plus the employer normal and  
49 accrued liability contribution on the basis of the compensation the  
50 member was earning immediately prior to the interrupted service.

- 1 c. Educational program prior to July 1, 1981. – Creditable service for  
2 leaves of absence or interrupted service for educational purposes  
3 prior to July 1, 1981, may be purchased by a member, before or after  
4 retirement, who returned as a contributing employee or teacher  
5 within 12 months after completing the educational program and  
6 completed 10 years of subsequent membership service, by making a  
7 lump sum payment into the annuity savings fund equal to the full  
8 cost of the service credits calculated on the basis of the assumptions  
9 used for purposes of the actuarial valuation of the system's liabilities  
10 and shall take into account the retirement allowance arising on  
11 account of the additional service credit commencing at the earliest  
12 age at which the member could retire on an unreduced retirement  
13 allowance as determined by the Board of Trustees upon the advice of  
14 the consulting actuary, plus a fee to be determined by the Board of  
15 Trustees.
- 16 d. Employment in a charter school. – Notwithstanding subparagraph a.  
17 of this subdivision, where the employer grants an approved leave of  
18 absence for the member to be employed in a charter school or where  
19 the member's service is interrupted by employment in a charter  
20 school, authorized under Part 6A of Article 16 of Chapter 115C of  
21 the General Statutes, the member may make monthly contributions  
22 into the annuity savings fund in an amount equal to the employee  
23 contribution plus the employer normal and accrued liability  
24 contribution on the basis of the compensation the member was  
25 earning immediately prior to the interrupted service.

26 Payments required to be made by the member, the employer, or both  
27 under subparagraphs a or b are due by the 15th of the month following the  
28 month for which the service credit is allowed and payments made after the  
29 due date shall be assessed a penalty, in lieu of interest, of one percent (1%)  
30 per month or fraction thereof the payment is made beyond the due date;  
31 provided, that these payments shall be made prior to retirement and provided  
32 further, that if the member did not become a contributing member within 12  
33 months after completing the educational program and failed to complete  
34 three years of subsequent membership service, except in the event of death  
35 or disability, any payment made by the member including penalty shall be  
36 refunded with regular interest thereon and the service credits cancelled prior  
37 to or at retirement."  
38

### 39 QUALIFIED EXCESS BENEFIT ARRANGEMENT

40 **SECTION 30.30A.(a)** G.S. 135-151(j) reads as rewritten:

41 "(j) Sunset of Eligibility to Participate in the QEBA. – No member of the Teachers' and  
42 State Employees' Retirement System retiring ~~on or after January 1, 2015, on or after August 1,~~  
43 2016, shall be eligible to participate in the QEBA, and the Retirement System shall not pay any  
44 new retiree more retirement benefits than allowed under the limitations of section 415(b) of the  
45 Internal Revenue Code."

46 **SECTION 30.30A.(b)** G.S. 128-38.10(k) reads as rewritten:

47 "(k) Sunset of Eligibility to Participate in the QEBA. – No member of the North  
48 Carolina Local Governmental Employees' Retirement System retiring ~~on or after January 1,~~  
49 2015, on or after August 1, 2016, shall be eligible to participate in the QEBA, and the  
50 Retirement System shall not pay any new retiree more retirement benefits than allowed under  
51 the limitations of section 415(b) of the Internal Revenue Code."

1           **SECTION 30.30A.(c)** Prior to January 1, 2016, the Department of State Treasurer  
2 shall inform all active employees whose total benefit might be affected by the sunset of the  
3 Qualified Excess Benefits Arrangement about that potential impact and shall explain the  
4 options each employee has for avoiding that impact.

5  
6           **STATE HEALTH PLAN CASH RESERVE**

7           **SECTION 30.31.(a)** During the 2015-2017 fiscal biennium, the State Health Plan  
8 for Teachers and State Employees shall maintain a cash reserve of at least twenty percent  
9 (20%) of its annual costs. For purposes of this section, the term "cash reserve" means the total  
10 balance in the Public Employee Health Benefit Fund and the Health Benefit Reserve Fund  
11 established in G.S. 135-48.5 plus the Plan's administrative account, and the term "annual costs"  
12 means the total of all medical claims, pharmacy claims, administrative costs, fees, and premium  
13 payments for coverage outside of the Plan.

14           **SECTION 30.31.(b)** On and after January 1, 2016, if the State Health Plan for  
15 Teachers and State Employees projects a cash reserve of less than the minimum cash reserve  
16 required by this section at any time during the remainder of the 2015-2017 fiscal biennium, or  
17 the Fiscal Research Division of the General Assembly notifies the Plan that it projects such a  
18 deficiency, the Department of State Treasurer shall report to the Joint Legislative Commission  
19 on Governmental Operations within 60 days of that projection or notification on actions the  
20 Department plans to take in order to maintain that required minimum cash reserve.

21  
22           **STATE HEALTH PLAN ELIGIBILITY/PREMIUMS FOR ALTERNATIVE**  
23           **COVERAGE OPTIONS**

24           **SECTION 30.32.(a)** G.S. 135-48.1(18) reads as rewritten:

25           "(18) Retired employee (retiree). – Retired teachers, State employees, and  
26 members of the General Assembly who (i) are receiving monthly retirement  
27 benefits from any retirement system supported in whole or in part by  
28 contributions of the State of North Carolina, the Teachers' and State  
29 Employees' Retirement System, the Consolidated Judicial Retirement  
30 System, the Legislative Retirement System, or the Optional Retirement  
31 Program and (ii) earned contributory retirement service in one of these  
32 retirement systems prior to January 1, 2016, and did not withdraw that  
33 service, so long as the retiree is enrolled."

34           **SECTION 30.32.(b)** G.S. 135-48.40 reads as rewritten:

35           **"§ 135-48.40. Categories of eligibility.**

36           (a) Noncontributory Coverage. – The following persons are eligible for coverage under  
37 the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-48.43:

- 38           (1) ~~Retired teachers, State employees, members of the General Assembly,~~  
39 Retired employees as defined in G.S. 135-48.1(18) and retired State law  
40 enforcement officers who retired under the Law Enforcement Officers'  
41 Retirement System prior to January 1, 1985. Except as otherwise provided in  
42 this subdivision, on and after January 1, 1988, a retiring employee or retiree  
43 must have completed at least five years of contributory retirement service  
44 with an employing unit prior to retirement from any State-supported  
45 retirement system in order to be eligible for group benefits under this Part as  
46 a retired employee or retiree. For employees first hired on and after October  
47 1, 2006, and members of the General Assembly first taking office on and  
48 after February 1, 2007, future coverage as retired employees and retired  
49 members of the General Assembly is subject to a requirement that the future  
50 retiree have 20 or more years of retirement service credit in order to be  
51 covered by the provisions of this subdivision.

1 ...  
 2 (b) Partially Contributory Coverage. – The following persons are eligible for coverage  
 3 under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:  
 4 ...

5 (3) ~~Retired teachers, State employees, members of the General Assembly,~~  
 6 Retired employees as defined in G.S. 135-48.1(18) and retired State law  
 7 enforcement officers who retired under the Law Enforcement Officers'  
 8 Retirement System prior to January 1, 1985. Except as otherwise provided in  
 9 this subdivision, on and after January 1, 1988, a retiring employee or retiree  
 10 must have completed at least five years of contributory retirement service  
 11 with an employing unit prior to retirement from any State-supported  
 12 retirement system in order to be eligible for group benefits under this Part as  
 13 a retired employee or retiree. For employees first hired on and after October  
 14 1, 2006, and members of the General Assembly first taking office on and  
 15 after February 1, 2007, future coverage as retired employees and retired  
 16 members of the General Assembly is subject to a requirement that the future  
 17 retiree have 20 or more years of retirement service credit in order to be  
 18 covered by the provisions of this subdivision.  
 19 ...

20 (c) One-Half Contributory Coverage. – The following persons are eligible for coverage  
 21 under the Plan, on a one-half contributory basis, subject to the provisions of G.S. 135-48.43:  
 22 ...

23 (2) ~~Employees and members of the General Assembly~~Retired employees as  
 24 defined in G.S. 135-48.1(18) with 10 but less than 20 years of retirement  
 25 service credit provided the employees were first hired on or after October 1,  
 26 2006, and the members first took office on or after February 1, 2007. For  
 27 such future retirees, the State shall pay fifty percent (50%) of the Plan's total  
 28 employer premiums. Individual retirees shall pay the balance of the total  
 29 premiums not paid by the State.

30 (d) Fully Contributory Coverage. – The following persons shall be eligible for coverage  
 31 under the Plan, on a fully contributory basis, subject to the provisions of G.S. 135-48.43:  
 32 ...

33 (11) ~~Retired teachers, State employees, and members of the General Assembly~~  
 34 Retired employees as defined in G.S. 135-48.1(18) with less than 10 years of  
 35 retirement service credit, provided the teachers and State employees were  
 36 first hired on or after October 1, 2006, and the members first took office on  
 37 or after February 1, 2007.  
 38 ...."

39 **SECTION 30.32.(c)** G.S. 135-48.30(a) is amended by adding a new subdivision to  
 40 read as follows:

41 "(a) The State Treasurer shall have the following powers and duties:  
 42 ...  
 43 (17) Optionally offer Medicare-related options under G.S. 135-48.38.  
 44 (18) Optionally offer to pay premiums to purchase alternative coverage in lieu of  
 45 coverage under the Plan under G.S. 135-48.39."

46 **SECTION 30.32.(d)** Part 3 of Article 3B of Chapter 135 of the General Statutes is  
 47 amended by adding a new section to read as follows:

48 **"§ 135-48.39. Premiums to purchase alternative coverage for retirees in lieu of coverage**  
 49 **under the Plan.**

50 (a) The State Treasurer may offer to pay or reimburse premiums for alternative health  
 51 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:

<b>Capital Improvements – General Fund</b>	<b>2015-2016</b>	<b>2016-2017</b>
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		
Water Resources Development	5,083,000	–
Department of Public Safety		
Armory and Facility Development Projects	618,000	5,087,500
General Assembly		
Legislative Building Roof Replacement and Asbestos Abatement	9,500,000	–
Repairs and Renovations Reserve	144,889,100	
Responsible Capital Planning Commission		
Capital Improvement Planning Fund	5,000,000	–
University of North Carolina		
North Carolina School of Science and		

1	Mathematics – Upgrades and Building Repair	4,000,000	–
2			
3	<b>TOTAL CAPITAL IMPROVEMENTS –</b>		
4	<b>GENERAL FUND</b>	<b>\$174,895,100</b>	<b>5,087,500</b>

**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.

	<b>Name of Project</b>	<b>2015-2016</b>
17	(1) Jordan Water Supply	\$200,000
18	(2) Wilmington Harbor Study	225,000
19	(3) Planning Assistance	25,000
20	(4) Wilmington Harbor Deepening	600,000
21	(5) Wilmington Harbor Maintenance	-
22	(6) Morehead City Harbor Maintenance	-
23	(7) Carolina Beach Storm Damage Reduction	1,400,000
24	(8) Carolina Beach Storm Damage Reduction 15-Year Extension Study	81,000
25	(9) Kure Beach Storm Damage Reduction	1,450,000
26	(10) Wrightsville Storm Damage Reduction Reevaluation Report	81,000
27	(11) Ocean Isle Storm Damage Reduction Reevaluation Report	81,000
28	(12) Bogue Banks Storm Damage Reduction Preconstruction,	
29	Engineering, and Design	165,000
30	(13) Surf City/North Topsail Preconstruction Activities	135,000
31	(14) West Onslow Beach Preconstruction Activities	135,000
32	(15) NRCS EQIP (65/35)	1,000,000
33	(16) Planning for S.L. 2010-143	75,000
34	(17) State-Local Projects	1,000,000
35	(18) Lock and Dam #2 – Fish Ramp – Phase 1	250,000
36	(19) Linville River Restoration	250,000
37	(20) Assistance to Counties – EAP Preparation	250,000
38	(21) North Topsail Shoreline Protection – Phase 2	500,000
39		
40	<b>TOTALS</b>	<b>\$7,903,000</b>

**SECTION 31.3.(b)** It is the intent of the General Assembly that funds carried forward from previous fiscal years be used to supplement the five million eighty-three thousand dollars (\$5,083,000) appropriated for water resources development projects in Section 31.2 of this act. Therefore, the following funds carried forward from previous fiscal years shall be used for the following projects:

	<b>Name of Project</b>	<b>Amount Carried Forward</b>
50	(1) Wilmington Harbor Study	\$225,000
51	(2) Planning Assistance	25,000



1	(3)	Wilmington Harbor Deepening	600,000
2	(4)	Carolina Beach Storm Damage Reduction	727,000
3	(5)	Kure Beach Storm Damage Reduction	808,000
4	(6)	Bogue Banks Storm Damage Reduction Preconstruction,	
5		Engineering, and Design	165,000
6	(7)	Surf City/North Topsail Preconstruction Activities	135,000
7	(8)	West Onslow Beach Preconstruction Activities	135,000

8  
 9 **TOTALS** **\$2,820,000**

10

11

**SECTION 31.3.(c)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2015-2016 fiscal year or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

17

(1) U.S. Army Corps of Engineers project feasibility studies.

18

(2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State matching funds in the 2015-2016 fiscal year.

19

(3) State-local water resources development projects.

20

Funds subject to this subsection that are not expended or encumbered for the purposes set forth in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of the 2016-2017 fiscal year.

24

**SECTION 31.3.(d)** The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

28

(1) All projects listed in this section.

29

(2) The estimated cost of each project.

30

(3) The date that work on each project began or is expected to begin.

31

(4) The date that work on each project was completed or is expected to be completed.

32

(5) The actual cost of the project.

34

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.

37

**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.

45

**NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

47

**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:

48

49

50

**Amount of Non-General Fund  
 Funding Authorized**

51

**Name of Project**

	FY 2015-2016	FY 2016-2017
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**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 improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
- (5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports also shall include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

**SECTION 31.5.(c)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used each fiscal year by the Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

**SECTION 31.5.(d)** In making campus allocations of funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, the Board of Governors shall negatively weight the availability of non-State resources and carry forward

1 funds available for repair and renovations and shall include information about the manner in  
2 which this subsection was complied with in any report submitted pursuant to G.S. 143C-4-3(d).

## 3 4 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

5 **SECTION 31.6.** The appropriations made by the 2015 General Assembly for  
6 capital improvements shall be disbursed for the purposes provided by this act. Expenditure of  
7 funds shall not be made by any State department, institution, or agency until an allotment has  
8 been approved by the Governor as Director of the Budget. The allotment shall be approved  
9 only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.  
10 Prior to the award of construction contracts for projects to be financed in whole or in part with  
11 self-liquidating appropriations, the Director of the Budget shall approve the elements of the  
12 method of financing of those projects, including the source of funds, interest rate, and  
13 liquidation period. Provided, however, that if the Director of the Budget approves the method  
14 of financing a project, the Director shall report that action to the Joint Legislative Commission  
15 on Governmental Operations at its next meeting.

16 Where direct capital improvement appropriations include the purpose of furnishing  
17 fixed and movable equipment for any project, those funds for equipment shall not be subject to  
18 transfer into construction accounts except as authorized by the Director of the Budget. The  
19 expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and  
20 approved by the Director of the Budget prior to commitment of funds.

21 Capital improvement projects authorized by the 2015 General Assembly shall be  
22 completed, including fixed and movable equipment and furnishings, within the limits of the  
23 amounts of the direct or self-liquidating appropriations provided, except as otherwise provided  
24 in this act. Capital improvement projects authorized by the 2015 General Assembly for the  
25 design phase only shall be designed within the scope of the project as defined by the approved  
26 cost estimate filed with the Director of the Budget, including costs associated with site  
27 preparation, demolition, and movable and fixed equipment.

## 28 29 **REPORTING ON CAPITAL PROJECTS**

30 **SECTION 31.7.(a)** Definitions. – The following definitions apply in this section:

- 31 (1) Capital project. – Any capital improvement, as that term is defined in  
32 G.S. 143C-1-1, that is not complete by the effective date of this section and  
33 that is funded in whole or in part with State funds, including receipts,  
34 non-General Fund sources, or statutorily or constitutionally authorized  
35 indebtedness of any kind. This term includes only projects with a total cost  
36 of one hundred thousand dollars (\$100,000) or more.
- 37 (2) Construction phase. – The status of a particular capital project as described  
38 using the terms customarily employed in the design and construction  
39 industries.
- 40 (3) New capital project. – A capital project that is authorized in this act or  
41 subsequent to the effective date of this act.

42 **SECTION 31.7.(b)** Reporting. – The following reports are required:

- 43 (1) By October 1, 2015, and every six months thereafter, each State agency shall  
44 report on the status of agency capital projects to the Joint Legislative  
45 Commission on Governmental Operations.
- 46 (2) By October 1, 2015, and quarterly thereafter, each State agency shall report  
47 on the status of agency capital projects to the Fiscal Research Division of the  
48 General Assembly and to the Office of State Budget and Management.

49 **SECTION 31.7.(c)** The reports required by subsection (b) of this section shall  
50 include at least the following information about every agency capital project:

- 51 (1) The current construction phase of the project.

- 1 (2) The anticipated time line from the current construction phase to project  
2 completion.
- 3 (3) Information about expenditures that have been made in connection with the  
4 project, regardless of source of the funds expended.
- 5 (4) Information about the adequacy of funding to complete the project,  
6 including estimates of how final expenditures will relate to initial estimates  
7 of expenditures, and whether or not scope reductions will be necessary in  
8 order to complete the project within its budget.
- 9 (5) For new capital projects only, an estimate of the operating costs for the  
10 project for the first five fiscal years of its operation.

11 **SECTION 31.7.(d)** In addition to the other reports required by this section, on  
12 October 1, 2015, and every six months thereafter, the Office of State Construction shall report  
13 on the status of the Facilities Condition Assessment Program (FCAP) to the Joint Legislative  
14 Commission on Governmental Operations. The report shall include (i) summary information  
15 about the average length of time that passes between FCAP assessments for an average State  
16 building; (ii) detailed information about when the last FCAP assessment was for each State  
17 building complex; and (iii) detailed information about the condition and repairs and renovations  
18 needs of each State building complex.

19 **SECTION 31.7.(e)** In addition to the other reports required by this section, on  
20 October 1, 2015, and quarterly thereafter, the State Construction Office shall report to the Joint  
21 Legislative Oversight Committee on Capital Improvements on the status of plan review,  
22 approval, and permitting for each State capital improvement project and community college  
23 capital improvement project over which the Office exercises plan review, approval, and  
24 permitting authority. Each report shall include (i) summary information about the workload of  
25 the Office during the previous quarter, including information about the average length of time  
26 spent by the State Construction Office on each major function it performs that is related to  
27 capital project approval, and (ii) detailed information about the amount of time spent engaged  
28 in those functions for each project that the State Construction Office worked on during the  
29 previous quarter.

## 30 31 **NATIONAL GUARD PROJECTS**

32 **SECTION 31.8.(a)** The Department of Public Safety shall allocate the funds  
33 appropriated for armory and facility development projects in Section 31.2 of this act to projects  
34 designated by the Adjutant General of the North Carolina National Guard. The Adjutant  
35 General shall allocate funds only to projects that were included in the latest Armory and  
36 Facilities Development Plan developed pursuant to G.S. 127A-210 and may determine which  
37 fiscal year of the biennium each designated project shall be funded. These funds will provide a  
38 State match for federal funds made available for this purpose.

39 **SECTION 31.8.(b)** No later than June 1, 2017, and every two years thereafter, the  
40 Department shall report on the use of these funds to the Joint Legislative Commission on  
41 Governmental Operations, the Fiscal Research Division of the General Assembly, and the  
42 Office of State Budget and Management. Each report shall include all of the following:

- 43 (1) The status of all projects undertaken pursuant to this section.
- 44 (2) The estimated total cost of each project.
- 45 (3) The date that work on each project began or is expected to begin.
- 46 (4) The date that work on each project was completed or is expected to be  
47 completed.
- 48 (5) The actual cost of each project, including federal matching funds.
- 49 (6) Facilities planned for closure or reversion.

- 1 (7) A list of projects advanced in schedule, those projects delayed in schedule,  
2 and an estimate of the amount of funds expected to revert to the General  
3 Fund.  
4

## 5 **PLAN FOR RELOCATING ALL DHHS OFFICES TO ONE LOCATION**

6 **SECTION 31.10.(a)** The Department of Health and Human Services, in  
7 consultation with the Department of Administration, shall develop a plan for relocating the  
8 personnel and resources of the Department of Health and Human Services that are located on  
9 the Dorothea Dix campus and on other property leased or owned by the State in the Greater  
10 Triangle area (consisting of Durham, Orange, Johnston, and Wake Counties) to one site  
11 available to the State. The Department shall report the plan to the Joint Legislative Oversight  
12 Committee on Health and Human Services and the Fiscal Research Division by the earlier of  
13 October 1, 2016, or six months prior to the date on which the Department is required to move  
14 some or all of its personnel and resources from the Dorothea Dix campus under the terms of an  
15 agreement between the State and the City of Raleigh. The plan required by this section shall  
16 include at least all of the following information:

- 17 (1) The location to which the personnel and resources of the Department of  
18 Health and Human Services will be relocated.  
19 (2) The square footage needed in order to accommodate the relocation.  
20 (3) A statement of anticipated costs or benefits associated with the relocation.  
21 (4) A schedule for implementation of the relocation plan.  
22 (5) Identification of any potential obstacles to the relocation plan.  
23 (6) Options for financing the relocation plan developed in conjunction with the  
24 State Treasurer and the State Controller.

25 **SECTION 31.10.(b)** Notwithstanding any other provision of law, neither the  
26 Department of Health and Human Services nor the Department of Administration shall enter  
27 into any lease or other agreement to move the personnel or resources of the Department of  
28 Health and Human Services that currently reside on the Dorothea Dix campus or on other  
29 property leased or owned by the State in the Greater Triangle area to another site until  
30 specifically authorized to do so by the General Assembly.  
31

## 32 **MODIFY SPECIAL INDEBTEDNESS PROVISIONS**

33 **SECTION 31.11.(a)** G.S. 143-128.1C reads as rewritten:

34 "**§ 143-128.1C. Public-private partnership construction contracts.**

- 35 (a) Definitions for purposes of this section:

36 ...

- 37 (4) Development contract. – Any contract between a governmental entity and a  
38 private developer under this section and, as part of the contract, the private  
39 developer is required to provide at least fifty percent (50%) of the financing  
40 for the total cost necessary to deliver the capital improvement project,  
41 whether through lease or ownership, for the governmental entity. For  
42 purposes of determining whether the private developer is providing the  
43 minimum percentage of the total financing costs, the calculation shall not  
44 include any payment made by a public entity or proceeds of financing  
45 arrangements by a private entity where the source of repayment is a public  
46 entity.

47 ...

- 48 (10) State-supported financing arrangement. – Any installment financing  
49 arrangement, lease-purchase arrangement, arrangement under which funds  
50 are to be paid in the future based upon the availability of an asset or funds  
51 for payment, or any similar arrangement in the nature of a financing, under

1 which a State entity agrees to make payments to acquire or obtain ownership  
 2 or beneficial use of a capital asset for the State entity or any other State  
 3 entity for a term, including renewal options, of greater than one year. Any  
 4 arrangement that results in the identification of a portion of a lease payment,  
 5 installment payment, or similar scheduled payment thereunder by a State  
 6 entity as "interest" for purposes of federal income taxation shall  
 7 automatically be a State-supported financing arrangement for purposes of  
 8 this section. A true operating lease is not a State-supported financing  
 9 arrangement.

10 ...

11 (k) Leases and other agreements entered into under this section are subject to approval  
 12 as follows:

13 ...

14 (2) If a capital lease ~~is~~ or other agreement entered into by a State entity ~~that~~  
 15 constitutes a State-supported financing arrangement and requires payments  
 16 thereunder that are payable, whether directly or indirectly, and whether or  
 17 not subject to the appropriation of funds for such payment, by payments  
 18 from the General Fund of the State or other funds and accounts of the State  
 19 that are funded from the general revenues and other taxes and fees of the  
 20 State or State entities, not including taxes and fees that are required to be  
 21 deposited to the Highway Fund or Highway Trust Fund, Fund to be used  
 22 to make payments under capital leases or other agreements for projects covered  
 23 under Article 14B of Chapter 136 of the General Statutes, that capital lease  
 24 or other agreement shall be subject to the approval procedures required for  
 25 special indebtedness by G.S. 142-83 and G.S. 142-84. This requirement shall  
 26 not apply to any arrangement where bonds or other obligations are issued or  
 27 incurred by a State entity to carry out a financing program authorized by the  
 28 General Assembly under which such bonds or other obligations are payable  
 29 from monies derived from specified, limited, nontax sources, so long as the  
 30 payments under that arrangement by a State entity are limited to the sources  
 31 authorized by the General Assembly.

32 ...."

33 **SECTION 31.11.(b)** This section is effective when this act becomes law.

34  
 35 **DEBT AFFORDABILITY STUDY FOR THE UNIVERSITY OF NORTH CAROLINA**

36 **SECTION 31.13.** Chapter 116D of the General Statutes is amended by adding a  
 37 new Article to read:

38 "Article 5.

39 "Managing Debt Capacity.

40 "**§ 116D-55. Purpose.**

41 The purpose of this Article is to provide tools for sound debt management at The University  
 42 of North Carolina by requiring each constituent institution to conduct an annual debt  
 43 affordability study, by requiring the establishment of guidelines for maintaining prudent debt  
 44 levels, and by establishing a system for prioritizing University capital needs when the needs  
 45 exceed the University's capacity for new debt.

46 "**§ 116D-56. Debt affordability study required.**

47 (a) Study Required. – The Board of Governors shall annually advise the Governor and  
 48 the General Assembly on the estimated debt capacity of The University of North Carolina for  
 49 the upcoming five fiscal years. The Board shall oversee the undertaking of an annual debt  
 50 affordability study and the establishment of guidelines for evaluating the University's debt  
 51 burden. The guidelines should include target and ceiling ratios of debt to obligated resources

1 and target and floor percentages for the five-year payout ratio. The Board shall also recommend  
2 any other debt management policies it considers desirable and consistent with sound  
3 management of the University's debt.

4 (b) Board of Governors Reporting Required. – The Board shall report its findings and  
5 recommendations to the Office of State Budget and Management, the Joint Legislative  
6 Commission on Governmental Operations, the State Treasurer, and The University of North  
7 Carolina General Administration by February 1 of each year. The report shall be accompanied  
8 by each of the reports provided to the Board pursuant to subsection (c) of this section.

9 (c) Constituent Institution Reporting Required. – No later than November 1 of each  
10 year, each constituent institution shall report to the Board of Governors on its current and  
11 anticipated debt levels. The report shall be made in a uniform format to be prescribed by the  
12 Board of Governors. Each report shall include at least the following:

13 (1) The amount and type of outstanding debt of the institution.

14 (2) The sources of repayment of the debt.

15 (3) The amount of debt that the institution plans to issue or incur during the next  
16 five years.

17 (4) A description of projects financed with the debt.

18 (5) The current bond rating of the institution and information about any changes  
19 to that bond rating since the last report was submitted.

20 (6) Information about the constituent institution's debt management policies and  
21 any recommendations for methods to maintain or improve the University's  
22 bond rating.

23 (7) Debt burden comparisons to comparable peer institutions.

24 (8) Any other information requested by the Board of Governors.

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

26 (1) Debt. – Debt incurred under this Chapter or any other debt that will be  
27 serviced with funds available to the institutions from gifts, grants, receipts,  
28 Medicare reimbursements for education costs, hospital receipts from patient  
29 care, or other funds, or any combination of these funds, but not including  
30 debt that will be serviced with funds appropriated from the General Fund of  
31 the State.

32 (2) Obligated resources. – As defined in G.S. 116D-22."

33  
34 **AUTHORIZE STATE AGENCIES TO UNDERTAKE SMALL REPAIRS AND**  
35 **RENOVATIONS PROJECTS WITH FUNDS AVAILABLE**

36 **SECTION 31.14.(a)** Notwithstanding G.S. 143C-8-7, a State agency may  
37 undertake repairs and renovations projects so long as each project satisfies the following  
38 requirements:

39 (1) Total project costs do not exceed three hundred thousand dollars (\$300,000).

40 (2) The project is one of the types set forth in G.S. 143C-4-3(b)(1) through (12),  
41 regardless of whether the relevant State facilities and related infrastructure  
42 are supported from the General Fund.

43 (3) The project is paid for with funds available to the agency.

44 **SECTION 31.14.(b)** Projects undertaken pursuant to this section shall be reported  
45 to the Fiscal Research Division on a quarterly basis. A report under this subsection shall  
46 include information about all of the following for each project:

47 (1) The facility at which the project is being undertaken.

48 (2) The nature and scope of the project.

49 (3) The source of funds for the project.

50 (4) The category of projects set forth in G.S. 143C-4-3(b) that the project falls  
51 within.



1  
2 **CREATE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL**  
3 **IMPROVEMENTS**

4 **SECTION 31.16.(a)** Article 29 of Chapter 120 of the General Statutes is amended  
5 by adding three new sections to read:

6 **"§ 120-261. Creation and membership of Joint Legislative Oversight Committee on**  
7 **Capital Improvements.**

8 The Joint Legislative Oversight Committee on Capital Improvements is established. The  
9 Committee consists of 16 members as follows:

10 (1) Eight members of the House of Representatives appointed by the Speaker of  
11 the House of Representatives, at least two of whom are members of the  
12 minority party.

13 (2) Eight members of the Senate appointed by the President Pro Tempore of the  
14 Senate, at least two of whom are members of the minority party.

15 Terms on the Committee are for two years and begin on the convening of the General  
16 Assembly in each odd-numbered year, except the terms of the initial members, which begin on  
17 appointment and end on the day of the convening of the 2017 General Assembly. Members  
18 may complete a term of service on the Committee even if they do not seek reelection or are not  
19 reelected to the General Assembly, but resignation or removal from service in the General  
20 Assembly constitutes resignation or removal from service on the Committee.

21 A member continues to serve until the member's successor is appointed. A vacancy shall be  
22 filled within 30 days by the officer who made the original appointment.

23 **"§ 120-262. Purpose and powers of the Committee.**

24 (a) The Joint Legislative Oversight Committee on Capital Improvements shall have the  
25 power to do all of the following:

26 (1) Examine, on a continuing basis, capital improvements requested by,  
27 authorized for, and undertaken by or on behalf of State agencies.

28 (2) Have oversight over implementation of the six-year capital improvements  
29 plan developed pursuant to G.S. 143C-8-5.

30 (3) Make recommendations to the General Assembly on ways to improve the  
31 planning, financing, design, construction, and maintenance of State capital  
32 improvements.

33 (4) Make reports and recommendations to the General Assembly regarding  
34 which capital improvements requested by State agencies should be  
35 authorized and how they should be funded.

36 (5) Examine any other topic the Committee believes to be related to its purpose.

37 (b) As used in this section, the term "capital improvement" shall have the same meaning  
38 as in G.S. 143C-1-1.

39 **"§ 120-263. Organization of Committee.**

40 (a) The President Pro Tempore of the Senate and the Speaker of the House of  
41 Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on  
42 Capital Improvements. The Committee shall meet upon the call of the cochairs.

43 (b) A quorum of the Committee is nine members. No action may be taken except by a  
44 majority vote at a meeting at which a quorum is present. While in the discharge of its official  
45 duties, the Committee has the powers of a joint committee under G.S. 120-19 through  
46 G.S. 120-19.4.

47 (c) Members of the Committee receive subsistence and travel expenses as provided in  
48 G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance  
49 with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services  
50 Officer, shall assign professional staff to assist the Committee in its work. Upon the direction  
51 of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the

1 House of Representatives shall assign clerical staff to the Committee. The expenses for clerical  
2 employees shall be borne by the Committee.

3 (d) The cochairs of the Committee may call upon other knowledgeable persons or  
4 experts to assist the Committee in its work."

5 **SECTION 31.16.(b)** G.S. 120-76(9) is repealed.

6  
7 **REQUIRE UNC CARRYFORWARD FUNDS TO BE USED FOR REPAIRS AND**  
8 **RENOVATIONS**

9 **SECTION 31.17.(a)** G.S. 116-30.3(f) reads as rewritten:

10 "(f) Funds carried forward pursuant to subsection (a) of this section may be used ~~for~~  
11 ~~one-time expenditures, provided, however, that the expenditures shall not impose additional~~  
12 ~~financial obligations on the State and shall not be used to support positions.~~ only for projects  
13 that are eligible to receive funds from the Repairs and Renovations Reserve under  
14 G.S. 143C-4-3(b)."

15 **SECTION 31.17.(b)** This section becomes effective June 30, 2015.

16  
17 **MCGOUGH ARENA REPAIR PROJECT CHANGES**

18 **SECTION 31.18.** Section 36.12(f)(5) of S.L. 2014-100 reads as rewritten:

19 "**SECTION 36.12.(f)** Allocation of Proceeds. – The proceeds of bonds and notes shall be  
20 allocated and expended as provided in this subsection:

21 ...

22 (5) A maximum aggregate principal amount of two million dollars (\$2,000,000)  
23 to finance the capital facility costs of repairing or renovating the roof of the  
24 McGough Arena and other facilities at the Western North Carolina  
25 Agricultural Center."

26  
27 **TECHNICAL CORRECTION RELATING TO USS NORTH CAROLINA**  
28 **BATTLESHIP REPAIRS**

29 **SECTION 31.19.** Section 36.10 of S.L. 2014-100 reads as rewritten:

30 "**SECTION 36.10.** The General Assembly authorizes USS North Carolina Battleship hull  
31 and cofferdam repairs to be funded at a maximum cost of thirteen million dollars (\$13,000,000)  
32 in accordance with this section. The sum of three million dollars (\$3,000,000) of the proceeds  
33 of bonds issued pursuant to Section 36.12(f)(7) of this act shall be used for this project. The  
34 remainder of the project shall be funded with receipts or from other non-General Fund sources  
35 available to the Department of Cultural Resources, and those funds are hereby appropriated for  
36 that purpose."

37  
38 **CAPITAL IMPROVEMENT REFORM**

39 **SECTION 31.20.(a)** Article 9 of Chapter 143B of the General Statutes is amended  
40 by adding a new Part to read:

41 "Part 3A. Responsible Capital Planning Commission.

42 "**§ 143B-374.1. Creation of Responsible Capital Planning Commission; membership;**  
43 **compensation; meetings; quorum; office space and staffing.**

44 (a) Creation. – There is created the Responsible Capital Planning Commission. The  
45 Commission shall be located administratively within the Department of Administration but  
46 shall exercise all of its prescribed statutory powers independently of the Secretary of  
47 Administration.

48 (b) Membership. – The Responsible Capital Planning Commission shall consist of the  
49 following seven members who shall serve at the pleasure of the Governor:

50 (1) Two capital projects coordinators from State agencies other than The  
51 University of North Carolina.

1           (2)    Two capital projects coordinators from The University of North Carolina  
2                system.

3           (3)    Two capital projects coordinators from community colleges in this State.

4           (4)    The State Budget Director, who shall be the chair of the Commission.

5           (c)    Compensation. – The Commission members shall receive no salary as a result of  
6   serving on the Commission but shall receive per diem, subsistence, and travel expenses in  
7   accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

8           (d)    Meetings. – The chair shall convene the Commission. Meetings shall be held as  
9   often as necessary, but not less than four times a year.

10          (e)    Quorum. – A majority of the members of the Commission shall constitute a quorum  
11   for the transaction of business. The affirmative vote of a majority of the members present at  
12   meetings of the Commission shall be necessary for action to be taken by the Commission.

13          (f)    Office Space and Staffing. – The Department of Administration shall provide office  
14   space in Raleigh for use as offices by the Commission, and the Department of Administration  
15   shall receive no reimbursement from the Commission for the use of the property during the life  
16   of the Commission. The Secretary of the Department of Administration shall be responsible for  
17   staffing the Commission.

18 **"§ 143B-374.2. Powers and duties of the Responsible Capital Planning Commission.**

19        The Responsible Capital Planning Commission shall have the following powers and duties:

20           (1)    To determine whether State agency capital improvement projects have been  
21   responsibly planned, in accordance with G.S. 143C-8-13.

22           (2)    To provide funds for advanced planning of State agency capital  
23   improvements, in accordance with G.S. 143C-8-14.

24           (3)    To adopt rules to accomplish the purposes set forth in this section in  
25   accordance with Chapter 150B of the General Statutes."

26        **SECTION 31.20.(b)** Article 8 of Chapter 143C of the General Statutes is amended  
27 by adding two new sections to read:

28 **"§ 143C-8-13. Capital improvements require certification of responsible planning.**

29          (a)    Certification of Responsible Planning. – The Responsible Capital Planning  
30   Commission shall have the power and duty to certify that State agency capital improvements  
31   have been responsibly planned. The Commission shall deem a project to have been responsibly  
32   planned if advanced planning for the project is complete and the resulting plans satisfy all of  
33   the requirements of G.S. 143C-8-14(c)(2) and (3).

34          (b)    State Agencies Shall Submit Plans to Commission. – A State agency that has  
35   completed advanced planning of a large capital improvement shall submit those plans and any  
36   additional information requested to the Responsible Capital Planning Commission so that the  
37   Commission can determine whether or not to issue a certification of responsible planning  
38   pursuant to subsection (a) of this section. This subsection applies to all large capital  
39   improvements undertaken by State agencies, regardless of the source or sources of funding for  
40   advanced planning or for project completion.

41          (c)    Reporting. – The Responsible Capital Planning Commission shall report  
42   certifications of responsible planning issued pursuant to subsection (a) of this section to the  
43   Office of State Budget and Management and to the Fiscal Research Division of the Legislative  
44   Services Commission within 10 days of their issuance. Each report shall include all of the  
45   following:

46           (1)    Details of the basis for the determination that the certification should be  
47   issued, including information about the manner in which each of the criteria  
48   set forth in G.S. 143-8-14(c)(2) and (3) is satisfied.

49           (2)    The total estimated cost to complete the project.

50           (3)    The estimated amount of non-State funding that the project will receive.

1           (4)    An estimate of the operating costs for the completed project for the first five  
2               and 10 years of its operation.

3           (5)    A history of the revision of the project plans in response to feedback from  
4               the Commission, including any previous denials of certifications.

5           (d)    General Assembly Intent. – It is the intent of the General Assembly not to  
6               appropriate funds for large capital improvements, or to authorize large capital improvements to  
7               be funded with non-General Fund sources, beyond the advanced planning phase until the  
8               Responsible Capital Planning Commission has issued a certification of responsible planning  
9               pursuant to subsection (a) of this section.

10          (e)    Effect of Appropriation or Authorization to Proceed Beyond Advanced Planning  
11               Phase. – If the General Assembly appropriates funds for a large capital improvement beyond  
12               the advanced planning phase, or authorizes a large capital improvement project to proceed  
13               beyond that phase, no funds from any source shall be spent or encumbered for work on phases  
14               beyond the advanced planning phase until the Responsible Capital Planning Commission issues  
15               a certification of responsible planning pursuant to subsection (a) of this section.

16          (f)    Large Capital Improvement. – A capital improvement with an estimated total cost  
17               that exceeds five million dollars (\$5,000,000). The term does not include a repairs and  
18               renovations project, as described in G.S. 143C-4-3(b).

19    **"§ 143C-8-14. Funds for advanced planning of State capital improvement projects.**

20          (a)    Capital Improvement Planning Fund. – The Capital Improvement Planning Fund is  
21               established as a special fund in the Responsible Capital Planning Commission of the  
22               Department of Administration. It is the intent of the General Assembly to fund appropriations  
23               for advanced planning of State agency capital improvement projects exclusively through this  
24               Fund using the procedures set forth in this section.

25          (b)    Use of Funds. – Funds in the Capital Improvement Planning Fund shall be available  
26               for expenditure only upon appropriation by the General Assembly and shall be used only for  
27               the advanced planning of State capital improvement projects.

28          (c)    Procedure for Allocation of Funds. – The Responsible Capital Planning  
29               Commission shall implement a competitive process for awarding funds from the Capital  
30               Improvement Planning Fund and those funds shall be allocated to fund the advanced planning  
31               of a State agency capital improvement project only if all of the following conditions are  
32               satisfied:

33               (1)    The project was included in the budget requests made to the Director of the  
34                       Budget in accordance with Article 3 of Chapter 143C of the General  
35                       Statutes.

36               (2)    The Responsible Capital Planning Commission determines that there is or is  
37                       likely to be a State need for the project in the future and the need is  
38                       substantial enough to justify funding the planning of the project. The  
39                       assessment of the need for the project shall include an analysis of the  
40                       following:

41                   a.    The estimated statewide impact of the project.

42                   b.    Whether or not the requesting agency adequately uses the space and  
43                       facilities currently allocated to it.

44                   c.    Whether the project will mitigate immediate safety or environmental  
45                       concerns.

46                   d.    The availability of non-State investment in and support for the  
47                       project.

48                   e.    The estimated economic impact the project will have on the State.

49                   f.    Any other aspect of the project that the Commission deems to be  
50                       relevant.

- 1           (3)   The Responsible Capital Planning Commission determines that all of the  
2           following conditions are satisfied:  
3           a.     The project is justified with respect to the capital improvement needs  
4           criteria developed by the Office of State Budget and Management  
5           pursuant to G.S. 143C-8-3.  
6           b.     The project, or components of the project, will be planned using a  
7           standard, reusable design as determined by the Department of  
8           Administration.  
9           c.     The project will minimize the inclusion of design elements that are  
10          not related to the core function of the project.  
11          d.     The estimated total cost of the project is lower than the total cost of  
12          similar facilities or otherwise meets the need of the State agency at  
13          the lowest possible cost to taxpayers.  
14          e.     The project will incorporate design elements that have yielded  
15          documented operating cost savings in similar facilities.  
16          f.     The requesting agency's total repairs and renovations needs are not  
17          excessive.  
18          (4)   The State agency that requested planning funds agrees to abide by any  
19          limitations on the scope of the planning imposed by the Responsible Capital  
20          Planning Commission.  
21          (5)   If the allocation of funds to plan a particular project exceeds five million  
22          dollars (\$5,000,000), the Responsible Capital Planning Commission consults  
23          with the Joint Legislative Commission on Governmental Operations prior to  
24          the allocation and reports the allocation to the Joint Legislative Oversight  
25          Committee on Capital Improvements.  
26          (6)   If the allocation of funds to plan a particular project is less than or equal to  
27          five million dollars (\$5,000,000), the Responsible Capital Planning  
28          Commission reports the allocation to the Joint Legislative Commission on  
29          Governmental Operations and to the Joint Legislative Oversight Committee  
30          on Capital Improvements within 60 days of the expenditure or reallocation.  
31          (7)   The amount of planning funds allocated for the project does not exceed four  
32          percent (4%) of the estimated total cost to complete the project.  
33          (8)   The request for the project is accompanied by an estimate of the operating  
34          costs for the completed facility for the first five and 10 years of its operation.  
35          (9)   The requesting agency agrees not to spend any of the funds allocated to it  
36          from the Capital Improvement Planning Fund to seek LEED Certification  
37          from the U.S. Green Building Council.

38          (d)   Funding of Planning Does Not Constitute Authority to Complete Full Project. – An  
39          allocation of funds for advanced planning of a project under this section shall not be construed  
40          to authorize completion of any phase of a project beyond the advanced planning phase. The  
41          General Assembly shall not be required to appropriate funds to complete a project that was  
42          planned pursuant to this section.

43          (e)   Timing of Department Allocations. – To the extent feasible, the Responsible Capital  
44          Planning Commission shall ensure that the timing of allocations of funds from the Capital  
45          Improvement Planning Fund is managed in a way that allows State agencies and the General  
46          Assembly to provide for timely commencement and completion of post-planning stages of a  
47          project when the General Assembly decides to authorize completion of a project beyond the  
48          planning stage."

49                **SECTION 31.20.(c)** G.S. 143C-3-3 reads as rewritten:

50                **"§ 143C-3-3. Budget requests from State agencies in the executive branch.**

51                ...

1 (d) Capital Funds Request. – In addition to any other information requested by the  
2 Director, any State agency proposing to (i) acquire real property, (ii) construct a new facility,  
3 (iii) expand the building area (sq. ft.) of an existing facility, or (iv) rehabilitate an existing  
4 facility to accommodate new or expanded uses shall accompany that request with all of the  
5 following:

- 6 (1) An estimate of its space needs and other physical requirements, together  
7 with a review and evaluation of that estimate prepared by the Department of  
8 Administration, except that in the case of a project of The University of  
9 North Carolina for which advance planning has not been completed, the  
10 estimate of space needs may be a preliminary estimate.
- 11 (2) An estimate of project costs and cash flow requirements approved by the  
12 Department of Administration.
- 13 (3) A certification of project feasibility as described in G.S. 143-341, except that  
14 in the case of a project of The University of North Carolina for which  
15 advance planning has not been completed, the request may be submitted  
16 without this certification.
- 17 (4) An explanation of the method by which the acquisition, construction, or  
18 rehabilitation is to be financed.
- 19 (5) An estimate of maintenance and operating costs, including personnel, for the  
20 project, covering the first five and 10 years of operation.
- 21 (6) An estimate of revenues, if any, to be derived from the project, covering the  
22 first five years of operation.
- 23 (7) A certification of responsible planning as described in G.S. 143C-8-13 if the  
24 project is required to have one pursuant to that section.

25 This subsection does not apply to requests for State resources for railroad, highway, or  
26 bridge construction or renovation."

27 **SECTION 31.20.(d)** No later than October 1, 2015, the Responsible Capital  
28 Planning Commission shall report to the Joint Legislative Commission on Governmental  
29 Operations on the process it will use to make allocation decisions under G.S. 143C-8-14, as  
30 enacted by subsection (b) of this section. The report shall specifically include information about  
31 the way that the Department will ensure that the process is competitive.

32 **SECTION 31.20.(e)** The Department of Administration and the Office of State  
33 Construction shall collaborate with the Government Data Analytics Center (GDAC) in order to  
34 leverage existing public-private partnerships and subject matter expertise that can facilitate  
35 improvements in capital planning and analysis. The GDAC shall allocate sufficient resources  
36 for this purpose and shall integrate financial and budget data with the Department's  
37 comprehensive facilities data system.

38 **SECTION 31.20.(f)** This section is effective when this act becomes law, except  
39 that it does not apply to projects (i) for which advanced planning was complete before that date  
40 or (ii) that are authorized during the 2015-2017 fiscal biennium to be financed with the  
41 proceeds of general obligation bonds.

## 42 43 **PART XXXII. FINANCE PROVISIONS**

### 44 45 **JDIG MODIFICATIONS**

46 **SECTION 32.11.(a)** G.S. 143B-437.51 is amended by adding new subdivisions to  
47 read:

#### 48 **"§ 143B-437.51. Definitions.**

49 The following definitions apply in this Part:

- 50 (1) Agreement. – A community economic development agreement under  
51 G.S. 143B-437.57.

- 1 (2) Base period. – The period of time set by the Committee during which new  
2 employees are to be hired for the positions on which the grant is based.
- 3 (3) Business. – A corporation, sole proprietorship, cooperative association,  
4 partnership, S corporation, limited liability company, nonprofit corporation,  
5 or other form of business organization, located either within or outside this  
6 State.
- 7 (4) Committee. – The Economic Investment Committee established pursuant to  
8 G.S. 143B-437.54.
- 9 (4a) Development tier. – The classification assigned to an area pursuant to  
10 G.S. 143B-437.08.
- 11 (5) Eligible position. – A position created by a business and filled by a new  
12 full-time employee in this State during the base period.
- 13 (6) Full-time employee. – A person who is employed for consideration for at  
14 least 35 hours a week, whose wages are subject to withholding under Article  
15 4A of Chapter 105 of the General Statutes, and who is determined by the  
16 Committee to be employed in a permanent position according to criteria it  
17 develops in consultation with the Attorney General. The term does not  
18 include any person who works as an independent contractor or on a  
19 consulting basis for the business.
- 20 (6a) High-yield project. – A project for which the agreement requires that a  
21 business invest at least seven hundred fifty million dollars (\$750,000,000) in  
22 private funds and create at least 2,000 eligible positions.
- 23 (6b) through (6j) Reserved.
- 24 (6k) Major market community. – A county in which the average weekly wage for  
25 all insured private employers in the county is one of the three highest in the  
26 State.
- 27 (7) New employee. – A full-time employee who represents a net increase in the  
28 number of the business's employees statewide.
- 29 (8) Overdue tax debt. – Defined in G.S. 105-243.1.
- 30 (9) Related member. – Defined in G.S. 105-130.7A.
- 31 (10) Withholdings. – The amount withheld by a business from the wages of  
32 employees in eligible positions under Article 4A of Chapter 105 of the  
33 General Statutes."

34 **SECTION 32.11.(b)** G.S. 143B-437.52 reads as rewritten:

35 **"§ 143B-437.52. Job Development Investment Grant Program.**

36 (a) Program. – There is established the Job Development Investment Grant Program to  
37 be administered by the Economic Investment Committee. In order to foster job creation and  
38 investment in the economy of this State, the Committee may enter into agreements with  
39 businesses to provide grants in accordance with the provisions of this Part. The Committee, in  
40 consultation with the Attorney General, shall develop criteria to be used in determining whether  
41 the conditions of this section are satisfied and whether the project described in the application  
42 is otherwise consistent with the purposes of this Part. Before entering into an agreement, the  
43 Committee must find that all the following conditions are met:

- 44 (1) The project proposed by the business will create, during the term of the  
45 agreement, a net increase in employment in this State by the business.
- 46 (2) The project will benefit the people of this State by increasing opportunities  
47 for employment and by strengthening this State's economy by, for example,  
48 providing worker training opportunities, constructing and enhancing critical  
49 infrastructure, increasing development in strategically important industries,  
50 or increasing the State and local tax base.

- 1 (3) The project is consistent with economic development goals for the State and  
2 for the area where it will be located.
- 3 (4) A grant under this Part is necessary for the completion of the project in this  
4 State.
- 5 (5) The total benefits of the project to the State outweigh its costs and render the  
6 grant appropriate for the project.
- 7 (6) For a project located in a development tier three area, the affected local  
8 governments have participated in recruitment and offered incentives in a  
9 manner appropriate to the project.
- 10 (b) Priority. – In selecting between applicants, a project that is located in an  
11 Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project  
12 that is not located in a certified Eco-Industrial Park.
- 13 (c) Awards.—Award Limitations. – The following limitations apply to grants awarded  
14 under this Part:
- 15 (1) Maximum liability. – The maximum amount of total annual liability for  
16 grants awarded in any single calendar year under this Part, including  
17 amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is  
18 fifteen million dollars (\$15,000,000).—(\$15,000,000) for a year in which no  
19 grants are awarded for a high-yield project and is thirty million dollars  
20 (\$30,000,000) for a year in which a grant is awarded for a high-yield project.  
21 No agreement may be entered into that, when considered together with other  
22 existing agreements governing grants awarded during a single calendar year,  
23 could cause the State's potential total annual liability for grants awarded in a  
24 single calendar year to exceed ~~this~~ the applicable amount. The Department  
25 shall make every effort to ensure that the average percentage of withholdings  
26 of eligible positions for grants awarded under this Part does not exceed the  
27 average of the range provided in G.S. 143B-437.56(a).
- 28 (2) Semiannual commitment limitations. – Of the amount authorized in  
29 subdivision (1) of this subsection, no more than fifty percent (50%),  
30 excluding roll-over amounts, may be awarded in any single calendar  
31 semiannual period. A roll-over amount is any amount from a previous  
32 semiannual period in the same calendar year that was not awarded as a grant.  
33 The limitation of this subdivision does not apply to a grant awarded to a  
34 high-yield project.
- 35 (d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and  
36 G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate  
37 that the increase or maintenance of employment is measured at the level of a division or  
38 another operating unit of a business, rather than at the business level, if both of the following  
39 conditions are met:
- 40 (1) The Committee makes an explicit finding that the designation is necessary to  
41 secure the project in this State.
- 42 (2) The agreement contains terms to ensure that the business does not create  
43 eligible positions by transferring or shifting to the project existing positions  
44 from another project of the business or a related member of the business."

45 **SECTION 32.11.(c)** G.S. 143B-437.53 reads as rewritten:

46 **"§ 143B-437.53. Eligible projects.**

- 47 (a) Minimum Number of Standards for Eligible Positions. – A business may apply to  
48 the Committee for a grant for any project that creates the minimum number of eligible positions  
49 satisfying the wage standard as set out in the table below. ~~If the project will be located in more~~  
50 ~~than one development tier area, the location with the highest development tier area designation~~  
51 ~~determines the minimum number of eligible positions that must be created.~~The wage standard



1 is met if the business pays an average weekly wage for all eligible positions that is equal to or  
 2 greater than the percentage provided below of the average wage for all insured private  
 3 employers in the county. Before using standards greater than the applicable minimum standards  
 4 established by this subsection for a project located in a development tier one or two area, the  
 5 Committee must find that the deviation from the minimum standards disproportionately  
 6 increases the beneficial economic impact of the project and shall include the information for  
 7 each project on which the finding is 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>200</u>	<u>120%</u>

13 ...."

14 **SECTION 32.11.(d)** G.S. 143B-437.55(c) reads as rewritten:

15 "(c) Annual Reports. – The Committee shall publish a report on the Job Development  
 16 Investment Grant Program on or before April 30 of each year. The Committee shall submit the  
 17 report electronically to the House of Representatives Finance Committee, the Senate Finance  
 18 Committee, the House of Representatives Appropriations Subcommittee on Natural and  
 19 Economic Resources, the Senate Appropriations Committee on Natural and Economic  
 20 Resources, and the Fiscal Research Division. The report shall include the following:

21 ...

22 (11) A listing of all businesses making an application under this Part and an  
 23 explanation of whether each business ultimately located the project in this  
 24 State regardless of whether the business was awarded a grant for the project  
 25 under this Part.

26 (11a) A listing, itemized by development tier, of the number of offers that have  
 27 been calculated, estimated, or extended but were not accepted and the total  
 28 award value of the offers.

29 ...."

30 **SECTION 32.11.(e)** G.S. 143B-437.56 reads as rewritten:

31 **"§ 143B-437.56. Calculation of minimum and maximum grants; factors considered.**

32 (a) Subject to the ~~limitations-provisions of subsection-subsections (a1) and (d)~~ of this  
 33 section, the amount of the grant awarded in each case shall be a percentage of the withholdings  
 34 of eligible positions. ~~The percentage shall be no less than ten percent (10%) and no more than~~  
 35 ~~seventy five percent (75%) of the withholdings of the eligible positions for a period of years.~~  
 36 The percentage shall be no more than eighty percent (80%) for a development tier one area, no  
 37 more than seventy percent (70%) for a development tier two area, no more than sixty percent  
 38 (60%) for a development tier three area, and no more than fifty percent (50%) for a major  
 39 market community. If the project will be located in more than one area designation, the location  
 40 with the highest area designation determines the maximum percentage to be used. The  
 41 percentage used to determine the amount of the grant shall be based on criteria developed by  
 42 the Committee, in consultation with the Attorney General, after considering at least the  
 43 following:

- 44 (1) The number of eligible positions to be created.
- 45 (2) The expected duration of those positions.
- 46 (3) The type of contribution the business can make to the long-term growth of  
 47 the State's economy.
- 48 (4) The amount of other financial assistance the project will receive from the  
 49 State or local governments.
- 50 (5) The total dollar investment the business is making in the project.

- 1 (6) Whether the project utilizes existing infrastructure and resources in the  
2 community.
- 3 (7) Whether the project is located in a development zone.
- 4 (8) The number of eligible positions that would be filled by residents of a  
5 development zone.
- 6 (9) The extent to which the project will mitigate unemployment in the State and  
7 locality.

8 (a1) Notwithstanding the percentage specified by subsection (a) of this section, if the  
9 project is a high-yield project, the business has met the investment and job creation  
10 requirements, and, for three consecutive years, the business has met all terms of the agreement,  
11 the amount of the grant awarded shall be no more than one hundred percent (100%) of the  
12 withholdings of eligible positions for each consecutive year the business maintains the  
13 minimum job creation requirement and meets all terms of the agreement. A business receiving  
14 an enhanced percentage of the withholdings of eligible positions under this subsection that fails  
15 to maintain the minimum job creation requirement or meet all terms of the agreement will be  
16 disqualified from receiving the enhanced percentage and will have the applicable percentage set  
17 forth in subsection (a) of this section applied in the year in which the failure occurs and all  
18 remaining years of the grant term.

19 (b) ~~The term of the grant shall not exceed 12 years starting with the first year a grant~~  
20 ~~payment is made.~~ the duration listed in this subsection. The first grant payment must be made  
21 within six years after the date on which the grant was awarded. The number of years in the base  
22 period for which grant payments may be made shall not exceed five years.

- 23 (1) For high-yield projects in which the business receives the enhanced  
24 percentage pursuant to subsection (a1) of this section, 20 years starting with  
25 the first year a grant payment is made. If a business is disqualified from the  
26 enhanced percentage in one of the first 12 years, the term of the grant shall  
27 not exceed 12 years starting with the first year a grant payment is made. If a  
28 business is disqualified from receiving the enhanced percentage after the  
29 first 12 years, the term of the grant ends in the year the disqualification  
30 occurs.

- 31 (2) For all other projects, 12 years starting with the first year a grant payment is  
32 made.

33 (c) The grant may be based only on eligible positions created during the base period.

34 (d) For any eligible position that is located in a major market community, eighty-five  
35 percent (85%) of the annual grant approved for disbursement shall be payable to the business,  
36 and fifteen percent (15%) shall be payable to the Utility Account pursuant to  
37 G.S. 143B-437.61. For any eligible position that is located in a development tier three area,  
38 seventy five percent (75%) ninety percent (90%) of the annual grant approved for disbursement  
39 shall be payable to the business, and twenty five percent (25%) ten percent (10%) shall be  
40 payable to the Utility Account pursuant to G.S. 143B-437.61. For any eligible position that is  
41 located in a development tier two area, eighty five percent (85%) ninety-five percent (95%) of  
42 the annual grant approved for disbursement shall be payable to the business, and fifteen percent  
43 (15%) five percent (5%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61.  
44 A position is located in the development tier area that has been assigned to the county in which  
45 the project is located at the time the application is filed with the Committee. This subsection  
46 does not apply to a high-yield project in years in which the business receives the enhanced  
47 percentage pursuant to subsection (a1) of this section.

48 (e) A business that is receiving any other grant by operation of State law may not  
49 receive an amount as a grant pursuant to this Part that, when combined with any other grants,  
50 exceeds ~~seventy five percent (75%)~~ the applicable maximum percentage of the withholdings of

1 the business, as provided in subsections (a) and (a1) of this section, unless the Committee  
2 makes an explicit finding that the additional grant is necessary to secure the project.

3 (f) The amount of a grant associated with any specific eligible position, including any  
4 amount transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed six  
5 thousand five hundred dollars (\$6,500) in any year."

6 **SECTION 32.11.(e1)** Article 10 of Chapter 143B of the General Statutes is  
7 amended by adding a new section to read:

8 **"§ 143B-437.56A. Multi-location projects.**

9 (a) Except as provided in subsection (b) of this section, if a project will be located in  
10 more than one development tier area, the location with the highest area designation determines  
11 the standards applicable under this Part to the project.

12 (b) For purposes of G.S. 143B-437.56(d), if a project will be located in more than one  
13 development tier area, the location with the lowest area designation determines the percentage  
14 of the annual grant approved for disbursement payable to the Utility Account pursuant to  
15 G.S. 143B-437.61 if (i) the project will have at least one location in a major market community  
16 or development tier three area, (ii) the project will have at least one location in a development  
17 tier one or two area, and (iii) at least sixty-six percent (66%) of the number of eligible positions  
18 created or the total benefits of the project to the State, as calculated pursuant to  
19 G.S. 143B-437.52, or both, are located in the lowest area designation."

20 **SECTION 32.11.(f)** G.S. 143B-437.57(a) reads as rewritten:

21 "(a) Terms. – Each community economic development agreement shall include at least  
22 the following:

23 ...

24 (10) A provision that requires the business to maintain operations at the project  
25 location or another location approved by the Committee for at least one  
26 hundred fifty percent (150%) of the term of the grant and a provision to  
27 ~~permit require~~ the Committee to recapture ~~all or part an appropriate portion~~  
28 of the grant ~~at its discretion~~ if the business does not remain at the site for the  
29 required term.

30 (11) A provision that requires the business to maintain employment levels in this  
31 State at the greater of the level of the year immediately preceding the base  
32 period employment on the date of the application or the level of employment  
33 on the date of the award.

34 ...."

35 **SECTION 32.11.(g)** G.S. 143B-437.62 reads as rewritten:

36 **"§ 143B-437.62. Expiration.**

37 The authority of the Committee to award new grants expires January 1, ~~2016~~2018."

38 **SECTION 32.11.(h)** Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

39 **"SECTION 15.19.(a1)** Notwithstanding G.S. 143B-437.52(c), for the ~~2013-2015 fiscal~~  
40 ~~biennium, period from July 1, 2013, to December 31, 2015,~~ the maximum total liability for  
41 grants awarded, including amounts transferred to the Utility Account pursuant to  
42 G.S. 143B-437.61, is ~~twenty two million five hundred thousand dollars (\$22,500,000) and, for~~  
43 ~~the period from July 1, 2015, to December 31, 2015, the maximum total liability for grants~~  
44 ~~awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is~~  
45 ~~seven million five hundred thousand dollars (\$7,500,000). thirty-five million dollars~~  
46 (\$35,000,000) if no grant is awarded for a high-yield project and is fifty million dollars  
47 (\$50,000,000) if a grant is awarded for a high-yield project. No agreement may be entered into  
48 that, when considered together with other existing agreements governing grants awarded during  
49 an applicable time period provided in this subsection, could cause the State's potential total  
50 annual liability for grants awarded in that time period to exceed the designated maximum  
51 amount."

1           **SECTION 32.11.(i)** Subsections (d) and (h) of this section are effective when this  
2 act becomes law. The remainder of this section becomes effective July 1, 2015, and applies to  
3 awards made under Part 2G of Article 10 of Chapter 143B of the General Statutes on or after  
4 that date.

## 6 **ONE NC MODIFICATIONS**

7           **SECTION 32.12.(a)** G.S. 143B-437.72(c) reads as rewritten:

8           "(c) Local Government Grant Agreement. – An agreement between the State and one or  
9 more local governments shall contain the following provisions:

10           (1) A commitment on the part of the local government to match the funds  
11 allocated by the ~~State~~. State, as provided in this subdivision. A local match  
12 may include cash, fee waivers, in-kind services, the donation of assets, the  
13 provision of infrastructure, or a combination of these.

14           a. For a local government in a development tier one area, as defined in  
15 G.S. 143B-437.08, the State shall provide no more than three dollars  
16 (\$3.00) for every one dollar (\$1.00) provided by the local  
17 government.

18           b. For a local government in a development tier two area, as defined in  
19 G.S. 143B-437.08, the State shall provide no more than two dollars  
20 (\$2.00) for every one dollar (\$1.00) provided by the local  
21 government.

22           c. For a local government in a development tier three area, as defined in  
23 G.S. 143B-437.08, the State shall provide no more than one dollar  
24 (\$1.00) for every one dollar (\$1.00) provided by the local  
25 government.

26           d. For a local government in a major market community, as defined in  
27 G.S. 143B-437.51, the State shall provide no more than one dollar  
28 (\$1.00) for every two dollars (\$2.00) provided by the major market  
29 community.

30           ...."

31           **SECTION 32.12.(b)** This section is effective when this act becomes law.

## 33 **CORPORATE INCOME TAX RATE REDUCTION AND TAX BASE EXPANSION**

34           **SECTION 32.13.(a)** Effective for taxable years beginning on or after January 1,  
35 2016, G.S. 105-130.3 reads as rewritten:

### 36 **"§ 105-130.3. Corporations.**

37           A tax is imposed on the State net income of every C Corporation doing business in this  
38 State at the rate of ~~five percent (5%)~~. four percent (4%). An S Corporation is not subject to the  
39 tax levied in this section."

40           **SECTION 32.13.(b)** Effective for taxable years beginning on or after January 1,  
41 2017, G.S. 105-130.3, as rewritten by subsection (a) of this section, reads as rewritten:

### 42 **"§ 105-130.3. Corporations.**

43           A tax is imposed on the State net income of every C Corporation doing business in this  
44 State at the rate of ~~four percent (4%)~~. three percent (3%). An S Corporation is not subject to the  
45 tax levied in this section."

46           **SECTION 32.13.(c)** G.S. 105-130.3C is repealed.

47           **SECTION 32.13.(d)** G.S. 105-130.5 reads as rewritten:

### 48 **"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

49           ...

50           (b) The following deductions from federal taxable income shall be made in determining  
51 State net income:

- 1 ...
- 2 (6) ~~Amortization in excess of depreciation allowed under the Code on the cost~~
- 3 ~~of any sewage or waste treatment plant, and facilities or equipment used for~~
- 4 ~~purposes of recycling or resource recovery of or from solid waste, or for~~
- 5 ~~purposes of reducing the volume of hazardous waste generated as provided~~
- 6 ~~in G.S. 105-130.10.~~
- 7 (7) ~~Depreciation of emergency facilities acquired prior to January 1, 1955. Any~~
- 8 ~~corporation shall be permitted to depreciate any emergency facility, as such~~
- 9 ~~is defined in section 168 of the Code, over its useful life, provided such~~
- 10 ~~facility was acquired prior to January 1, 1955, and no amortization has been~~
- 11 ~~claimed on such facility for State income tax purposes.~~
- 12 ...
- 13 (11) ~~If a deduction for an ordinary and necessary business expense was required~~
- 14 ~~to be reduced or was not allowed under the Code because the corporation~~
- 15 ~~claimed a federal tax credit against its federal income tax liability for the~~
- 16 ~~income year in lieu of a deduction, the amount by which the deduction was~~
- 17 ~~reduced and the amount of the deduction that was disallowed.—This~~
- 18 ~~deduction is allowed only to the extent that a similar credit is not allowed by~~
- 19 ~~this Chapter for the amount.~~
- 20 (12) ~~Reasonable expenses, in excess of deductions allowed under the Code, paid~~
- 21 ~~for reforestation and cultivation of commercially grown trees; provided, that~~
- 22 ~~this deduction shall be allowed only to those corporations in which the real~~
- 23 ~~owners of all the shares of such corporation are natural persons actively~~
- 24 ~~engaged in the commercial growing of trees, or the spouse, siblings, or~~
- 25 ~~parents of such persons. Provided, further, that in no case shall a corporation~~
- 26 ~~be allowed a deduction for the same reforestation or cultivation expenditure~~
- 27 ~~more than once.~~
- 28 (13) ~~The eligible income of an international banking facility to the extent~~
- 29 ~~included in determining federal taxable income, determined as follows:~~
- 30 a. ~~"International banking facility" shall have the same meaning as is set~~
- 31 ~~forth in the laws of the United States or regulations of the board of~~
- 32 ~~governors of the federal reserve system.~~
- 33 b. ~~The eligible income of an international banking facility for the~~
- 34 ~~taxable year shall be an amount obtained by multiplying State taxable~~
- 35 ~~income as determined under G.S. 105-130.3 (determined without~~
- 36 ~~regard to eligible income of an international banking facility and~~
- 37 ~~allocation and apportionment, if applicable) for such year by a~~
- 38 ~~fraction, the denominator of which shall be the gross receipts for~~
- 39 ~~such year derived by the bank from all sources, and the numerator of~~
- 40 ~~which shall be the adjusted gross receipts for such year derived by~~
- 41 ~~the international banking facility from:~~
- 42 1. ~~Making, arranging for, placing or servicing loans to foreign~~
- 43 ~~persons substantially all the proceeds of which are for use~~
- 44 ~~outside the United States;~~
- 45 2. ~~Making or placing deposits with foreign persons which are~~
- 46 ~~banks or foreign branches of banks (including foreign~~
- 47 ~~subsidiaries or foreign branches of the taxpayer) or with other~~
- 48 ~~international banking facilities; or~~
- 49 3. ~~Entering into foreign exchange trading or hedging~~
- 50 ~~transactions related to any of the transactions described in this~~
- 51 ~~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 e. ~~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~~

deductible liability allowed by this section shall apply only with respect to such pollution abatement plants or equipment constructed or installed on or after January 1, 1955.

(7) The cost of treasury stock.

(8) In the case of an international banking facility, the capital base shall be reduced by the excess of the amount as of the end of the taxable year of all assets of an international banking facility which are employed outside the United States over liabilities of the international banking facility owed to foreign persons. For purposes of such reduction, foreign persons shall have the same meaning as defined in G.S. 105-130.5(b)(13)d.

Every corporation doing business in this State which is a parent, subsidiary, or affiliate of another corporation shall add to its capital stock, surplus, and undivided profits all indebtedness owed to a parent, subsidiary, or affiliated corporation as a part of its capital used in its business and as a part of the base for franchise tax under this section. If any part of the capital of the creditor corporation is capital borrowed from a source other than a parent, subsidiary, or affiliate, the debtor corporation, which is required under this subsection to include in its tax base the amount of debt by reason of being a parent, subsidiary, or affiliate of the creditor corporation, may deduct from the debt included a proportionate part determined on the basis of the ratio of the borrowed capital of the creditor corporation to the total assets of the creditor corporation. If the creditor corporation is also taxable under the provisions of this section, the creditor corporation is allowed to deduct from the total of its capital, surplus, and undivided profits the amount of any debt owed to it by a parent, subsidiary or affiliated corporation to the extent that the debt has been included in the tax base of the parent, subsidiary, or affiliated debtor corporation reporting for taxation under the provisions of this section.

(b1) Definitions. – The following definitions apply in subsection (b) of this section:

(1) Affiliate. – The same meaning as specified in G.S. 105-130.2. A corporation is an affiliate of another corporation when both are directly or indirectly controlled by the same parent corporation or by the same or associated financial interests by stock ownership, interlocking directors, or by any other means whatsoever, whether the control is direct or through one or more subsidiary, affiliated, or controlled corporations.

(2) Affiliated group. – The same meaning as defined in G.S. 105-114.1.

(3) Capital interest. – The right under an entity's governing law to receive a percentage of the entity's assets upon dissolution after payments to creditors.

(4) Governing law. – The law under which the noncorporate entity is organized.

~~(2)~~(5) Indebtedness. – All loans, credits, goods, supplies, or other capital of whatsoever nature furnished by a parent, a subsidiary, or affiliated corporation, 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, other than indebtedness endorsed, guaranteed, or otherwise supported by one of these corporations.

(6) Noncorporate entity. – A person that is neither a human being nor a corporation.

~~(3)~~(7) Parent. – The same meaning as specified in G.S. 105-130.2. A corporation is a parent of another corporation when, directly or indirectly, it controls the other corporation by stock ownership, interlocking directors, or by any other means whatsoever exercised by the same or associated financial interests, whether the control is direct or through one or more subsidiary, affiliated, or 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:

<b>Filing Status</b>	<b>Standard Deduction</b>
Married, filing jointly	<del>\$15,000</del> <u>\$17,500</u>
Head of Household	<del>12,000</del> <u>14,000</u>
Single	<del>7,500</del> <u>8,750</u>
Married, filing separately	<del>7,500</del> <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:

<b>Filing Status</b>	<b>Standard Deduction</b>
Married, filing jointly	<del>\$17,500</del> <u>\$17,750</u>
Head of Household	<del>14,000</del> <u>14,200</u>
Single	<del>8,750</del> <u>8,875</u>
Married, filing separately	<del>8,750</del> <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:

<b>Filing Status</b>	<b>Standard Deduction</b>
Married, filing jointly	<del>\$17,750</del> <u>\$18,000</u>
Head of Household	<del>14,200</del> <u>14,400</u>
Single	<del>8,875</del> <u>9,000</u>
Married, filing separately	<del>8,875</del> <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\$18,250
Head of Household	14,40014,600
Single	9,0009,125
Married, filing separately	9,0009,125."

**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\$18,500
Head of Household	14,60014,800
Single	9,1259,250
Married, filing separately	9,1259,250."

**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. — ~~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.~~

<b>County</b>	<b>Adjustment Factor</b>
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.

~~(2)~~(4) **(Effective July 1, 2016 until July 1, 2017)** Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, less one hundred twenty-five thousand dollars (\$125,000). A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.

(5) Net proceeds. – Same meaning as defined in G.S. 105-472.

~~(3)~~(6) Repealed sales tax amount. – The sum of the following amounts allocated for distribution to a county 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.";

**SECTION 32.19.(h)** G.S. 105-487 and G.S. 105-502 are repealed.

**SECTION 32.19.(i)** Except as otherwise provided, this section becomes effective July 1, 2016, and applies to sales tax revenues collected on or after that date and distributed to counties and cities on or after September 1, 2016.

**LOCAL SALES TAX OPTIONS**

**SECTION 32.20.(a)** Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 43A.

"County Sales and Use Tax for Public Education.

**"§ 105-513.1. Short title; purpose.**

This Article is the County Sales and Use Tax for Public Education and is intended to give the counties of this State an opportunity to obtain an additional source of revenue with which to finance their public education needs.

**"§ 105-513.2. Levy.**

(a) Rate. – The maximum rate of local sales and use tax that may be levied under this Article is one-half percent (1/2%).

(b) Authority. – A board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax under this Article if all of the conditions listed in this subsection are met. The tax rate is the rate specified in the ballot plus any other State and local sales and use taxes levied pursuant to law. The conditions are:

- (1) The tax is approved by the majority of those voting in a referendum held pursuant to this Article.
- (2) No other ballot question concerning the levy of a local sales and use tax authorized under Article 43 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%).

1       (c)     Referendum. – The board of commissioners of a county may direct the county board  
2 of elections to conduct an advisory referendum on the question of whether to levy a local sales  
3 and use tax in the county at a rate of one-quarter percent (1/4%). The election shall be held in  
4 accordance with the procedures of G.S. 163-287.

5       (d)     Ballot Question. – The form of the question to be presented on a ballot for a special  
6 election concerning the levy of the tax authorized by this Article shall be:

7                                   " FOR        AGAINST

8             Local sales and use tax at the rate of one-quarter percent (1/4%) in addition to the  
9 current local sales and use taxes, to be used only for public education."

10       (e)     One-Half Cent (1/2%) Transit-Authorized Counties. – As of April 1, 2013, Durham  
11 County and Orange County have levied a local sales and use tax at the rate of two and  
12 three-quarters percent (2 3/4%). Notwithstanding subsection (a) of this section, the local sales  
13 and use tax rate in these counties may exceed two and one-half percent (2 1/2%) if all of the  
14 conditions listed in this subsection are met. In no event may the local sales and use tax rate in  
15 these counties exceed two and three-quarters percent (2 3/4%). The conditions are:

16             (1)     The county levies a tax authorized under Part 4 of Article 43 of this Chapter.

17             (2)     The county conducted one or more advisory referendums on or before  
18 January 1, 2014, in which a majority of the voters approved the levy of a  
19 local sales and use tax at the rate of one-quarter percent (1/4%) under this  
20 Article.

21       (f)     Reinstatement of Cap. – If the levy of a tax under Article 43 or Article 46 of this  
22 Chapter is repealed and the repeal results in the local sales and use tax rate falling below two  
23 and three-quarters percent (2 3/4%) in a county named in subsection (e) of this section, the  
24 county may not enact a local sales and use tax under this Subchapter that results in a county  
25 local sales and use tax rate that exceeds two and one-half percent (2 1/2%).

26 **"§ 105-513.3. Administration.**

27       Except as provided in this Article, the adoption, levy, collection, administration, and repeal  
28 of these additional taxes must be in accordance with Article 39 of this Chapter. In applying the  
29 provisions of Article 39 of this Chapter to this Article, references to "this Article" mean Article  
30 43A of Chapter 105 of the General Statutes. G.S. 105-468.1 is an administrative provision that  
31 applies to this Article. A tax levied under this Article does not apply to the sales price of food  
32 that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled  
33 transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount  
34 allocated to a county between the county and the municipalities within the county.

35 **"§ 105-513.4. Use.**

36       A county may use the proceeds of a tax levied under this Article only for the following  
37 purposes:

38             (1)     Public school capital outlay purposes, as defined in G.S. 115C-426(f), or to  
39 retire any indebtedness incurred by the county for these purposes.

40             (2)     Salaries of classroom teachers, salaries of classroom teacher assistants, and  
41 supplements of classroom teacher salaries. For the purposes of this section, a  
42 classroom teacher is an employee of a local board of education employed as  
43 a teacher who spends at least seventy percent (70%) of his or her work time  
44 in classroom instruction, and a classroom teacher assistant is an employee of  
45 a local board of education employed as a teacher assistant who spends at  
46 least seventy percent (70%) of his or her work time assisting in a classroom.

47             (3)     Financial support of community colleges, including funds to supplement  
48 State financial support of community colleges."

49       **SECTION 32.20.(b)** G.S. 115C-429(b) reads as rewritten:

50       (b)     The board of county commissioners shall complete its action on the school budget  
51 on or before July 1, or such later date as may be agreeable to the board of education. The

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.(h) Part 5 of Article 43 of Chapter 105 of the General Statutes is  
40 repealed.

41 SECTION 32.20.(i) Part 6 of Article 43 of Chapter 105 of the General Statutes  
42 reads as rewritten:

43 "Part 6. Other Counties.

44 "**§ 105-511. Applicability.**

45 This Part applies only in counties other than Durham, ~~Forsyth, Guilford, Mecklenburg,~~  
46 ~~Orange, or Wake.~~

47 "**§ 105-511.1. Limitations-Authority.**

48 A board of county commissioners may, by resolution and after 10 days' public notice, levy  
49 a local sales and use tax under this Article if all of the conditions listed in this subsection are  
50 met. The tax rate is the rate specified in the ballot plus any other State and local sales and use  
51 taxes levied pursuant to law. The conditions are:

- (1) The tax is approved by the majority of those voting in a referendum held 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.~~ 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



1 population of that municipality that is located within that county. To  
 2 determine the population of each county and each municipality, the  
 3 Secretary shall use the most recent annual estimate of population certified by  
 4 the State Budget Officer.

5 (2) Notwithstanding subdivision (1) of this subsection, if a municipality to  
 6 which funds are to be allocated neither operates nor contracts for the  
 7 operation of a public transportation system, the population of that  
 8 municipality shall be excluded from the calculations of subdivision (1) of  
 9 this subsection.

10 (3) Notwithstanding subdivision (1) of this subsection, if a county to which  
 11 funds are to be allocated neither operates nor contracts for the operation of a  
 12 public transportation system, the population of that county not in an  
 13 incorporated area shall be excluded from the calculations of subdivision (1)  
 14 of this subsection.

15 If a county or a municipality that does not receive an allocation of funds on account of  
 16 subdivision (2) or (3) of this subsection begins to operate or contract for the operation of a  
 17 public transportation system, that county or municipality shall begin receiving funds beginning  
 18 the first day of July that is more than 30 days thereafter.

19 (b) Use. – A county or municipality may use funds received under this Part only for  
 20 financing, constructing, operating, and maintaining public transportation systems. Every unit of  
 21 government shall use funds to supplement and not to supplant or replace existing funds or other  
 22 resources for public transportation systems."

23 **SECTION 32.20.(j)** Article 46 of Chapter 105 of the General Statutes reads as  
 24 rewritten:

25 "Article 46.

26 "One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use Tax.

27 "**§ 105-535. Short title.**

28 This Article is the One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use  
 29 Tax Act.

30 "**§ 105-536. Limitations.**

31 This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under  
 32 Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half  
 33 cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half  
 34 cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

35 "**§ 105-537. Levy.**

36 (a) ~~Authority.— If the majority of those voting in a referendum held pursuant to this~~  
 37 ~~Article vote for the levy of the tax, the board of county commissioners may, by resolution and~~  
 38 ~~after 10 days' public notice, levy a local sales and use tax at a rate of one quarter percent~~  
 39 ~~(0.25%).~~ Rate. – The maximum rate of local sales and use tax that may be levied under this  
 40 Article is one-half percent (1/2%).

41 (a1) Authority. – A board of county commissioners may, by resolution and after 10 days'  
 42 public notice, levy a local sales and use tax under this Article if all of the conditions listed in  
 43 this subsection are met. The tax rate is the rate specified in the ballot plus any other State and  
 44 local sales and use taxes levied pursuant to law. The conditions are:

45 (1) The tax is approved by the majority of those voting in a referendum held  
 46 pursuant to this Article.

47 (2) No other ballot question concerning the levy of a local sales and use tax  
 48 authorized under Article 43 or Article 43A of this Chapter may be presented  
 49 in the same referendum.

50 (3) If levied, the tax would not result in a total local sales and use tax rate in the  
 51 county in excess of two and one-half percent (2 1/2%).

1 (b) ~~Vote.—Referendum.~~ — The board of county commissioners may direct the county  
2 board of elections to conduct an advisory referendum on the question of whether to levy a local  
3 sales and use tax in the county ~~as provided in this Article.~~ at a rate of one-quarter percent  
4 (1/4%). The election shall be held in accordance with the procedures of G.S. 163-287.

5 (c) Ballot Question. — The form of the question to be presented on a ballot for a special  
6 election concerning the levy of the tax authorized by this Article shall be:

7 "[ ] FOR [ ] AGAINST

8 Local sales and use tax at the rate of one-quarter percent (0.25%) in addition to all other  
9 State and local sales and use taxes."

10 ...

11 (e) One-Half Percent (1/2%) Transit-Authorized Counties. — As of April 1, 2013,  
12 Durham County and Orange County have levied a local sales and use tax at the rate of two and  
13 three-quarters percent (2 3/4%). Notwithstanding subsection (a) of this section, the local sales  
14 and use tax rate in these counties may exceed two and one-half percent (2 1/2%) if all of the  
15 conditions listed in this subsection are met. In no event may the local sales and use tax rate in  
16 these counties exceed two and three-quarters percent (2 3/4%). The conditions are:

17 (1) The county levies a tax authorized under Part 4 of Article 43 of this Chapter.

18 (2) The county conducted one or more advisory referendums on or before  
19 January 1, 2014, in which a majority of the voters approved the levy of a  
20 local sales and use tax at the rate of one-quarter percent (1/4%) under this  
21 Article.

22 (f) Reinstatement of Cap. — If the levy of a tax under this Article or Article 43 of this  
23 Chapter is repealed and the repeal results in the local sales and use tax rate falling below two  
24 and three-quarters percent (2 3/4%) in a county named in subsection (e) of this section, the  
25 county may not enact a local sales and use tax under this Subchapter that results in a county  
26 local sales and use tax rate that exceeds two and one-half percent (2 1/2%).

27 "**§ 105-538. Administration of taxes.**

28 Except as provided in this Article, the adoption, levy, collection, administration, and repeal  
29 of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1  
30 is an administrative provision that applies to this Article. A tax levied under this Article does  
31 not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to  
32 the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary  
33 shall not divide the amount allocated to a county between the county and the municipalities  
34 within the county."

35 **SECTION 32.20.(k)** G.S. 105-164.3(4a) reads as rewritten:

36 "(4a) Combined general rate. — The sum of all of the following:

37 a. The State's general rate of tax set in ~~G.S. 105-164.4(a) plus the~~  
38 G.S. 105-164.4(a).

39 b. The sum of the rates of the local sales and use taxes authorized for  
40 every county in this State by ~~Subchapter VIII Article 39 of this~~  
41 Chapter or Chapter 1096 of the 1967 Session Laws, Article 40 of this  
42 Chapter, and Article 42 of this Chapter for every county in this  
43 State Chapter.

44 c. One-half of the maximum rate of tax authorized by Article 46 of this  
45 Chapter."

46 **SECTION 32.20.(l)** Notwithstanding Article 14B of Chapter 136 of the General  
47 Statutes, no State funds may be used for light rail projects located in Wake County if Wake  
48 County authorizes the levy of a one-half cent (1/2¢) local sales and use tax under Part 4 of  
49 Article 43 of Chapter 105 of the General Statutes.

50 **SECTION 32.20.(m)** Except as otherwise provided, this section is effective when  
51 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 17, 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.