Chapter 143B.

Executive Organization Act of 1973.

Article 1.

General Provisions.

Part 1. In General.

§ 143B-1. Short title.

This Chapter shall be known and may be cited as the "Executive Organization Act of 1973." (1973, c. 476, s. 1.)

§ 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:

(1) Department of Natural and Cultural Resources.
(2) Department of Health and Human Services.
(3) Department of Revenue.
(4) Department of Public Safety.
(5) Repealed by Session Laws 2012-83, s. 47, effective June 26, 2012.
(6) Department of Environmental Quality.
(7) Department of Transportation.
(8) Department of Administration.
(9) Department of Commerce.
(10) Repealed by Session Laws 2012-83, s. 47, effective June 26, 2012.
(11) Department of Information Technology. (1973, c. 476, s. 2; c. 620, s. 9; c. 1262, ss. 10, 86; 1975, c. 716, s. 5; c. 879, s. 46; 1977, c. 70, s. 22; c. 198, s. 21; c. 771, s. 4; 1989, c. 727, s. 218(121); c. 751, s. 7(18); 1991 (Reg. Sess., 1992), c. 959, s. 37; 1997-443, ss. 11A.118(a), 11A.119(a); 2000-137, s. 4(ll); 2011-145, s. 19.1(g), (h), (l); 2012-83, s. 47; 2015-241, ss. 7A.1(c), 14.30(s), (u).)

§ 143B-3. Definitions.

As used in the Executive Organization Act of 1973, except where the context clearly requires otherwise, the words and expressions defined in this section shall be held to have the meanings here given to them.

(1) Agency: whenever the term "agency" is used it shall mean and include, as the context may require, an existing department, institution, commission, committee, board, division, bureau, officer or official.
(2) Board: a collective body which assists the head of a principal department or his designee in the development of major programs including the tender of advice on departmental priorities.
(3) Commission: a collective body which adopts rules and regulations in a quasi-legislative manner and which acts in a quasi-judicial capacity in rendering findings or decisions involving differing interests.
(4) Committee: a collective body which either advises the head of a principal department or his designee or advises a commission in detailed technical areas.

(5) Council: a collective body which advises the head of a principal department or his designee as representative of citizen advice in specific areas of interests.
(6) Division: the principal subunit of a principal State department.
(7) Head of department: head of one of the principal State departments.
(8) Higher education: State senior institutions of higher learning.
(9) Principal State department: one of the departments created by the General Assembly in compliance with Article III, Sec. 11, of the Constitution of North Carolina. (1973, c. 476, s. 3.)

§ 143B-4. Policy-making authority and administrative powers of Governor; delegation.

The Governor, in accordance with Article III of the Constitution of North Carolina, shall be the Chief Executive Officer of the State. The Governor shall be responsible for formulating and administering the policies of the executive branch of the State government. Where a conflict arises in connection with the administration of the policies of the executive branch of the State government with respect to the reorganization of State government, the conflict shall be resolved by the Governor, and the decision of the Governor shall be final. (1973, c. 476, s. 4.)

§ 143B-5. Governor; continuation of powers and duties.

All powers, duties, and functions vested by law in the Governor or in the Office of Governor are continued except as otherwise provided by the Executive Organization Act of 1973.

The immediate staff of the Governor shall not be subject to the North Carolina Human Resources Act. (1973, c. 476, s. 5; 2013-382, s. 9.1(c).)

§ 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:

(1) Department of Natural and Cultural Resources.
(2) Department of Health and Human Services.
(3) Department of Revenue.
(4) Department of Public Safety.
(5) Repealed by Session Laws 2012-83, s. 48, effective June 26, 2012.
(6) Department of Environmental Quality.
(7) Department of Transportation.
(8) Department of Administration.
(9) Department of Commerce.
(10) Community Colleges System Office.
(11) Repealed by Session Laws 2012-83, s. 48, effective June 26, 2012.
(12) Department of Information Technology.
(13) Department of Military and Veterans Affairs. (1973, c. 476, s. 6; c. 620, s. 9; c. 1262, ss. 10, 86; 1975, c. 716, s. 5; c. 879, s. 46; 1977, c. 70, s. 23;

c. 198, s. 22; c. 771, s. 4; 1979, 2nd Sess., c. 1130, s. 3; 1989, c. 727, s. 218(122); c. 751, s. 7(19); 1991 (Reg. Sess., 1992), c. 959, s. 38; 1997-443, ss. 11A.118(a), 11A.119(a); 1999-84, s. 23; 2000-137, s. 4(mm); 2011-145, s. 19.1(g), (h), (l); 2012-83, s. 48; 2015-241, ss. 7A.1(d), 14.30(s), (u), 24.1(aa); 2015-268, s. 7.3(a).)

§ 143B-7. Continuation of functions.

Each principal State department shall be considered a continuation of the former agencies to whose power it has succeeded for the purpose of succession to all rights, powers, duties, and obligations of the former agency. Where a former agency is referred to by law, contract, or other document, that reference shall apply to the principal State department now exercising the functions of the former agency. (1973, c. 476, s. 7.)

§ 143B-8. Unassigned functions.

All functions, duties, and responsibilities established by law that are not specifically assigned to any principal State department may be assigned by the Governor to that department which, in accordance with the organization of State government, can most appropriately and effectively perform those functions, duties, and responsibilities. This provision shall not apply to professional and occupational licensing boards or to higher education. (1973, c. 476, s. 8.)

§ 143B-9. Appointment of officers and employees.

(a) The head of each principal State department, except those departments headed by popularly elected officers, shall be appointed by the Governor and serve at the Governor's pleasure. The salary of the head of each of the principal State departments shall be set by the Governor, and the salary of elected officials shall be as provided by law.

For each head of each principal State department covered by this subsection, the Governor shall notify the President of the Senate of the name of each person to be appointed, and the appointment shall be subject to senatorial advice and consent in conformance with Section 5(8) of Article III of the North Carolina Constitution unless (i) the senatorial advice and consent is expressly waived by an enactment of the General Assembly or (ii) a vacancy occurs when the General Assembly is not in regular session. Any person appointed to fill a vacancy when the General Assembly is not in regular session may serve without senatorial advice and consent for no longer than the earlier of the following:

(1) The date on which the Senate adopts a simple resolution that specifically disapproves the person appointed.

(2) The date on which the General Assembly shall adjourn pursuant to a joint resolution for a period longer than 30 days without the Senate adopting a simple resolution specifically approving the person appointed.

(b) The head of a principal State department shall appoint a chief deputy or chief assistant, and such chief deputy or chief assistant shall not be subject to the North Carolina Human Resources Act. The salary of such chief deputy or chief assistant shall be set by the Governor. Unless otherwise provided for in the Executive Organization Act of 1973, and subject to the provisions of the Human Resources Act, the head of each principal State

department shall designate the administrative head of each transferred agency and all employees of each division, section, or other unit of the principal State department. (1973, c. 476, s. 9; 1977, c. 802, s. 42.20; 1983, c. 717, s. 51; 2012-142, s. 25.02(c); 2013-382, s. 9.1(c); 2016-126, 4th Ex. Sess., s. 38.)

§ 143B-10. Powers and duties of heads of principal departments.

(a) Assignment of Functions. – Except as otherwise provided by this Chapter, the head of each principal State department may assign or reassign any function vested in him or in his department to any subordinate officer or employee of his department.

(b) Reorganization by Department Heads. – With the approval of the Governor, each head of a principal State department may establish or abolish within his department any division. Each head of a principal State department may establish or abolish within his department any other administrative unit to achieve economy and efficiency and in accordance with sound administrative principles, practices, and procedures except as otherwise provided by law. When any such act of the head of the principal State department affects existing law the provisions of Article III, Sec. 5(10) of the Constitution of North Carolina shall be followed.

Each Department Head shall report all reorganizations under this subsection to the President of the Senate, the Speaker of the House of Representatives, the Chairmen of the Appropriations Committees in the Senate and the House of Representatives, and the Fiscal Research Division of the Legislative Services Office, within 30 days after the reorganization if the General Assembly is in session, otherwise to the Joint Legislative Committee on Governmental Operations and the Fiscal Research Division of the Legislative Services Office, within 30 days after the reorganization. The report shall include the rationale for the reorganization and any increased efficiency in operations expected from the reorganization.

(c) Department Staffs. – The head of each principal State department may establish necessary subordinate positions within his department, make appointments to those positions, and remove persons appointed to those positions, all within the limitations of appropriations and subject to the North Carolina Human Resources Act. All employees within a principal State department shall be under the supervision, direction, and control of the head of that department. The head of each principal State department may establish or abolish positions, transfer officers and employees between positions, and change the duties, titles, and compensation of existing offices and positions as he deems necessary for the efficient functioning of the department, subject to the North Carolina Human Resources Act and the limitations of available appropriations. For the purposes of the foregoing provisions, a member of a board, commission, council, committee, or other citizen group shall not be considered an "employee within a principal department."

(d) Appointment of Committees or Councils. – The head of each principal department may create and appoint committees or councils to consult with and advise the department. The General Assembly declares its policy that insofar as feasible, such committees or councils shall consist of no more than 12 members, with not more than one from each congressional district. If any department head desires to vary this policy, he must

make a request in writing to the Governor, stating the reasons for the request. The Governor may approve the request, but may only do so in writing. Copies of the request and approval shall be transmitted to the Joint Legislative Commission on Governmental Operations. The members of any committee or council created by the head of a principal department shall serve at the pleasure of the head of the principal department and may be paid per diem and necessary travel and subsistence expenses within the limits of appropriations and in accordance with the provisions of G.S. 138-5, when approved in advance by the Director of the Budget. Per diem, travel, and subsistence payments to members of the committees or councils created in connection with federal programs shall be paid from federal funds unless otherwise provided by law.

An annual report listing these committees or councils, the total membership on each, the cost in the last 12 months and the source of funding, and the title of the person who made the appointments shall be made to the Joint Legislative Commission on Governmental Operations by March 31 of each year.

(e) Departmental Management Functions. – All management functions of a principal State department shall be performed by or under the direction and supervision of the head of that principal State department. Management functions shall include planning, organizing, staffing, directing, coordinating, reporting, and budgeting.

(f) Custody of Records. – The head of a principal State department shall have legal custody of all public records as defined in G.S. 132-1.

(g) Budget Preparation. – The head of a principal State department shall be responsible for the preparation of and the presentation of the department budget request which shall include all funds requested and all receipts expected for all elements of the department.

(h) Plans and Reports. – Each principal State department shall submit to the Governor an annual plan of work for the next fiscal year prior to the beginning of that fiscal year. Each principal State department shall submit to the Governor an annual report covering programs and activities for each fiscal year. These plans of work and annual reports shall be made available to the General Assembly. These documents will serve as the base for the development of budgets for each principal State department of State government to be submitted to the Governor.

(i) Reports to Governor; Public Hearings. – Each head of a principal State department shall develop and report to the Governor legislative, budgetary, and administrative programs to accomplish comprehensive, long-range coordinated planning and policy formulation in the work of his department. To this end, the head of the department may hold public hearings, consult with and use the services of other State agencies, employ staff and consultants, and appoint advisory and technical committees to assist in the work.

(j) Departmental Rules and Policies. – The head of each principal State department and the Director of the Office of State Human Resources may adopt:

(1) Rules consistent with law for the custody, use, and preservation of any public records, as defined in G.S. 132-1, which pertain to department business;

(2) Rules, approved by the Governor, to govern the management of the department, which shall include the functions of planning, organizing, staffing, directing, coordinating, reporting, budgeting, and budget preparation which affect private rights or procedures available to the public;

(3) Policies, consistent with law and with rules established by the Governor and with rules of the State Human Resources Commission, which reflect internal management procedures within the department. These may include policies governing the conduct of employees of the department, the distribution and performance of business and internal management procedures which do not affect private rights or procedures available to the public and which are listed in (e) of this section. Policies establishing qualifications for employment shall be adopted and filed pursuant to Chapter 150B of the General Statutes; all other policies under this subdivision shall not be adopted or filed pursuant to Chapter 150B of the General Statutes.

Rules adopted under (1) and (2) of this subsection shall be subject to the provisions of Chapter 150B of the General Statutes.

This subsection shall not be construed as a legislative grant of authority to an agency to make and promulgate rules concerning any policies and procedures other than as set forth herein. (1973, c. 476, s. 10; c. 1416, ss. 1, 2; 1977, 2nd Sess., c. 1219, s. 46; 1983, c. 76, ss. 1, 2; c. 641, s. 8; c. 717, s. 78; 1985 (Reg. Sess., 1986), c. 955, ss. 97, 98; 1987, c. 738, s. 147; c. 827, s. 1; 1991 (Reg. Sess., 1992), c. 1038, s. 15; 2006-203, s. 101; 2013-382, s. 9.1(c).)

§ 143B-11. Subunit nomenclature.

(a) The principal subunit of a department is a division. Each division shall be headed by a director.

(b) The principal subunit of a division is a section. Each section shall be headed by a chief.

(c) If further subdivision is necessary, sections may be divided into subunits which shall be known as branches and which shall be headed by heads, and branches may be divided into subunits which shall be known as units and which shall be headed by supervisors. (1973, c. 476, s. 11.)

§ 143B-12. Internal organization of departments; allocation and reallocation of duties and functions; limitations.

(a) The Governor shall cause the administrative organization of each department to be examined periodically with a view to promoting economy, efficiency, and effectiveness. The Governor may assign and reassign the duties and functions of the executive branch among the principal State departments except as otherwise expressly provided by statute. When the changes affect existing law, they must be submitted to the General Assembly in accordance with Article III, Sec. 5(10) of the Constitution of North Carolina.

(b) The Governor shall report all transfers of departmental functions under this section to the President of the Senate, the Speaker of the House of Representatives, the Chairmen of the Appropriations Committees in the Senate and the House of Representatives, and the Fiscal Research Division of the Legislative Services Office, within 30 days after the transfer if the General Assembly is in session, otherwise to the Joint Legislative Committee on Governmental Operations and the Fiscal Research Division of the Legislative Services Office, within 30 days

after the transfer. The report shall include the rationale for the transfer and the increased efficiency in operations expected from the transfer. (1973, c. 476, s. 12; 1985, c. 479, s. 164.)

§ 143B-13. Appointment, qualifications, terms, and removal of members of commissions.

(a) Each member of a commission created by or under the authority of the Executive Organization Act of 1973 shall be a resident of the State of North Carolina, unless otherwise specifically authorized by law.

Unless more restrictive qualifications are provided in the Executive Organization Act of 1973, the Governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge, and ability in the field for which appointed, and with a view to providing diversity of interest and points of view in the membership.

The balance of unexpired terms of existing commission members shall be served in accordance with their most recent appointment.

A vacancy occurring during a term of office is filled in the same manner as the original appointment is made and for the balance of the unexpired term, unless otherwise provided by law or by the Constitution of North Carolina.

(b) A commission membership becomes vacant on the happening of any of the following events before the expiration of the term: (i) the death of the incumbent, (ii) his incompetence as determined by final judgment or final order of a court of competent jurisdiction, (iii) his resignation, (iv) his removal from office, (v) his ceasing to be a resident of the State, (vi) his ceasing to discharge the duties of his office over a period of three consecutive months except when prevented by sickness, (vii) his conviction of a felony or of any offense involving a violation of his official duties, (viii) his refusal or neglect to take an oath within the time prescribed, (ix) the decision of a court of competent jurisdiction declaring void his appointment, and (x) his commitment as a substance abuser under Part 8 of Article 5 of Chapter 122C of the General Statutes; but in that event, the office shall not be considered vacant until the order of commitment has become final.

(c) No member of the State commission may use his position to influence any election or the political activity of any person, and any such member who violates this subsection may be removed from such office by the Governor, if such member was appointed by the Governor, or by the appointing authority, if such member was not appointed by the Governor. Nothing herein shall prohibit such member from publishing the fact of his membership in his own campaign for public office.

(d) In addition to the foregoing, any member of a commission may be removed from office by the Governor for misfeasance, malfeasance, and nonfeasance.

(e) Any appointment by the Governor to a commission, board, council or committee made subsequent to January 5, 1973, and prior to July 1, 1973, for a term that would extend for a period inconsistent with the staggered term provisions of the Executive Organization Act of 1973, may be reduced by the Governor to conform to those staggered term provisions.

(f) Whenever a statute requires that the Governor appoint at least one person from each congressional district to a board or commission, and due to congressional redistricting, two or more members of the board or commission shall reside in the same congressional district, then such members shall continue to serve as members of the board or commission for a period equal to the remainder of their unexpired terms, provided that upon the expiration of said term or terms the Governor shall fill such vacancy or vacancies in such a manner as to insure that as expeditiously

as possible there is one member of the board or commission who is a resident of each congressional district in the State.

(f1) Whenever a statute requires that the Governor or any board, commission, council, person, or agency (whether or not that board, commission, council, or agency was established under this Chapter) appoint one or more persons from each congressional district to a board, commission, or council, and due to congressional redistricting, a person no longer resides in the district the member has been appointed to represent, such member or members shall, if otherwise qualified, continue to serve as members of the board or commission for the remainder of their unexpired terms, and shall be considered to meet the residency requirement.

(f2) Whenever a statute requires that the Governor or any board, commission, council, person, or agency (whether or not that board, commission, council, or agency was established under this Chapter) appoint one or more persons from each congressional district to a board, commission, or council, and the statute fails to provide for a procedure to fill the extra position due to the addition of an additional congressional district, then the appointing authority shall appoint a person for a term commencing on January 3rd of the year in which the addition of the additional congressional district becomes effective. Unless the statute provides for persons to serve at the pleasure of the appointing authority, the appointing authority shall set the length of the initial term of office. (1973, c. 476, s. 13; 1975, c. 879, s. 47; 1981, c. 520, s. 1; 1981 (Reg. Sess., 1982), c. 1191, s. 5; 1985, c. 589, ss. 45, 46; 1991 (Reg. Sess., 1992), c. 1038, s. 16.)

§ 143B-14. Administrative services to commissions.

(a) The head of the principal State department to which a commission has been assigned is responsible for the provision of all administrative services to the commission.

(b) Except as otherwise provided by law, the powers, duties, and functions of a commission are not subject to the approval, review, or control of the head of the department or of the Governor.

(c) The Governor may assign to an appropriate commission created by the Executive Organization Act of 1973 duties of a quasi-legislative and quasi-judicial nature existing in the executive branch of State government which have not been assigned by this Chapter to any other commission. All such assignment of duties by the Governor to a commission shall be made in accordance with Article III, Sec. 5(10) of the Constitution of North Carolina.

(d) All management functions of a commission shall be performed by the head of the principal State department. Management functions shall include planning, organizing, staffing, directing, coordinating, reporting, and budgeting. (1973, c. 476, s. 14; c. 1416, s. 3; 1979, 2nd Sess., c. 1137, s. 41.2; 1981, c. 688, s. 20; 1983, c. 927, s. 11; 1987, c. 827, s. 221; 1991, c. 418, s. 9.)

§ 143B-15. Compensation of members of commissions.

The salary of members of full-time commissions shall be set by the General Assembly upon recommendation of the Governor to be submitted as a part of his budget requests. (1973, c. 476, s. 15.)

§ 143B-16. Appointment and removal of members of boards, councils and committees.

Unless more restrictive qualifications are provided in this Chapter, the Governor shall appoint each member of a board, council, or committee on the basis of his interest in public affairs, good judgment, knowledge and ability in the field for which appointed, and with a view to providing diversity of interest and points of view in the membership. Unless other conditions are provided

in the Executive Organization Act of 1973, any member of a board, council, or committee may be removed from office by the Governor for misfeasance, malfeasance, or nonfeasance.

No member of a board, council, or committee may use his position to influence any election or the political activity of any person, and any such member who violates this paragraph may be removed from such office by the Governor, if such member was appointed by the Governor, or by the appointing authority, if such member was not appointed by the Governor. Nothing herein shall prohibit such member from publishing the fact of his membership in his own campaign for public office. (1973, c. 476, s. 16; 1981, c. 520, s. 2.)

§ 143B-17. Commission investigations and orders.

Unless otherwise provided for in the Executive Organization Act of 1973, any commission created by the Executive Organization Act of 1973 may order an investigation into areas of concern over which it has rule-making authority, and the head of the department required to give staff support to such commission shall render such reports and information as the commission may require. In default of the production of information by the head of the principal department or any employee or agent thereof, the commission may seek the aid of the Wake County Superior Court to require the production of information as hereinafter provided.

In proceedings before any commission or any hearing officer or member of the commission so authorized by the commission, if any person refuses to respond to a subpoena, or refuses to take the oath or affirmation as a witness or thereafter refuses to be examined or refuses to obey any lawful order of a commission contained in its decision rendered after hearing, the chairman of the commission may apply to the Superior Court of Wake County or to the superior court of the county where the proceedings are being held for an order directing that person to take the requisite action. Should any person willfully fail to comply with an order so issued, the court shall punish him as for contempt. (1973, c. 476, s. 17.)

§ 143B-18: Repealed by Session Laws 1991, c. 418, s. 10.

§ 143B-19. Pending actions and proceedings.

No action or proceeding pending at the time the Executive Organization Act of 1973 takes effect and brought by or against any State agency whose functions, powers, and duties are transferred by the Executive Organization Act of 1973 to a principal State department shall be affected by any provision of the Executive Organization Act of 1973, but the same may be prosecuted or defended in the name of the head of the principal State department. In all such actions and proceedings, the principal State department to which the functions, powers, and duties of a State agency have been transferred shall be substituted as a party upon appropriate application to the courts. (1973, c. 476, s. 19.)

§ 143B-20: Repealed by Session Laws 1991, c. 418, s. 10.

§ 143B-21. Affirmation of prior acts of abolished agencies.

The abolition of certain agencies by the Executive Organization Act of 1973 should not be construed as invalidating any lawful prior act of such agency. (1973, c. 476, s. 21.)

§ 143B-22. Terms occurring in laws, contracts and other documents.

Any reference or designation in any statute, contract, or other document pertaining to functions, powers, obligations, and duties of a State agency assigned by the Executive Organization Act of 1973 to a principal State department shall be deemed to refer to the principal State department or the head of the principal State department, as may be appropriate. (1973, c. 476, s. 22.)

§ 143B-23. Completion of unfinished business.

Any business or other matter undertaken or commenced by any State agency or the commissioners or directors thereof, pertaining to or connected with the functions, powers, obligations, and duties hereby transferred to a principal State department, and pending on July 1, 1973, may be conducted and completed by the principal State department in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the State agency or commissioners and directors thereof. (1973, c. 476, s. 23.)

§ 143B-24. Cooperative agreements; prohibition regarding Health Benefit Exchanges.

(a) Except as otherwise provided by law, each principal State department may, with the approval of the Department of Administration, enter into cooperative agreements with the federal government, any state government, any agency of the State government, any local government of the State, jointly with any two or more, or severally, in carrying out its functions.

(b) The General Assembly reserves the authority to define the State's level of interaction, if any, with the federally facilitated Health Benefit Exchange that will operate in the State. No department, agency, or institution of this State shall enter into any contracts or commit any resources for the provision of any services related to the federally facilitated Health Benefit Exchange under a "Partnership" Exchange model, except as authorized by the General Assembly. No department, agency, or institution of this State shall take any actions not authorized by the General Assembly toward the formation of a State-run Health Benefit Exchange. It is not the intent of this section to prohibit State-federal interaction that does not pursue a State-run Exchange or "Partnership" Exchange model. (1973, c. 476, s. 24; 2013-5, s. 1(c).)

§ 143B-25. Agencies not enumerated.

Any agency not enumerated in the Executive Organization Act of 1973 but established or created by the General Assembly shall continue to exercise all its powers, duties, and functions subject to the provisions of Chapter 143A of the General Statutes of the State of North Carolina. (1973, c. 476, s. 25.)

§ 143B-26. Constitutional references.

All references to the Constitution of North Carolina in the Executive Organization Act of 1973 refer to the Constitution of North Carolina as effective July 1, 1973. (1973, c. 476, s. 26.)

§ 143B-27. Repealed by Session Laws 1983, c. 717, s. 79.

§ 143B-28. Goals of continuing reorganization.

Structural reorganization of State government should be a continuing process, accomplished through careful executive and legislative appraisal of the placement of proposed new programs and coordination of existing programs in response to changing emphases in public needs and should be consistent with the following goals:

(1) The organization of State government should assure its responsiveness to popular control. It is the goal of reorganization to improve the administrative capability of the executive to carry out these policies.

(2) The organization of State government should aid communication between citizens and government. It is the goal of reorganization through coordination of related programs in function-oriented departments to improve public understanding of government programs and policies and to improve the relationships between citizens and administrative agencies.

(3) The organization of State government should assure efficient and effective administration of the policies established by the General Assembly. It is the goal of reorganization to promote efficiency and effectiveness by improving the management and coordination of State services and by eliminating ineffective, overstaffed, obsolete or overlapping activities. (1973, c. 476, s. 28.)

§ 143B-28.1. Create Collaboration for Prosperity Zones.

For purposes of enhanced collaboration and cooperation between governmental agencies, planning, use of resources, and improved efficiency at a regional level, the State is hereby divided into eight permanent zones as follows:

(1) Western Region, consisting of Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Polk, Rutherford, Swain, and Transylvania Counties.

(2) Northwest Region, consisting of Alleghany, Ashe, Alexander, Avery, Burke, Caldwell, Catawba, McDowell, Mitchell, Watauga, Wilkes, and Yancey Counties.

(3) Southwest Region, consisting of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union Counties.

(4) Piedmont-Triad (Central) Region, consisting of Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties.

(5) North Central Region, consisting of Chatham, Durham, Edgecombe, Franklin, Granville, Harnett, Johnston, Lee, Nash, Orange, Person, Vance, Wake, Warren, and Wilson Counties.

(6) Sandhills (South Central) Region, consisting of Bladen, Columbus, Cumberland, Hoke, Montgomery, Moore, Richmond, Robeson, Sampson, and Scotland Counties.

(7) Northeast Region, consisting of Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, and Washington Counties.

(8) Southeast Region, consisting of Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, and Wayne Counties. (2014-18, s. 3.2.)

§ 143B-29. Reserved for future codification.

Part 2. Governor's Administrative Rules Review Commission.

§§ 143B-29.1 through 143B-29.5: Repealed by Session Laws 1985, c. 746, s. 7.

Part 3. Rules Review Commission.

§ 143B-30: Repealed by Session Laws 1991, c. 418, s. 5.

§ 143B-30.1. Rules Review Commission created.

(a) The Rules Review Commission is created. The Commission shall consist of 10 members to be appointed by the General Assembly, five upon the recommendation of the President Pro Tempore of the Senate, and five upon the recommendation of the Speaker of the House of Representatives. These appointments shall be made in accordance with G.S. 120-121, and vacancies in these appointments shall be filled in accordance with G.S. 120-122. Except as provided in subsection (b) of this section, all appointees shall serve two-year terms.

(b) In 1990, two of the appointments made by the General Assembly upon the recommendation of the President of the Senate shall expire June 30, 1991, and two shall expire June 30, 1992. In 1990, two of the appointments made by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall expire June 30, 1992, and two shall expire June 30, 1993. Subsequent terms shall be for two years.

(c) Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, ineligibility, death, or disability of any member shall be for the balance of the unexpired term. The chairman shall be elected by the Commission, and he shall designate the times and places at which the Commission shall meet. The Commission shall meet at least once a month. A quorum of the Commission shall consist of six members of the Commission.

(d) Members of the Commission who are not officers or employees of the State shall receive compensation of two hundred dollars ($200.00) for each day or part of a day of service plus reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Commission who are officers or employees of the State shall receive reimbursement for travel and subsistence at the rate set out in G.S. 138-6.

(e) The Chief Administrative Law Judge of the Office of Administrative Hearings shall designate, from among the employees of the Office of Administrative Hearings, the staff of the Rules Review Commission.

(f) The Commission shall prescribe procedures and forms to be used in submitting rules to the Commission for review.

(g) In the discretion of the Commission, G.S. 114-2.3 and G.S. 147-17(a) through (c1) 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. (1985 (Reg. Sess., 1986), c. 1028, s. 32; 1987 (Reg. Sess., 1988), c. 1111, s. 2; 1989, c. 35, s. 2; 1989 (Reg. Sess., 1990), c. 1038, s. 18; 1991, c. 418, s. 11; 1991 (Reg. Sess., 1992), c. 1030, s. 43; 1995, c. 490, s. 43; 1997-495, s. 90(a), (b); 2004-124, s. 22A.1(b); 2006-66, s. 18.2(f); 2006-221, s. 20; 2009-451, s. 21A.2; 2009-575, s. 19; 2015-196, s. 2; 2015-215, s. 2.7; 2017-57, s. 6.7(e); 2017-102, s. 43.)

§ 143B-30.2. Purpose of Commission.

The Rules Review Commission reviews administrative rules in accordance with Chapter 150B of the General Statutes. (1985 (Reg. Sess., 1986), c. 1028, s. 32; 1987, c. 285, ss. 1-5; 1991, c. 418, s. 12.)

§ 143B-30.3: Repealed by Session Laws 1991, c. 418, s. 5.

§ 143B-30.4. Evidence.

Evidence of the Commission's failure to object to and delay the filing of a rule or its part shall be inadmissible in all civil or criminal trials or other proceedings before courts, administrative agencies, or other tribunals. (1985 (Reg. Sess., 1986), c. 1028, s. 32.)

§ 143B-31: Reserved for future codification purposes.

§ 143B-32: Reserved for future codification purposes.

§ 143B-33: Reserved for future codification purposes.

§ 143B-34: Reserved for future codification purposes.

§ 143B-35: Reserved for future codification purposes.

§ 143B-36: Reserved for future codification purposes.

§ 143B-37: Reserved for future codification purposes.

§ 143B-38: Reserved for future codification purposes.

§ 143B-39: Reserved for future codification purposes.

§ 143B-40: Reserved for future codification purposes.

§ 143B-41: Reserved for future codification purposes.

§ 143B-42: Reserved for future codification purposes.

§ 143B-43: Reserved for future codification purposes.

§ 143B-44: Reserved for future codification purposes.

§ 143B-45: Reserved for future codification purposes.

§ 143B-46: Reserved for future codification purposes.

§ 143B-47: Reserved for future codification purposes.

§ 143B-48: Reserved for future codification purposes.

Article 2.

Department of Natural and Cultural Resources.

Part 1. General Provisions.

§ 143B-49. Department of Natural and Cultural Resources – creation, powers and duties.

There is hereby created a department to be known as the "Department of Natural and Cultural Resources," with the organization, duties, functions, and powers defined in the Executive Organization Act of 1973. (1973, c. 476, s. 29; 2002-180, s. 3.2; 2015-241, s. 14.30(s).)

§ 143B-50. Duties of the Department.

It shall be the duty of the Department to do the following:

(1) To provide the necessary management, development of policy and establishment and enforcement of standards for the furtherance of resources, services and programs involving the arts and the historical and cultural aspects of the lives of the citizens of North Carolina.

(2) To provide and keep a museum or collection of the natural history of the State and to maintain the North Carolina Biological Survey. (1973, c. 476, s. 30; 2015-241, s. 14.30(fff).)

§ 143B-51. Functions of the Department.

(a) The functions of the Department of Natural and Cultural Resources shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all executive functions of the State in relation to the development and preservation of libraries, historical records, sites and property, and of an appreciation of art and music and further including those prescribed powers, duties, and functions enumerated in Article 17 of Chapter 143A of the General Statutes of this State.

(b) All such functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 17 of Chapter 143A of the General Statutes are hereby transferred to and vested in the Department of Natural and Cultural Resources except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:

(1) The Secretary and Department of Art, Culture and History;
(2) The State Department of Archives and History;
(3) The North Carolina Advisory Council on Historic Preservation;
(4) The North Carolina State Library;
(5) The Interstate Library Compact;
(6) The North Carolina Museum of Art;
(7) Repealed by Session Laws 2012-120, s. 1(c), effective October 1, 2012.
(8) The North Carolina Symphony Society, Inc.;
(9) The State Art Museum Building Commission;
(10) The Library Certification Board;
(11) The Tryon Palace Commission;
(12) The North Carolina Arts Council;
(13) The U.S.S. North Carolina Battleship Commission;
(14), (15) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015.
(16) The Executive Mansion Fine Arts Commission;
(17) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015.
(18) The North Carolina Awards Commission;
(19) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015.
(20) The Roanoke Island Historical Association, Inc.;
(21) through (23) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015.
(24) The Edenton Historical Commission;
(25) The Historic Bath Commission;
(26) The Historic Hillsborough Commission; and
(27) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015.
(28) The Historic Murfreesboro Commission.
(29) through (39) Repealed by Session Laws 2015-184, s. 6, effective August 5, 2015. (1973, c. 476, s. 31; 2012-120, s. 1(c); 2015-184, s. 6; 2015-241, s. 14.30(s).)

§ 143B-52. Head of the Department.

The Secretary of Natural and Cultural Resources shall be the head of the Department. (1973, c. 476, s. 32; 2015-241, s. 14.30(t).)

§ 143B-53. Organization of the Department.

(a) The Department of Cultural Resources shall be organized initially to include the Art Commission, the Art Museum Building Commission, the North Carolina Historical Commission, the Tryon Palace Commission, the U.S.S. North Carolina Battleship Commission, the Executive Mansion Fine Arts Committee, the North Carolina Awards Committee, the North Carolina Arts Council, the Public Librarian Certification

Commission, the State Library Commission, the North Carolina Symphony Society, Inc., and the Division of the State Library, the Division of Archives and History, the Division of the Arts, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

(b) The Department of Natural and Cultural Resources shall include the currently existing entities listed in subsection (a) of this section and the following additional entities:

(1) The Parks and Recreation Division.
(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.
(6) The Clean Water Management Trust Fund.
(7) The Natural Heritage Program.
(6) North Carolina Parks and Recreation Authority.
(7) North Carolina Trails Committee.
(8) North Carolina Zoological Park Council.
(9) Advisory Commission for North Carolina State Museum of Natural Sciences. (1973, c. 476, s. 33; 1981, c. 918, s. 1; 2006-66, s. 22.22(e); 2006-221, s. 23; 2012-120, s. 1(d); 2015-184, s. 7; 2015-241, s. 14.30(ggg).)

§ 143B-53.1. Appropriation, allotment, and expenditure of funds for historic and archeological property.

The Department of Natural and Cultural Resources may not expend any State funds for the acquisition, preservation, restoration, or operation of historic or archeological real and personal property, and the Director of the Budget may not allot any appropriations to the Department of Natural and Cultural Resources for a particular historic site until (i) the property or properties shall have been approved for such purpose by the Department of Natural and Cultural Resources according to criteria adopted by the North Carolina Historical Commission, (ii) the report and recommendation of the North Carolina Historical Commission has been received and considered by the Department of Natural and Cultural Resources, and (iii) the Department of Natural and Cultural Resources has found that there is a feasible and practical method of providing funds for the acquisition, restoration and/or operation of such property. (1963, c. 210, s. 3; 1973, c. 476, s. 48; 1985 (Reg. Sess; 1986), c. 1014, s. 171(e); 2006-203, s. 7; 2015-241, s. 14.30(s).)

§ 143B-53.2. Salaries, promotions, and leave of employees of the North Carolina Department of Natural and Cultural Resources.

(a) and (b) Repealed by Session Laws 2007-484, s. 9(b), effective August 30, 2007.

(c) The exemptions to Chapter 126 of the General Statutes authorized by G.S. 126-5(c11) for the employees of the Department of Natural and Cultural Resources listed in that subsection shall be used to develop organizational classification and compensation innovations that will result in the enhanced efficiency of operations. The Office of State Human Resources shall assist the Secretary of Natural and Cultural Resources in the development and implementation of an organizational structure and human resources

programs that make the most appropriate use of the exemptions, including (i) a system of job categories or descriptions tailored to the agency's needs; (ii) policies regarding paid time off for agency personnel and the voluntary sharing of such time off; and (iii) a system of uniform performance assessments for agency personnel tailored to the agency's needs. The Secretary of Natural and Cultural Resources may, under the supervision of the Office of State Human Resources, develop and implement organizational classification and compensation innovations having the potential to benefit all State agencies. (2006-204, s. 3; 2007-484, s. 9(b); 2013-382, s. 9.1(c); 2015-241, s. 14.30(s), (x).)

§ 143B-53.3. Queen Anne's Revenge Project.

(a) Fund. – The Queen Anne's Revenge Project Special Fund is created as a special, interest-bearing revenue fund within the Department of Natural and Cultural Resources, Office of Archives and History. The Fund shall consist of all receipts derived from donations, gifts, devises, and earned revenue. The monies in the Fund may be used only for contracted services, personal services and operations, conference and meeting expenses, travel, staff salaries, operations for laboratory needs, museum exhibits, and other administrative costs related to the Queen Anne's Revenge Project. The staff of the Office of Archives and History and the Department of Natural and Cultural Resources shall determine how the funds shall be used for the purposes of the Queen Anne's Revenge Project, and those funds are hereby appropriated for those purposes.

(b) Application. – This section applies to the Queen Anne's Revenge, the historic shipwreck owned by the State and managed by the Department of Natural and Cultural Resources, Office of Archives and History.

(c) Reports. – The Department of Natural and Cultural Resources shall submit a report by September 30 of each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the chairs of the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. This report shall include the source and amount of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (2014-100, s. 19.4; 2015-241, ss. 14.30(s), (hhh); 2017-57, ss. 14.1(dd), 14.3(d).)

Part 2. Art Commission.

§§ 143B-54 through 143B-57. Repealed by Session Laws 1979, 2nd Session, c. 1306, s. 5.

Part 3. Art Museum Building Commission.

§ 143B-58 through 143B-61.1: Repealed by Session Laws 2000-140, s. 78.

Part 4. North Carolina Historical Commission.

§ 143B-62. North Carolina Historical Commission – creation, powers and duties.

There is hereby created the North Carolina Historical Commission of the Department of Natural and Cultural Resources to give advice and assistance to the Secretary of Natural and Cultural Resources and to promulgate rules and regulations to be followed in the acquisition, disposition, preservation, and use of records, artifacts, real and personal property, and other materials and properties of historical, archaeological, architectural, or other cultural value, and in the extension of State aid to other agencies, counties, municipalities, organizations, and individuals in the interest of historic preservation.

(1) The Historical Commission shall have the following powers and duties:

a. To advise the Secretary of Natural and Cultural Resources on the scholarly editing, writing, and publication of historical materials to be issued under the name of the Department.

b. To evaluate and approve proposed nominations of historic, archaeological, architectural, or cultural properties for entry on the National Register of Historic Places.

c. To evaluate and approve the State plan for historic preservation as provided for in Chapter 121.

d. To evaluate and approve historic, archaeological, architectural, or cultural properties proposed to be acquired and administered by the State.

e. To evaluate and prepare a report on its findings and recommendations concerning any property not owned by the State for which State aid or appropriations are requested from the Department of Natural and Cultural Resources, and to submit its findings and recommendations in accordance with Chapter 121.

f. To serve as an advisory and coordinative mechanism in and by which State undertakings of every kind that are potentially harmful to the cause of historic preservation within the State may be discussed, and where possible, resolved, particularly by evaluating and making recommendations concerning any State undertaking which may affect a property that has been entered on the National Register of Historic Places as provided for in Chapter 121 of the General Statutes of North Carolina.

g. To exercise any other powers granted to the Commission by provisions of Chapter 121 of the General Statutes of North Carolina.

h. To give its professional advice and assistance to the Secretary of Natural and Cultural Resources on any matter which the Secretary may refer to it in the performance of the Department's duties and responsibilities provided for in Chapter 121 of the General Statutes of North Carolina.

i. To serve as a search committee to seek out, interview, and recommend to the Secretary of Natural and Cultural Resources one or more experienced and professionally trained historian(s) for either the position of Deputy Secretary of Archives and History when a vacancy occurs, and to assist and cooperate with the Secretary in periodic reviews of the performance of the Deputy Secretary.

j. To assist and advise the Secretary of Natural and Cultural Resources and the Deputy Secretary of Archives and History in the development

and implementation of plans and priorities for the State's historical programs.

(2) The Historical Commission shall have the power and duty to establish standards and provide rules and regulations as follows:

a. For the acquisition and use of historical materials suitable for acceptance in the North Carolina Office of Archives and History.

b. For the disposition of public records under provisions of Chapter 121 of the General Statutes of North Carolina.

c. For the certification of records in the North Carolina State Archives as provided in Chapter 121 of the General Statutes of North Carolina.

d. For the use by the public of historic, architectural, archaeological, or cultural properties as provided in Chapter 121 of the General Statutes of North Carolina.

e. For the acquisition of historic, archaeological, architectural, or cultural properties by the State.

f. For the extension of State aid or appropriations through the Department of Natural and Cultural Resources to counties, municipalities, organizations, or individuals for the purpose of historic preservation or restoration.

f1. For the extension of State aid or appropriations through the Department of Natural and Cultural Resources to nonstate-owned nonprofit history museums.

g. For qualification for grants-in-aid or other assistance from the federal government for historic preservation or restoration as provided in Chapter 121 of the General Statutes of North Carolina. This section shall be construed liberally in order that the State and its citizens may benefit from such grants-in-aid.

(3) The Commission shall adopt rules and regulations consistent with the provisions of this section. All current rules and regulations heretofore adopted by the Executive Board of the State Department of Archives and History, the Historic Sites Advisory Committee, the North Carolina Advisory Council on Historical Preservation, and the Executive Mansion Fine Arts Commission shall remain in full force and effect unless and until repealed or superseded by action of the Historical Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Natural and Cultural Resources. (1973, c. 476, s. 44; 1977, c. 513, s. 2; 1979, c. 861, s. 6; 1985 (Reg. Sess., 1986), c. 1014, s. 171(f); 1997-411, ss. 1-3; 2002-159, s. 35(k); 2015-184, s. 8; 2015-241, s. 14.30(s), (t).)

§ 143B-63. Historical Commission – members; selection; quorum; compensation.

The Historical Commission of the Department of Natural and Cultural Resources shall consist of 11 members appointed by the Governor.

The members of the North Carolina Historical Commission shall include the members of the existing North Carolina Historical Commission who shall serve for a period equal to the remainder of their current terms on the Commission, plus four additional appointees of the Governor, two of whose appointments shall expire March 31, 1979, and two of whose

appointments shall expire March 31, 1981. At the end of the respective terms of office of the members, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Of the members, at least five shall have professional training or experience in the fields of archives, history, historic preservation, historic architecture, archaeology, or museum administration, including at least three currently involved in the teaching of history at the college or university level or in administering archives or historical collections or programs. Any appointment to fill a vacancy on the Commission created by resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance according to the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Natural and Cultural Resources. (1973, c. 476, s. 45; 1977, c. 513, s. 1; 2015-241, s. 14.30(s), (t).)

§ 143B-64. Historical Commission – officers.

The Historical Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term. (1973, c. 476, s. 46.)

§ 143B-65. Historical Commission – regular and special meetings.

The Historical Commission shall meet at least twice per year and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least four members. (1973, c. 476, s. 42.)

Part 5. Archaeological Advisory Committee.

§ 143B-66. Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1028, s. 10.

Part 6. Public Librarian Certification Commission.

§ 143B-67. Public Librarian Certification Commission – creation, powers and duties.

There is hereby created the Public Librarian Certification Commission of the Department of Natural and Cultural Resources with the power and duty to adopt rules and regulations to be followed in the certification of public librarians. The Commission is authorized to establish and require written examinations for certified public librarian applicants.

The Commission shall adopt such rules and regulations consistent with the provisions of this Chapter. All rules and regulations consistent with the provisions of this Chapter heretofore adopted by the Library Certification Board shall remain in full force and effect unless and until repealed or superseded by action of the Public Librarian Certification Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Natural and Cultural Resources. (1973, c. 476, s. 49; 1981 (Reg. Sess., 1982), c. 1359, s. 4; 2015-241, s. 14.30(s).)

§ 143B-68. Public Librarian Certification Commission – members; selection; quorum; compensation.

The Public Librarian Certification Commission of the Department of Natural and Cultural Resources shall consist of five members as follows: (i) the chairman of the public libraries section of the North Carolina Library Association, (ii) two individuals named by the Governor upon the nomination of the North Carolina Library Association, (iii) the dean of a State or regionally accredited graduate school of librarianship in North Carolina appointed by the Governor, and (iv) one member at large appointed by the Governor.

The members shall serve four-year terms or while holding the appropriate chairmanship. Any appointment to fill a vacancy created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem, and necessary travel expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of the Department through the regular staff of the Department. (1973, c. 476, s. 50; 2015-241, s. 14.30(s); 2017-212, s. 8.12.)

§ 143B-69. Public Librarian Certification Commission – officers.

The Public Librarian Certification Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term. (1973, c. 476, s. 51.)

§ 143B-70. Public Librarian Certification Commission – regular and special meetings.

The Public Librarian Certification Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least three members. (1973, c. 476, s. 52.)

Part 7. Tryon Palace Commission.

§ 143B-71. Tryon Palace Commission – creation, powers and duties.

There is hereby created the Tryon Palace Commission of the Department of Natural and Cultural Resources with the power and duty to adopt, amend and rescind rules and regulations concerning the restoration and maintenance of the Tryon Palace complex, and other powers and duties as provided in Article 2 of Chapter 121 of the General Statutes of North Carolina, including the authority to charge reasonable admission and related activity fees. The Commission is exempt from the requirements of Chapter 150B of the General Statutes and G.S. 12-3.1 when adopting, amending, or repealing rules for operating hours and admission fees or related activity fees at Tryon Palace Historic Sites and Gardens. The Commission shall submit a report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division on the amount and purpose of a fee change within 30 days following its effective date. (1973, c. 476, s. 54; 2013-297, s. 2(b); 2013-360, s. 19.2(b); 2014-100, s. 19.5(b); 2015-241, s. 14.30(s); 2017-57, s. 14.1(cc).)

§ 143B-72. Tryon Palace Commission – members; selection; quorum; compensation.

The Tryon Palace Commission of the Department of Natural and Cultural Resources shall consist of the following members: 25 voting members appointed by the Governor, nonvoting members emeriti appointed by the Governor, and five voting ex officio members as provided in this section.

The Governor shall appoint 25 voting members. The terms of the initial members shall be staggered as follows: Nine of the members shall be appointed to serve four-year terms, eight of the members shall be appointed to serve three-year terms, and eight of the members shall be appointed to serve two-year terms. At the end of the respective terms of office of the initial appointed members of the Commission, the appointments of their successors, with the exception of ex officio members and members emeriti, shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission shall be for the balance of the unexpired term. The Governor shall designate the chair of the Tryon Palace Commission. The other officers of the Tryon Palace Commission shall be elected by the members of the Tryon Palace Commission.

The Governor may also appoint any person who has previously served on the Tryon Palace Commission with distinction to the Commission as a member emeritus. A person appointed as a member emeritus shall be deemed a lifetime member of the Commission and shall serve as a nonvoting member.

In addition to the members who are appointed by the Governor, the Attorney General, the Secretary of Natural and Cultural Resources or the Secretary's designee, the mayor of the City of New Bern, the Dean of the College of Arts and Sciences at East Carolina University, and the chairman of the Board of County Commissioners of Craven County shall serve as voting ex officio members of said Commission. The provisions of the Executive Organization Act of 1973 pertaining to the residence of members of commissions shall not apply to the Tryon Palace Commission.

A majority of the voting members of the Commission shall constitute a quorum for the transaction of business.

The members of the Commission shall serve without pay and without expense allowance. (1973, c. 476, s. 55; 1977, c. 771, s. 4; 1979, c. 151, s. 1; 1993, c. 109, s. 1; 2015-241, ss. 14.30(s), (t).)

Part 8. U.S.S. North Carolina Battleship Commission.

§ 143B-73. U.S.S. North Carolina Battleship Commission – creation, powers, and duties.

There is hereby created the U.S.S. North Carolina Battleship Commission of the Department of Natural and Cultural Resources with the power and duty to adopt, amend, and rescind rules and regulations under and not inconsistent with the laws of this State necessary in carrying out the provisions and purposes of this Part.

(1) The U.S.S. North Carolina Battleship Commission is authorized and empowered to adopt such rules and regulations not inconsistent with the management responsibilities of the Secretary of the Department provided by Chapter 143A of the General Statutes and laws of this State and this Chapter that may be necessary and desirable for the operation and maintenance of the U.S.S. North Carolina as a permanent memorial and exhibit commemorating the heroic participation of the men and women of North Carolina in the prosecution and victory of the Second World War and for the faithful performance and fulfillment of its duties and obligations.

(2) The U.S.S. North Carolina Battleship Commission shall have the power and duty to establish standards and adopt rules and regulations: (i) establishing and providing for a proper charge for admission to the ship; and (ii) for the maintenance and operation of the ship as a permanent memorial and exhibit.

(3) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter. The Commission is exempt from the requirements of Chapter 150B of the General Statutes and G.S. 12-3.1 when adopting, amending, or repealing rules for operating hours and admission fees or related activity fees at the U.S.S. North Carolina Battleship. The Commission shall submit a report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division on the amount and purpose of a fee change within 30 days following its effective date. (1973, c. 476, s. 57; 1977, c. 741, s. 3; 2013-360, s. 19.2(c); 2014-100, s. 19.5(c); 2015-241, s. 14.30(s); 2017-57, s. 14.1(cc).)

§ 143B-73.1. U.S.S. North Carolina Battleship Commission – duties.

The Commission shall have the further duty and authority to select an appropriate site for the permanent berthing of the Battleship U.S.S. North Carolina, taking into consideration factors including, but not limited to, the accessibility, location in relation to roads and highways, scenic attraction, protection from hazards of weather, fire and sea, cost of site and berthing, cooperation of local governmental authorities in securing, equipping, and maintaining appropriate areas surrounding the site, and others which may affect the suitability of such site for establishment of the ship as a permanent memorial and exhibit; to accept gifts, grants, and donations for the purposes of this Article; to transport

to, and berth the ship at the site; to ready the ship for visitation by the public; to establish and provide for a proper charge for admission to the ship, and for safekeeping of funds; to maintain and operate the ship as a permanent memorial and exhibit; to acquire property, both real and personal, with the approval of the Governor and the Council of State, and to accept donations of property, both real and personal, from any source; to establish, supervise, manage and maintain in New Hanover County with the approval and assistance of the Department of Natural and Cultural Resources exhibits, dramas, cultural activities, museums, and records pertaining to the marine and naval history of the State of North Carolina and the United States of America; to identify, preserve and protect properties having historical, marine and naval significance to New Hanover County, the State, its communities and counties and the nation; to establish and provide for a proper charge for admission to all properties maintained and operated by the Commission in New Hanover County; to otherwise provide in carrying out its duties for the establishment of appropriate activities to encourage interest in the marine and naval history of North Carolina; to perpetuate the memory of North Carolinians who gave their lives in the course of World War II and in the events in which the battleship was a participant, and to allocate funds for the fulfillment of the duties and authority herein provided as may be necessary and appropriate for the purpose of this Article. (1961, c. 158; 1977, c. 741, ss. 1, 8; 2015-241, s. 14.30(s).)

§ 143B-74. U.S.S. North Carolina Battleship Commission – members; selection; quorum; compensation.

The U.S.S. North Carolina Battleship Commission of the Department of Natural and Cultural Resources shall consist of 18 members including the Secretary of Natural and Cultural Resources and the Secretary of Commerce who shall serve as voting ex officio members. The members of the Commission appointed for terms to end in 1991 shall serve for an additional two-year period. At the end of the respective terms of office of the members of the Commission serving in 1991, their successors shall be appointed for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. The provisions of the Executive Organization Act of 1973 pertaining to the residence of members of commissions shall not apply to the U.S.S. North Carolina Battleship Commission.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business. The Governor shall designate from among the members of the Commission a chairman, vice-chairman and treasurer. The Secretary of Natural and Cultural Resources or his designee shall serve as Secretary of the Commission. The Commission shall meet at least twice annually upon the call of the chairman, the Secretary of Natural and Cultural

Resources, or any seven members of the Commission. (1973, c. 476, s. 58; 1977, c. 741, s. 4; 1991, c. 73, s. 1; 1991 (Reg. Sess., 1992), c. 959, s. 39; 2015-241, ss. 14.30(s), (t).)

§ 143B-74.1. U.S.S. North Carolina Battleship Commission – funds.

The Commission shall establish and maintain a "Battleship Fund" composed of the monies which may come into its hands from admission or inspection fees, gifts, donations, grants, or devises, which funds will be used by the Commission to pay all costs of maintaining and operating the ship for the purposes herein set forth. The Commission shall maintain books of accounting records concerning revenue derived and all expenses incurred in maintaining and operating the ship as a public memorial. The operations of the Commission shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. The Commission shall reimburse the State Auditor the cost of any audit. The Commission shall establish a reserve fund in an amount to be determined by the Secretary of Natural and Cultural Resources to be maintained and used for contingencies and emergencies beyond those occurring in the course of routine maintenance and operation, and may authorize the deposit of this reserve fund in a depository to be selected by the Treasurer of North Carolina. (1961, c. 158; 1977, c. 741, ss. 2, 8; 1983, c. 913, s. 40; 2010-31, s. 21.1; 2011-284, s. 97; 2015-241, s. 14.30(t).)

§ 143B-74.2. U.S.S. North Carolina Battleship Commission – employees.

The Department of Natural and Cultural Resources is authorized to hire laborers, artisans, caretakers, stenographic and administrative employees, and other personnel, in accordance with the provisions of the North Carolina Human Resources Act, as may be necessary in carrying out the purposes and provisions of this Article, and to maintain the ship in a clean, neat, and attractive condition satisfactory for exhibition to the public. The Commission shall appoint and fix the salary of an Executive Director and Assistant Director to serve at its pleasure. Employees shall be residents of the State of North Carolina except as may, in emergency conditions, be necessary for the procurement of specially trained or specially skilled employees. Any materials used for any purpose in maintaining and operating the ship for the purposes of this Article shall be, insofar as practicable, North Carolina materials. (1961, c. 158; 1975, c. 879, s. 46; 1977, c. 741, ss. 6, 8; 2006-204, s. 1; 2013-382, s. 9.1(c); 2015-241, s. 14.30(s).)

§ 143B-74.3. U.S.S. North Carolina Battleship Commission – employees not to have interest.

It shall be unlawful for any member of the Commission to charge, receive, or obtain, directly or indirectly, any fee, commission, retainer or brokerage other than established salaries to be fixed by the Commission, and no member of the Commission shall have any interest in any land, materials, commissions or contracts sold to or made with the Commission, or with any member thereof. Violation of any provisions of this section shall be a Class 2 misdemeanor. (1961, c. 158; 1977, c. 741, ss. 7, 8; 1993, c. 539, s. 1037; 1994, Ex. Sess., c. 24, s. 14(c).)

Part 9. Sir Walter Raleigh Commission.

§§ 143B-75 through 143B-78. Repealed by Session Laws 1979, c. 504, s. 1.

Part 10. Executive Mansion Fine Arts Committee.

§ 143B-79. Executive Mansion Fine Arts Committee – creation, powers and duties.

There is hereby created the Executive Mansion Fine Arts Committee. The Executive Mansion Fine Arts Committee shall have the following functions and duties:

(1) To advise the Secretary of Natural and Cultural Resources on the preservation and maintenance of the Executive Mansion located at 200 North Blount Street, Raleigh, North Carolina;

(2) To encourage gifts and objects of art, furniture and articles of historical value for furnishing the Executive Mansion, and advise the Secretary of Natural and Cultural Resources on major changes in the furnishings of the Mansion;

(3) To make recommendations to the Secretary of Natural and Cultural Resources concerning major renovations necessary to preserve and maintain the structure;

(4) To aid the Secretary of Natural and Cultural Resources in keeping a complete list of all gifts and articles received together with their history and value;

(5) No gifts or articles shall be accepted for the Executive Mansion without the approval of the Committee; and

(6) The Committee shall advise the Secretary of Natural and Cultural Resources upon any matter the Secretary may refer to it.

(7) The Committee may dispose of property held in the Executive Mansion after consultation with a review committee comprised of one person from the Executive Mansion Fine Arts Committee, appointed by its chairman; one person from the Department of Administration appointed by the Secretary of Administration; and two qualified professionals from the Department of Natural and Cultural Resources, Division of Archives and History, appointed by the Secretary of Natural and Cultural Resources. Upon request of the Executive Mansion Fine Arts Committee, the review committee shall view proposed items for disposition and shall make a recommendation to the North Carolina Historical Commission who shall make a final decision. The Historical Commission shall consider whether the disposition is in the best interest of the State of North Carolina. If any property is sold, the net proceeds of each sale and any interest earned thereon shall be deposited in the State Treasury to the credit of the Executive Mansion, Special Fund, and shall be used only for the purchase, conservation, restoration, or repair of other property for use in the Executive Mansion. (1973, c. 476, s. 65; 1983, c. 632, s. 1; 1987, c. 251; 2013-360, s. 19.8(a); 2015-241, s. 14.30(s), (t); 2017-57, s. 14.3(e).)

§ 143B-80. Executive Mansion Fine Arts Committee – members; selection; quorum; compensation.

The Executive Mansion Fine Arts Committee shall consist of 16 members appointed by the Governor. The initial members of the Committee shall be the appointed members of the present Executive Mansion Fine Arts Commission who shall serve for a period equal

to the remainder of their current terms on the Executive Mansion Fine Arts Commission, four of whose appointments expire June 30, 1973, four of whose appointments expire June 30, 1974, four of whose appointments expire June 30, 1975, and four of whose appointments expire June 30, 1976. At the end of the respective terms of office of the initial members, the appointments of their successors shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Committee to serve as chairman at his pleasure.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

All clerical and other services required by the Committee shall be supplied by the Secretary of Natural and Cultural Resources. (1973, c. 476, s. 66; 2015-241, s. 14.30(t).)

§ 143B-80.1. Regular and special meetings.

The Executive Mansion Fine Arts Committee shall meet at least twice per year and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members.

Whenever a member shall fail, except for ill health or other valid reason, to be present for two successive regular meetings of the Board, his place as a member shall be deemed vacant. (1983, c. 632, s. 2.)

§ 143B-80.2. Reserved for future codification purposes.

§ 143B-80.3. Reserved for future codification purposes.

§ 143B-80.4. Reserved for future codification purposes.

Part 10A. State Capitol Preservation Act.

§§ 143B-80.5 through 143B-80.14: Repealed by Session Laws 1995, c. 507, s. 12(a).

Part 11. American Revolution Bicentennial Committee.

§§ 143B-81 through 143B-82: Repealed by Session Laws 1979, c. 504, s. 2.

Part 12. North Carolina Awards Committee.

§ 143B-83. North Carolina Awards Committee – creation, powers and duties.

There is hereby created the North Carolina Awards Committee with the duty to advise the Secretary of Natural and Cultural Resources on the formulation and administration of the program governing North Carolina awards and on the selection of a committee in each award area to choose the recipients.

The Committee shall advise the Secretary of the Department upon any matter the Secretary may refer to it. (1973, c. 476, s. 71; 1979, c. 504, s. 2; 1983 (Reg. Sess., 1984), c. 995, s. 22; 2015-241, s. 14.30(t).)

§ 143B-84. North Carolina Awards Committee – members; selection; quorum; compensation.

The North Carolina Awards Committee shall consist of five members appointed by the Governor to serve at the Governor's pleasure.

The Governor shall designate a member of the Committee as chairman to serve in such capacity at the pleasure of the Governor.

Members of the Committee shall serve without compensation or travel or per diem.

A majority of the Committee shall constitute a quorum for the transaction of business.

The Secretary of Natural and Cultural Resources is hereby authorized to request contingency and emergency funds for the administration of the North Carolina Awards Committee, for the period between July 1, 1973, and ratification of the next general appropriations bill for the Department.

All clerical and other services required by the Committee shall be supplied by the Secretary of Natural and Cultural Resources. (1973, c. 476, s. 72; 2015-241, s. 14.30(t).)

Part 13. America's Four Hundredth Anniversary Committee.

§§ 143B-85, 143B-86: Repealed by Session Laws 2015-184, s. 4, effective August 1, 2015.

Part 14. North Carolina Arts Council.

§ 143B-87. North Carolina Arts Council – creation, powers and duties.

There is hereby created the North Carolina Arts Council with the following duties and functions:

(1) To advise the Secretary of Natural and Cultural Resources on the study, collection, maintenance and dissemination of factual data and pertinent information relative to the arts;

(2) To advise the Secretary concerning assistance to local organizations and the community at large in the area of the arts;

(3) To advise the Secretary on the exchange of information, promotion of programs and stimulation of joint endeavor between public and nonpublic organizations;

(4) To identify research needs in the arts area and to encourage such research;

(5) To advise the Secretary in regard to bringing the highest obtainable quality in the arts to the State and promoting the maximum opportunity for the people to experience and enjoy those arts;

(6) To advise the Secretary of the Department upon any matter the Secretary may refer to it; and

(7) To advise the Secretary concerning the promotion of theater arts in the State. (1973, c. 476, s. 77; 1985 (Reg. Sess., 1986), c. 1028, s. 14; 2015-241, s. 14.30(t).)

§ 143B-87.1: Reserved for future codification purposes.

Part 14. North Carolina Arts Council.

§ 143B-87.2. A+ Schools Special Fund.

(a) Fund. – The A+ Schools Special Fund is created as a special interest-bearing revenue fund in the Department of Natural and Cultural Resources, North Carolina Arts Council. The Fund shall consist of all receipts derived from donations, gifts, devises, and earned revenue. The revenue in the Fund may be used only for contracted services, conference and meeting expenses, travel, staff salaries, and other administrative costs related to the A+ Schools program. The staff of the North Carolina Arts Council and the Department shall determine how the funds shall be used for the purposes of the A+ Schools program.

(b) Application. – This section applies to the A+ Schools program, which was transferred to the North Carolina Arts Council by Section 9.8 of S.L. 2010-31.

(c) Reports. – The Department shall submit a report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division by September 30 of each year that includes the source and amount of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (2013-297, s. 3; 2015-241, s. 14.30(s), (iii); 2017-57, ss. 14.1(dd), 14.3(f).)

§ 143B-88. North Carolina Arts Council – members; selection; quorum; compensation.

The North Carolina Arts Council shall consist of 24 members appointed by the Governor. The initial members of the Council shall be the appointed members of the present Arts Council who shall serve for a period equal to the remainder of their current terms on the Arts Council, eight of whose terms expire June 30, 1973, eight of whose terms expire June 30, 1974, and eight of whose terms expire June 30, 1975. At the end of the respective terms of office of the initial members, the appointments of their successors shall be for terms of three years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council as chairman to serve at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Cultural Resources. (1973, c. 476, s. 78; 2015-241, s. 14.30(t).)

Part 15. North Carolina State Art Society, Incorporated.

§ 143B-89: Repealed by Session Laws 2012-120, s. 1(c), effective October 1, 2012.

Part 16. State Library Commission.

§ 143B-90. State Library Commission – creation, powers and duties.

There is hereby created the State Library Commission of the Department of Natural and Cultural Resources. The State Library Commission has the following functions and duties:

(1) To advise the Secretary of Natural and Cultural Resources on matters relating to the operation and services of the State Library;

(2) Repealed by Session Laws 1991, c. 757, s. 2.

(2a) To work for the financial support of statewide and local public library services;

(3) To advise the Secretary upon any matter the Secretary might refer to it;

(4) Repealed by Session Laws 1991, c. 757, s. 2.

(4a) To work for the financial support of statewide interlibrary services;

(5) Repealed by Session Laws 1991, c. 757, s. 2.

(5a) To aid and advise the Secretary of Natural and Cultural Resources in the development of information services for the promotion of cultural, educational, and economic well-being of the State.

(6) through (8) Repealed by Session Laws 1991, c. 757, s. 2.

(8a) To aid and advise the Secretary of Natural and Cultural Resources on the recruitment and appointment of the State Librarian. (1973, c. 476, s. 82; 1981, c. 918, s. 2; 1991, c. 757, s. 2; 2015-241, ss. 14.30(s), (t).)

§ 143B-91. State Library Commission – members; selection; quorum; compensation.

(a) The State Library Commission shall consist of 15 members. All members shall have an interest in the development of library and information services in North Carolina. Eight members shall be appointed by the Governor. One member shall be appointed by the President Pro Tempore of the Senate. One member shall be appointed by the Speaker of the North Carolina House of Representatives. Three members shall be appointed by the North Carolina Public Library Directors Association. Two members shall be the President and the President-elect of the North Carolina Library Association or two appointees as determined by the North Carolina Library Association's Board of Directors. The State Librarian shall be an ex officio member and act as secretary to the Commission.

All appointments shall be for four-year terms with eight of the commissioners taking office on the first four-year cycle and seven commissioners taking office on the second four-year cycle. Any appointment to fill a vacancy in one of the positions appointed by the Governor, President Pro Tempore or Speaker of the House of Representatives shall be for

the remainder of the unexpired term. Appointees shall not serve more than two successive four-year terms.

The Governor shall choose a chairperson from among the gubernatorial appointees. The chairperson shall serve not more than two successive two-year terms as chair.

Members of the Commission shall receive per diem and necessary travel and subsistence expenses as provided in G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Natural and Cultural Resources.

The Commission shall meet at least twice a year.

(b) There shall be standing committees established to advise the Secretary of Natural and Cultural Resources, the Commission, and the State Librarian. These committees shall be: Public Library Development; Interlibrary Cooperation; State Government Information Services; State Library Development; and any other committee deemed appropriate. Each committee shall be composed of a committee chairperson and at least six persons appointed annually by the Secretary of Natural and Cultural Resources with the approval of the Commission. At least one of the members of each committee shall be a member of the Commission. Each committee shall report to the Commission at least once a year. (1973, c. 476, s. 83; 1981, c. 918, s. 3; 1991, c. 757, s. 3; 1995, c. 490, s. 53; 2015-241, s. 14.30(t).)

Part 17. Roanoke Island Historical Association.

§ 143B-92. Roanoke Island Historical Association – creation, powers and duties.

There is hereby recreated the Roanoke Island Historical Association with the powers and duties delineated in Article 19 of Chapter 143 of the General Statutes of North Carolina. (1973, c. 476, s. 85.)

§ 143B-93. Roanoke Island Historical Association – status.

The Roanoke Island Historical Association is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except G.S. 143B-92 and G.S. 143B-93. (1973, c. 476, s. 86.)

Part 18. North Carolina Symphony Society.

§ 143B-94. North Carolina Symphony Society, Inc.

The North Carolina Symphony Society, Incorporated, shall continue to be under the patronage of the State as provided in Article 2 of Chapter 140 of the General Statutes of North Carolina. The governing body of the North Carolina Symphony Society, Incorporated, shall be a board of trustees consisting of not less than 16 members of which the Governor of the State and the Superintendent of Public Instruction shall be ex officio members and four other members shall be named by the Governor. The remaining trustees shall be chosen by members of the North Carolina Symphony Society, Incorporated, in such manner and for such terms as that body shall determine. The initial members named

by the Governor shall be appointed from the members of the existing board of trustees of the North Carolina State Symphony Society, Incorporated, for the balance of their existing terms. Subsequent appointments shall be made for terms of four years each. (1973, c. 476, s. 88.)

Part 19. Edenton Historical Commission.

§ 143B-95. Edenton Historical Commission – creation, purposes and powers.

There is hereby recreated the Edenton Historical Commission. The purposes of the Commission are to effect and encourage preservation, restoration, and appropriate presentation of the Town of Edenton and Chowan County, as a historic, educational, and aesthetic place, to the benefit of the citizens of the place and the State and of visitors. To accomplish its purposes, the Commission has the following powers and responsibilities:

(1) To acquire, hold, and dispose of title to or interests in historic properties in the Town of Edenton and County of Chowan and to repair, restore, and otherwise improve the properties, and to maintain them;

(2) To acquire, hold, and dispose of title to or interests in other land there, upon which historic structures have been or shall be relocated, and to improve the land and maintain it;

(3) To acquire, hold, and dispose of suitable furnishings for the historic properties, and to provide and maintain suitable gardens for them;

(4) To develop and maintain one or more collections of historic objects and things pertinent to the history of the town and county, to acquire, hold, and dispose of the items, and to preserve and display them;

(5) To develop and conduct appropriate programs, under the name "Historic Edenton" or otherwise, for the convenient presentation and interpretation of the properties and collections to citizens and visitors, as places and things of historic, educational, and aesthetic value;

(6) To conduct programs for the fostering of research, for the encouragement of preservation, and for the increase of knowledge available to the local citizens and the visitors in matters pertaining to the history of the town and county;

(7) To cooperate with the Secretary and Department of Natural and Cultural Resources and with appropriate associations, governments, governmental agencies, persons, and other entities, and to assist and advise them, toward the furtherance of the Commission's purposes;

(8) To solicit gifts and grants toward the furtherance of these purposes and the exercise of these powers;

(9) To conduct other programs and do other things appropriate and reasonably necessary to the accomplishment of the purposes and the exercise of the powers; and

(10) To adopt and enforce any bylaws and rules that the Commission deems beneficial and proper. (1973, c. 476, s. 90; 1979, c. 733, s. 1; 2015-241, s. 14.30(s).)

§ 143B-96. Edenton Historical Commission – status.

The Edenton Historical Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except G.S. 143B-95 through G.S. 143B-98. (1973, c. 476, s. 91.)

§ 143B-97. Edenton Historical Commission – reports.

The Edenton Historical Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Natural and Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Natural and Cultural Resources is authorized to recommend to the next General Assembly the abolition of the Commission. (1973, c. 476, s. 92; 2015-241, s. 14.30(t).)

§ 143B-98. Edenton Historical Commission – members; selection; compensation; quorum.

The Edenton Historical Commission shall consist of 33 members, 22 appointed by the Governor to serve at his pleasure, four appointed by the President Pro Tempore of the Senate, four appointed by the Speaker of the House of Representatives, and, ex officio, the Mayor of the Town of Edenton, the Chairman of the Board of Commissioners of Chowan County, and the Secretary of Natural and Cultural Resources or his designee.

All the present members of the Commission may continue to serve, at the pleasure of the Governor, until the end of his present term of office. The Commission shall elect its own officers, and the members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum. (1973, c. 476, s. 93; 1979, c. 733, s. 2; 2005-421, s. 3.1(a); 2015-241, s. 14.30(t).)

Part 20. Historic Bath Commission.

§ 143B-99. Historic Bath Commission – creation, powers and duties.

There is hereby created the Historic Bath Commission. The Historic Bath Commission shall have the following powers:

(1) To acquire and dispose of title to or interests in historic properties in and near the Town of Bath in Beaufort County, and to repair, restore, or otherwise improve such properties, and to maintain them;

(2) To offer such historic properties to the State of North Carolina, subject to the acceptance of such properties by the State;

(3) To cooperate with, assist, and advise the Secretary of Natural and Cultural Resources upon any matter pertaining to the administration of Bath State Historic Site, which the Secretary of the Department may refer to it; and

(4) To carry out other programs reasonably related to these purposes. (1973, c. 476, s. 95; 2015-241, s. 14.30(t).)

§ 143B-100. Historic Bath Commission – status.

The Historic Bath Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except G.S. 143B-99 through G.S. 143B-102. (1973, c. 476, s. 96.)

§ 143B-101. Historic Bath Commission – reports.

The Historic Bath Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Natural and Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Natural and Cultural Resources is authorized to recommend the abolition of the Commission to the next General Assembly. (1973, c. 476, s. 97; 2015-241, s. 14.30(t).)

§ 143B-102. Historic Bath Commission – members; selection; quorum; compensation.

The Historic Bath Commission shall consist of 25 members appointed by the Governor plus, ex officio, the mayor of the Town of Bath, the Chairman of the Board of Commissioners of Beaufort County, and the Secretary of Natural and Cultural Resources or designee. The initial members of the Commission shall be the members of the present Historic Bath Commission who shall serve for a period equal to the remainder of their current terms on the Historic Bath Commission. At the end of the respective terms of office of the initial members of the Commission, the appointments of their successors, with the exception of the ex officio members, shall be for terms of five years and until their successors are appointed and qualify. Any appointments to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Commission shall elect its own officers. Members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum. (1973, c. 476, s. 98; 2015-241, s. 14.30(t).)

Part 21. Historic Hillsborough Commission.

§ 143B-103. Historic Hillsborough Commission – creation, powers and duties.

There is hereby recreated the Historic Hillsborough Commission. The Historic Hillsborough Commission shall have the following powers:

(1) In cooperation with the Hillsborough Historical Society, the elected officials of Hillsborough and Orange County, and appropriate public agencies, to use every legal aid and method to preserve and restore the Town of Hillsborough, and its immediately adjacent area, as a living, functioning, educational, and historical exhibit of North Carolina's early life and times;

(2) To acquire and to dispose of property, real and personal; to repair, restore, or otherwise improve such properties; to have prepared a history of the town and

area; and to write, compile, publish, or sponsor such historical works as may pertain to the town and area; and

(3) To carry on other programs reasonably related to these purposes. (1973, c. 476, s. 100.)

§ 143B-104. Historic Hillsborough Commission – status.

The Historic Hillsborough Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except G.S. 143B-103 through G.S. 143B-106. (1973, c. 476, s. 101.)

§ 143B-105. Historic Hillsborough Commission – reports.

The Historic Hillsborough Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Natural and Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Natural and Cultural Resources is authorized to recommend to the next General Assembly the abolition of the Commission. (1973, c. 476, s. 102; 2015-241, s. 14.30(t).)

§ 143B-106. Historic Hillsborough Commission – members; selection; quorum; compensation.

The Historic Hillsborough Commission shall consist of not fewer than 25 members appointed by the Governor plus, ex officio, the mayor of the Town of Hillsborough, the Chairman of the Board of Commissioners of Orange County, the Orange County Register of Deeds, the Orange County Clerk of Superior Court, and the Secretary of Natural and Cultural Resources or designee. The initial appointed members of the Commission shall be the members of the present Historic Hillsborough Commission who shall serve for a period equal to the remainder of their current terms on the Historic Hillsborough Commission. At the end of the respective terms of office of the present members, the appointments of members, excepting the ex officio members, shall be for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Commission shall elect its own officers. Members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum. (1973, c. 476, s. 103; 2015-241, s. 14.30(t).)

Part 22. Historic Murfreesboro Commission.

§ 143B-107. Historic Murfreesboro Commission – creation, powers and duties.

There is hereby recreated the Historic Murfreesboro Commission. The Historic Murfreesboro Commission shall have the following powers:

(1) To acquire and dispose of title to or interests in historic properties in and near the Town of Murfreesboro, and to repair, restore, or otherwise improve and maintain such properties;
(2) To conduct research and planning to carry out a program for the preservation of historic sites, buildings, or objects in and near the Town of Murfreesboro;
(3) To carry out other programs reasonably related to these purposes. (1973, c. 476, s. 105.)

§ 143B-108. Historic Murfreesboro Commission – status.

The Historic Murfreesboro Commission is hereby declared not to be a State agency within the meaning of the Executive Organization Act of 1973 and shall be exempt from all provisions of the Executive Organization Act of 1973 except G.S. 143B-107 through G.S. 143B-110. (1973, c. 476, s. 106.)

§ 143B-109. Historic Murfreesboro Commission – reports.

The Historic Murfreesboro Commission shall submit an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, to the Secretary of Natural and Cultural Resources. In the event such annual report is not received by the Secretary, or if such report does not indicate the need for the continuation of the Commission, the Secretary of Natural and Cultural Resources is authorized to recommend to the next General Assembly the abolition of the Commission. (1973, c. 476, s. 107; 2015-241, s. 14.30(t).)

§ 143B-110. Historic Murfreesboro Commission – members; selection; quorum; compensation.

The Historic Murfreesboro Commission shall consist of 30 members appointed by the Governor plus, ex officio, the mayor of the Town of Murfreesboro, the Chairman of the Board of Commissioners of the County of Hertford, the President of Chowan College, and the Secretary of Natural and Cultural Resources or designee. The initial appointed members of the Commission shall be the members of the present Historic Murfreesboro Commission who shall serve for a period equal to the remainder of their current terms on the Historic Murfreesboro Commission. At the end of the respective terms of office of the initial members of the Commission, the appointments of their successors, with the exception of ex officio members, shall be for terms of five years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Commission shall elect its own officers. Members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum. (1973, c. 476, s. 108; 2015-241, s. 14.30(t).)

Part 23. John Motley Morehead Memorial Commission.

§§ 143B-111 through 143B-115: Repealed by Session Laws 2015-184, s. 5, effective August 5, 2015.

§§ 143B-116 through 143B-120. Reserved for future codification purposes.

Part 24. Grassroots Arts Program.

§ 143B-121. Program established.

The Department of Natural and Cultural Resources shall establish a program to be known as the Grassroots Arts Program, by which funds shall be distributed among the counties of this State for the purpose of assisting the counties in the development of community arts programs. The Grassroots Arts Program shall be established within the "Community Art Development Section" (North Carolina Arts Council) of the Division of the Arts. (1977, c. 1008, s. 1; 2015-241, s. 14.30(s).)

§ 143B-122. Distribution of funds.

Of the funds available under the Grassroots Arts Program, twenty percent (20%) of the total shall be distributed among the counties equally, and the remaining eighty percent (80%) shall be distributed among the counties on a per capita basis. (1977, c. 1008, s. 2; 2007-323, s. 21.1(a).)

§ 143B-123. Rules and procedures; standards for qualification for funds.

The Department of Natural and Cultural Resources shall be authorized to adopt rules and procedures necessary to implement this program and shall adopt standards which must be met by organizations within the counties in order to qualify for funds under the Grassroots Arts Program. The standards adopted shall include, but not be limited to the following:

(1) The organization must show that it exists primarily to aid the arts and that it aids the arts in all its forms including the performing, visual and literary.

(2) The organization must show that its programs are open to the entire community.

(3) The organization must show that it is a nonprofit, tax-exempt corporation, governed by a citizen board which is not self-perpetuating, and that it has been in existence and active for at least one full year.

(4) The organization must show that it can match funds available under the Grassroots Arts Program with public or private funds from within the county in which it is located at a ratio of one-to-one. (1977, c. 1008, s. 3; 2015-241, s. 14.30(s).)

§ 143B-124. Designation of organization as official distributing agent; duties.

Guided by the standards set out in G.S. 143B-123, the board of county commissioners of each county shall designate to the Department of Natural and Cultural Resources an organization to serve as its distributing agent for Grassroots Arts Program funds. Upon the approval of the Department of Natural and Cultural Resources, the designated organization shall become the official distributing agent for that county and shall remain so until such time as it no longer meets the necessary standards. To receive its per capita funds, the official distributing agent must annually submit to the Department of Natural and Cultural

Resources for its approval a plan for the expenditure of the funds allotted to that county and must account for the funds after they have been expended. Funds may be used for programming, administrative and operating expenses, and should assist in the total development of the arts within that county. (1977, c. 1008, s. 4; 2015-241, s. 14.30(s).)

§ 143B-125. Disposition of funds for counties without organizations meeting Department standards.

Funds for counties without organizations which meet the necessary standards set by the Department of Natural and Cultural Resources shall be retained by the department and used for arts programming within these counties. Where feasible, the department shall maintain the same per capita rate for the distribution of funds to these counties and shall require the same matching ratio. (1977, c. 1008, s. 5; 1993, c. 321, s. 33; 2015-241, s. 14.30(s).)

Part 25. Historical Military Reenactment Groups.

§ 143B-126. Voluntary registration; designation of names; registration symbol.

The Department of Natural and Cultural Resources shall establish a program for the voluntary registration of historical military reenactment groups. The Department shall require, as part of the registration procedure, the filing of a copy of the various bylaws governing the groups. The Department shall designate the names to be used by the groups to ensure a lack of duplication or confusion between the groups and shall, in the case of duplicate name requests, decide the use of a particular name based on the longest period of existence as shown by the dates of the bylaws or other evidence of creation. The Department shall create a seal or other logo which shall indicate registration with the Department and shall be authorized for use only by groups properly registered pursuant to this part. (1981, c. 523, s. 1; 2015-241, s. 14.30(s).)

§ 143B-127. Contracts with registered groups.

The Department of Natural and Cultural Resources, Office of Archives and History shall sign contracts for the performance of military historical dramas on State-owned property only with historical military reenactment groups properly registered pursuant to this Part. (1981, c. 523, s. 2; 2002-159, s. 35(j); 2015-241, s. 14.30(s).)

Part 26. Advisory Committee on Abandoned Cemeteries.

§ 143B-128: Repealed by Session Laws 2011-266, s. 1.1, effective July 1, 2011.

Part 27. Roanoke Voyages and Elizabeth II Commission.

§§ 143B-129 through 143B-131: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 769, s. 12.5(c).

Part 27A. Roanoke Island Commission.

§§ 143B-131.1, 143B-131.2: Repealed by Session Laws 2017-57, s. 14.8(e), effective October 1, 2017.

§ 143B-131.3: Repealed by Session Laws 2014-100, s. 19.8(a), effective July 1, 2014.

§§ 143B-131.4 through 143B-131.6: Repealed by Session Laws 2017-57, s. 14.8(e), effective October 1, 2017.

§ 143B-131.7: Repealed by Session Laws 2015-241, s. 14.33, effective July 1, 2015.

§ 143B-131.8: Repealed by Session Laws 2011-145, s. 21.2(c), effective July 1, 2012.

§ 143B-131.8A: Recodified as G.S. 143-202.3 by Session Laws 2017-57, s. 14.8(c), effective October 1, 2017.

§ 143B-131.9: Recodified as G.S. 143-202.4 by Session Laws 2017-57, s. 14.8(c), effective October 1, 2017.

§ 143B-131.10: Repealed by Session Laws 2017-57, s. 14.8(e), effective October 1, 2017.

Part 28. Andrew Jackson Historic Memorial Committee.

§ 143B-132: Repealed by Session Laws 2011-266, s. 1.3, effective July 1, 2011.

Part 29. Veterans' Memorial Commission.

§ 143B-133. Commission established.

(a) There is created within the Department of Natural and Cultural Resources the Veterans' Memorial Commission.

(b) The Veterans' Memorial Commission shall consist of 15 members, none of whom shall be members of the North Carolina General Assembly. The appointments shall be made as follows:

(1) Five persons shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(2) Five persons shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(3) Five persons shall be appointed by the Governor.

Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Other vacancies in appointive terms shall be filled by appointment by the Governor.

(c) The members of the Commission shall serve for the life of the Commission.

(d) The members of the Commission shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(e) The majority of the Commission shall constitute a quorum for the transaction of business.

(f) The members of the Commission shall select a chairman and vice-chairman.

(g) The Commission shall meet at least once during each calendar quarter upon the call of the chairman. The initial meeting shall be called by the Secretary of Natural and Cultural Resources to be held no later than August 31, 1987.

(h) The Department of Natural and Cultural Resources shall provide administrative and support staff to the Commission to assist it in performing its duties.

(i) The Commission shall terminate and this Part expire upon dedication of the monument. (1987, c. 779, s. 1; 1995, c. 490, s. 62; 2015-241, ss. 14.30(s), (t).)

§ 143B-133.1. Powers of Commission.

(a) The Commission shall cause to be erected on the Capitol Grounds a monument to the veterans of World War I, World War II, and the Korean War.

(b) The Commission may, in its discretion, hire any person or persons to design, construct, and erect the monument, and shall choose its location on the Capitol Grounds, in accordance with the review procedures of the North Carolina Historical Commission as set forth in Chapter 100 of the General Statutes, and without regard to Article 8 of Chapter 143 of the General Statutes, G.S. 143B-373, or G.S. 147-12(12).

(c) Further, when a designer is selected and awarded a contract by the Commission to construct and erect the memorial, the Commission shall so advise, in writing, the Office of State Budget and Management of the total amount of the contract, a schedule of payments to be executed, if required, including any particular conditions upon which final acceptance of the Memorial and payment to the designer shall be made. Upon receipt of this document, the Office of State Budget and Management shall cause disbursements to be made from the Reserve established by Section 3 of Chapter 971, Session Laws of 1983, in accordance with the Commission's contractual obligations. (1987, c. 779, s. 1; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b).)

§ 143B-134. Reserved for future codification purposes.

Part 30. African-American Heritage Commission.

§ 143B-135. Commission established.

(a) Creation and Duties. – There is created the African-American Heritage Commission in the Department of Natural and Cultural Resources to advise and assist the Secretary of Natural and Cultural Resources in the preservation, interpretation, and promotion of African-American history, arts, and culture. The Commission shall have the following powers and duties:

(1) To advise the Secretary of Natural and Cultural Resources on methods and means of preserving African-American history, arts, and culture.

(2) To promote public awareness of historic buildings, sites, structures, artwork, and culture associated with North Carolina's African-American heritage through special programs, exhibits, and publications.

(3) To support African-American heritage education in elementary and secondary schools in coordination with North Carolina Public Schools.

(4) To build a statewide network of individuals and groups interested in the preservation of African-American history, arts, and culture.

(5) To develop a program to catalog, preserve, assess, and interpret all aspects of African-American history, arts, and culture.

(6) To advise the Secretary of Natural and Cultural Resources upon any matter the Secretary may refer to it.

(b) Composition and Terms. – The Commission shall consist of 10 members who shall serve staggered terms. The initial board shall be selected on or before October 1, 2008, as follows:

(1) Four appointed by the Governor, two of whom shall serve terms of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year. At least one appointee shall be a member of the North Carolina Historical Commission.

(2) Three appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall serve a term of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year.

(3) Three appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall serve a term of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year.

Upon the expiration of the terms of the initial Commission members, each member shall be appointed for a three-year term and shall serve until a successor is appointed.

(c) Vacancies. – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. – The Commission may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from participating in the official business of the Commission until the charges have been resolved.

(e) Officers. – The chair shall be designated by the Governor from among the members of the Commission to serve as chair at the pleasure of the Governor. The Commission shall elect annually from its membership a vice-chair and other officers deemed necessary by the Commission to carry out the purposes of this Article.

(f) Meetings; Quorum. – The Commission shall meet at least semiannually to conduct business. The Board shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of Commission members shall constitute a quorum.

(g) Compensation. – The Commission members shall receive no salary as a result of serving on the Commission but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable. (2008-107, s. 19A.2; 2015-241, ss. 14.30(s), (t).)

Part 31. Acquisition and Control of State Parks.

§ 143B-135.10. Definitions.

In this Part, unless the context requires otherwise, "Department" means the Department of Natural and Cultural Resources, and "Secretary" means the Secretary of Natural and Cultural Resources. (1939, c. 317, s. 1; 1969, c. 342, s. 1; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1987, c. 827, s. 90; 1989, c. 727, s. 49; 1991 (Reg. Sess., 1992), c. 890, s. 2; 1997-443, s. 11A.119(a); 2011-145, s. 13.25(n); 2015-241, ss. 14.30(e), (l).)

§ 143B-135.12. Power to acquire lands as State parks, and other recreational areas; donations or leases by United States; leases for recreational purposes.

(a) The Department may acquire by gift, purchase, or condemnation under the provisions of Chapter 40A of the General Statutes, areas of land in different sections of the State that may in the opinion of the Department be necessary for the purpose of establishing or developing State parks, and other areas and developments essential to the effective operation of the State park activities under its charge. Condemnation proceedings shall be instituted and prosecuted in the name of the State, and any property so acquired shall be administered, developed, and used for public recreation and for other purposes authorized or required by law. Before any action or proceeding under this section can be exercised, the approval of the Governor and Council of State shall be obtained and filed with the clerk of the superior court in the county or counties where the property is located. The Attorney General shall ensure that all deeds to the State for land acquired under this section are properly executed before the gift is accepted or payment of the purchase money is made.

(b) The Department may accept as gifts to the State any submarginal farmland acquired by the federal government that is suitable for the purpose of creating and maintaining game refuges, public shooting grounds, State parks, State lakes, and other recreational areas, or to enter into longtime leases with the federal government for the areas and administer them with funds secured from their administration in the best interest of longtime public use, supplemented by any appropriations made by the General Assembly. The Department may segregate revenue derived from State hunting and fishing licenses, use permits, and concessions and other proper revenue secured through the administration of State game refuges, public shooting grounds, State parks, State lakes, and other recreational areas to be deposited in the State treasury to the credit of the Department to be used for the administration of these areas.

(c) The Department, with the approval of the Governor and Council of State, may enter into leases of lands and waters for State parks, State lakes, and recreational purposes.

(d) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law. (1915, c. 253, s. 1; C.S., s. 6124; 1925, c. 122, s. 22; 1935, c. 226; 1941, c. 118, s. 1; 1951, c. 443; 1953, c. 1109; 1957, c. 988, s. 2; 1965, c. 1008, s. 1; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1987, c. 827, s. 91; 1989, c. 727, s. 54; 1993, c. 539, s. 829; 1994, Ex. Sess., c. 24, s. 14(c); 2001-487, s. 38(e); 2003-284, s. 35.1(a); 2011-145, s. 13.25(n); 2015-241, s. 14.30(e).)

§ 143B-135.14. Power to acquire conservation lands not included in the State Parks System.

The Department of Administration may acquire and allocate to the Department of Natural and Cultural Resources for management by the Division of Parks and Recreation lands that the Department of Natural and Cultural Resources finds are important for conservation purposes but which are not included in the State Parks System. Lands acquired pursuant to this section are not subject to Part 32 of Article 2 of Chapter 143B of the General Statutes and may be traded or transferred as necessary to protect, develop, and manage the Mountains to Sea State Park Trail, other State parks, or other conservation lands. This section does not expand the power granted to the Department of Natural and Cultural Resources under G.S. 143B-135.12(a) to acquire land by condemnation. (2000-157, s. 3; 2015-241, ss. 14.30(e), (l).)

§ 143B-135.16. Control over State parks; operation of public service facilities; concessions to private concerns; authority to charge fees and adopt rules.

(a) The Department shall make reasonable rules governing the use by the public of State parks and State lakes under its charge. These rules shall be posted in conspicuous places on and adjacent to the properties of the State and at the courthouse of the county or counties in which the properties are located. A violation of these rules is punishable as a Class 3 misdemeanor.

(b) The Department may adopt rules under which the Secretary may issue a special-use permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions. The rules shall require that experts supervise the use of pyrotechnics and that written authorization for the use of pyrotechnics be obtained from the board of commissioners of the county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may impose any conditions on a permit that the Secretary determines to be necessary to protect public health, safety, and welfare. These conditions shall include a requirement that the permittee execute an indemnification agreement with the Department and obtain general liability insurance covering personal injury and property damage that may result from the use of pyrotechnics with policy limits determined by the Secretary.

(c) The Department may construct, operate, and maintain within the State parks, State lakes, and other areas under its charge suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of these facilities and conveniences. The Department may also charge and collect reasonable fees for each of the following:

(1) The erection, maintenance, and use of docks, piers, and any other structures permitted in or on State lakes under rules adopted by the Department.

(2) Fishing privileges in State parks and State lakes, provided that these privileges shall be extended only to holders of State hunting and fishing licenses who comply with all State game and fish laws.

(3) Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area.

(4) The erection, maintenance, and use of a marina at Carolina Beach.

(d) Members of the public who pay a fee under subsection (c) of this section for access to Fort Fisher State Recreation Area may have 24-hour access to Fort Fisher State Recreation Area from September 15 through March 15 of each year.

(e) The Department may make reasonable rules for the operation and use of boats or other craft on the surface of the waters under its charge. The Department may charge and collect reasonable fees for the use of boats and other watercraft that are purchased and maintained by the Department; however, the Department shall not charge a fee for the use or operation of any other boat or watercraft on these waters.

(f) The Department may grant to private individuals or companies concessions for operation of public service facilities for such periods and upon such conditions as the Department deems to be in the public interest. The Department may adopt reasonable rules for the regulation of the use by the public of the lands and waters under its charge and of the public service facilities and conveniences authorized under this section. A violation of these rules is punishable as a Class 3 misdemeanor.

(g) The Department shall validate no less frequently than every five years the number of visitors per car used in the calculation of visitor counts at State Parks.

(h) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law. (1931, c. 111; 1947, c. 697; 1965, c. 1008, s. 2; 1969, c. 343; 1973, c. 547; c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1987, c. 827, s. 92; 1989, c. 727, s. 55; 1993, c. 539, ss. 830, 831; 1994, Ex. Sess., c. 24, s. 14(c); 1997-258, s. 2; 1997-443, s. 11A.119(a); 2003-284, ss. 35.1(b), 35.1A(a), 35.1A(b); 2004-124, s. 12.3(a); 2011-145, s. 13.25(n); 2012-93, s. 2(3); 2015-241, ss. 14.30(e), (l).)

§ 143B-135.18. Legislative authority necessary for payment.

Nothing in this Part shall operate or be construed as authority for the payment of any money out of the State treasury for the purchase of lands or for other purposes unless by appropriation for said purpose by the General Assembly. (1915, c. 253, s. 21/2; C.S., s. 6126; 2015-241, ss. 14.30(e), (l).)

§ 143B-135.20. License fees for hunting and fishing on government-owned property unaffected.

No wording in G.S. 113-307.1(a), or any other North Carolina statute or law, or special act, shall be construed to abrogate the vested rights of the State of North Carolina to collect fees for license for hunting and fishing on any government-owned land or in any government-owned stream in North Carolina including the license for county, State or nonresident hunters or fishermen; or upon any lands or in any streams hereafter acquired by the federal government within the boundaries of the State of North Carolina. The lands and streams within the boundaries of the Great Smoky Mountains National Park to be exempt from this section. (1933, c. 537, s. 2; 1979, c. 830, s. 6; 2011-145, s. 13.25(n); 2015-241, s. 14.30(e).)

§ 143B-135.22. Donations of property for park purposes; agreements with federal government or agencies for acquisition.

The Department is hereby authorized and empowered to accept gifts, donations or contributions of land suitable for park purposes and to enter into agreements with the federal government or other agencies for acquiring by lease, purchase or otherwise such lands as in the judgment of the Department are desirable for State parks. (1935, c. 430, s. 1; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 58; 2011-145, s. 13.25(n); 2015-241, s. 14.30(e).)

§ 143B-135.24. Expenditure of funds for development, etc.; disposition of products from lands; rules.

When lands are acquired or leased under G.S. 143B-135.22, the Department is hereby authorized to make expenditures from any funds not otherwise obligated, for the management, development and utilization of such areas; to sell or otherwise dispose of products from such lands, and to make such rules as may be necessary to carry out the purposes of G.S. 143B-135.22 to 143B-135.30. (1935, c. 430, s. 2; 1987, c. 827, s. 93; 2015-241, s. 14.30(e).)

§ 143B-135.26. Disposition of revenues received from lands acquired.

All revenues derived from lands now owned or later acquired under the provisions of G.S. 143B-135.22 to 143B-135.30 shall be set aside for the use of the Department in acquisition, management, development and use of such lands until all obligations incurred have been paid in full. Thereafter, fifty percent (50%) of all net profits accruing from the administration of such lands shall be applicable for such purposes as the General Assembly may prescribe, and fifty percent (50%) shall be paid into the school fund to be used in the county or counties in which lands are located. (1935, c. 430, s. 3; 2015-241, s. 14.30(e).)

§ 143B-135.28. State not obligated for debts created hereunder.

Obligations for the acquisition of land incurred by the Department under the authority of G.S. 143B-135.22 to 143B-135.30 shall be paid solely and exclusively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the State. (1935, c. 430, s. 4; 2015-241, s. 14.30(e).)

§ 143B-135.30. Disposition of lands acquired.

The Department shall have full power and authority to sell, exchange or lease lands under its jurisdiction when in its judgment it is advantageous to the State to do so in the highest orderly development and management of State parks: Provided, however, said sale, lease or exchange shall not be contrary to the terms of any contract which it has entered into. (1935, c. 430, s. 5; 2011-145, s. 13.25(n); 2015-241, s. 14.30(e).)

Part 32. State Parks Act.

§ 143B-135.40. Short title.

This Part shall be known as the State Parks Act. (1987, c. 243, s. 1; 2015-241, ss. 14.30(e), (l).)

§ 143B-135.42. Declaration of policy and purpose.

(a) The State of North Carolina offers unique archaeologic, geologic, biological, scenic, and recreational resources. These resources are part of the heritage of the people of this State. The heritage of a people should be preserved and managed by the people for their use and for the use of their visitors and descendants.

(b) The General Assembly finds it appropriate to establish the State Parks System. This system shall consist of parks which include representative examples of the resources sought to be preserved by this Part, together with such surrounding lands as may be appropriate. Park lands are to be used by the people of this State and their visitors in order to promote understanding of and pride in the natural heritage of this State.

(c) The tax dollars of the people of the State should be expended in an efficient and effective manner for the purpose of assuring that the State Parks System is adequate to accomplish the goals as defined in this Part.

(d) The purpose of this Part is to establish methods and principles for the planned acquisition, development, and operation of State parks. (1987, c. 243, s. 1; 2003-340, s. 1.1; 2015-241, ss. 14.30(e), (l).)

§ 143B-135.43. Control of Mount Mitchell Park and other parks in the North Carolina State Parks System.

The Department shall have the control and management of Mount Mitchell Park and of any other parks which have been or may be acquired by the State as part of the North Carolina State Parks System. (1925, c. 122, s. 23; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 43; 2015-241, s. 14.30(e).)

§ 143B-135.44. Definitions.

As used in this Part, unless the context requires otherwise:

(1) "Department" means the Department of Natural and Cultural Resources.

(2) "Park" means any tract of land or body of water comprising part of the State Parks System under this Part, including existing State parks, State natural areas, State recreation areas, State trails, State rivers, and State lakes.

(3) "Plan" means State Parks System Plan.

(4) "Secretary" means the Secretary of Natural and Cultural Resources.

(5) "State Parks System" or "system" mean all those lands and waters which comprise the parks system of the State as established under this Part. (1987, c. 243, s. 1; 1989, c. 727, s. 218(50); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(e), (l).)

§ 143B-135.46. Powers of the Secretary.

The Secretary shall implement the provisions of this Part and shall be responsible for the administration of the State Parks System. (1987, c. 243, s. 1; 2015-241, ss. 14.30(e), (l).)

§ 143B-135.48. Preparation of a System Plan.

(a) The Secretary shall prepare and adopt a State Parks System Plan by December 31, 1988. The Plan, at a minimum, shall:

(1) Outline a method whereby the mission and purposes of the State Parks System as defined in G.S. 143B-135.42 can be achieved in a reasonable, timely, and cost-effective manner;

(2) Evaluate existing parks against these standards to determine their statewide significance;

(3) Identify duplications and deficiencies in the current State Parks System and make recommendations for correction;

(4) Describe the resources of the existing State Parks System and their current uses, identify conflicts created by those uses, and propose solutions to them; and

(5) Describe anticipated trends in usage of the State Parks System, detail what impacts these trends may have on the State Parks System, and recommend means and methods to accommodate those trends successfully.

(b) The Plan shall be developed with full public participation, including a series of public meetings held on adequate notice under rules which shall be adopted by the Secretary. The purpose of the public meetings and other public participation shall be to obtain from the public:

(1) Views and information on the needs of the public for recreational resources in the State Parks System;

(2) Views and information on the manner in which these needs should be addressed;

(3) Review of the draft plan prepared by the Secretary before he adopts the Plan.

(c) The Secretary shall revise the Plan at intervals not exceeding five years. Revisions to the Plan shall be made consistent with and under the rules providing public participation in adoption of the Plan.

(d) No later than October 1, 2018, and every five years thereafter, the Department shall submit electronically the State Parks System Plan to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division. Concurrently, the Department shall submit a summary of each change to the Plan that was made during the previous five fiscal years. (1987, c. 243, s. 1; 2010-31, s. 13.13; 2015-241, s. 14.30(e), (*l*); 2017-10, s. 4.20.)

§ 143B-135.50. Classification of parks resources.

After adopting the Plan, the Secretary shall identify and classify the major resources of each of the parks in the State Parks System, in order to establish the major purpose or purposes of each of the parks, consistent with the Plan and the purposes of this Part. (1987, c. 243, s. 1; 2015-241, ss. 14.30(e), (l).)

§ 143B-135.52. General management plans.

Every park classified pursuant to G.S. 143B-135.50 shall have a general management plan. The plan shall include a statement of purpose for the park based upon its relationship to the System Plan and its classification. An analysis of the major resources and facilities on hand to achieve those purposes shall be completed along with a statement of management direction. The general management plan shall be revised as necessary to comply with the System Plan and to achieve the purposes of this Part. (1987, c. 243, s. 1; 2015-241, ss. 14.30(e), (l).)

§ 143B-135.54. Additions to and deletions from the State Parks System.

(a) If, in the course of implementing G.S. 143B-135.50 the Secretary determines that the major purposes of a park are not consistent with the purposes of this Part and the Plan, the Secretary may propose to the General Assembly the deletion of that park from the State Parks System. On a majority vote of each house of the General Assembly, the General Assembly may remove the park from the State Parks System. No other agency or governmental body of the State shall have the power to remove a park or any part from the State Parks System.

(b) New parks shall be added to the State Parks System by the Department after authorization by the General Assembly. Each additional park shall be authorized only by an act of the General Assembly. Additions shall be consistent with and shall address the needs of the State Parks System as described in the Plan. All additions shall be accompanied by adequate authorization and appropriations for land acquisition, development, and operations. (1987, c. 243, s. 1; 2015-241, ss. 14.30(e), (l).)

§ 143B-135.56. Parks and Recreation Trust Fund.

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a special revenue fund consisting of donations, gifts, and devises to the Trust Fund and other monies appropriated to the Trust Fund by the General Assembly.

(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System or a State recreational forest for capital projects, repairs and renovations of park facilities, and land acquisition.

(2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

(c) Geographic Distribution. – In allocating funds in the Trust Fund under this section, the North Carolina Parks and Recreation Authority shall make geographic distribution across the State to the extent practicable.

(d) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(e) Operating Expenses for State Parks System Allocations. – In allocating funds in the Trust Fund under subdivision (1) of subsection (b) of this section, the North Carolina Parks and Recreation Authority shall consider the operating expenses associated with each capital project, repair and renovation project, and each land acquisition. In considering the operating expenses, the North Carolina Parks and Recreation Authority shall determine both:

(1) The minimal anticipated operating expenses, which are determined by the minimum staff and other operating expenses needed to maintain the project.

(2) The optimal anticipated operating budget, which is determined by the level of staff and other operating expenses required to achieve a more satisfactory level of operation under the project.

(f) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under subsection (c) of this section, this report shall include the operating expenses determined under subdivisions (1) and (2) of subsection (e) of this section.

(g) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this section and for waterfront access. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer. (1993 (Reg. Sess., 1994), c. 772, s. 1; 1995, c. 456, s. 2; 1995 (Reg. Sess., 1996), c. 646, s. 20; 1998-212, ss. 14.6(a), 14.7; 2001-114, s. 1; 2001-487, s. 73; 2004-179, s. 2.4; 2007-323, ss. 12.8, 29.14(f); 2009-484, s. 13; 2010-31, s. 13.11; 2013-360, s. 14.4(b); 2013-363, s. 5.8; 2014-100, s. 14.21(d); 2015-241, s. 14.30(e), (*l*); 2016-94, s. 16.7; 2017-10, s. 4.23; 2017-57, s. 14.3(g).)

§ 143B-135.58. State Parks boat ramps.

Any park that includes an existing boat ramp suitable for launch of motorized watercraft shall ensure the ramp is accessible to the public during the park's regular operating hours. (2017-57, s. 14.18.)

Part 33. North Carolina Appalachian Trails System Act.

§ 143B-135.70. Short title.

This Part may be cited as the North Carolina Appalachian Trails System Act. (1973, c. 545, s. 1; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.72. Policy and purpose.

(a) In order to provide for the ever-increasing outdoor recreation needs of an expanded population and in order to promote public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas of the State, the Appalachian Trail should be protected in North Carolina as a segment of the National Scenic Trails System.

(b) The purpose of this Part is to provide the means for attaining these objectives by instituting a North Carolina Appalachian Trail System, designating the Appalachian Trail lying or located in the North Carolina Counties of Avery, Mitchell, Yancey, Madison, Haywood, Swain, Graham, Macon, and Clay, as defined in the Federal Register of the National Trails Act as the basic component of that System, and by prescribing the methods by which, and standards according to which, additional connecting trails may be added to the System. (1973, c. 545, s. 2; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.74. Appalachian Trails System; connecting or side trails; coordination with the National Trails System Act.

Connecting or side trails may be established, designated and marked as components of the Appalachian Trail System by the Department of Natural and Cultural Resources in consultation with the federal agencies charged with the responsibility for the administration and management of the Appalachian Trail in North Carolina. Criteria and standards of establishment will coincide with those set forth in the National Trails System Act (PL 90-543). (1973, c. 545, s. 3; 1977, c. 771, s. 4; 1989, c. 727, s. 218(61); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(f), (m).)

§ 143B-135.76. Assistance under this Part with the National Trails System Act (PL 90-543).

(a) The Department of Administration in cooperation with other appropriate State departments shall consult with the federal agencies charged with the administration of the Appalachian Trail in North Carolina and develop a mutually agreeable plan for the orderly and coordinated acquisition of Appalachian Trail right-of-way and the associated tracts, as needed, to provide a suitable environment for the Appalachian Trail in North Carolina.

(b) The Department of Natural and Cultural Resources and the federal agencies charged with the responsibility of the administration of the Appalachian Trail in North Carolina shall give due consideration to the conservation of the environment of the Appalachian Trail and, in accordance with the National Trails System Act, may obtain

advice and assistance from local governments, Carolina Mountain Club, Nantahala Hiking Club, Piedmont Appalachian Trail Hikers, Appalachian Trail Conference, other interested organizations and individuals, landowners and land users concerned.

(c) The Board of Transportation shall cooperate and assist in carrying out the purposes of this Part and the National Trails System Act where their highway projects cross or may be adjacent to any component of the Appalachian Trail System.

(d) Lands acquired by the State of North Carolina within the 200-feet right-of-way of the Appalachian Trail and within the exterior boundaries of the Pisgah or Nantahala National Forests, will be conveyed to the United States Forest Service as the federal agency charged with the responsibility for the administration and management of the Appalachian Trail within these specific areas.

(e) Lands acquired by the State of North Carolina outside of the boundaries of the Appalachian Trail right-of-way will be administered by the appropriate State department in such a manner as to preserve and enhance the environment of the Appalachian Trail.

(f) In consultation with the Department of Natural and Cultural Resources, the federal agency charged with the responsibility of the administration of the Appalachian Trail in North Carolina shall establish use regulations in accordance with the National Trails System Act.

(g) The use of motor vehicles on the trails of the North Carolina Appalachian Trail System may be authorized when such use is necessary to meet emergencies or to enable adjacent landowners to have reasonable access to their lands and timber rights provided that the granting of this access is in accordance with limitations and conditions of such use set forth in the National Trails System Act. (1973, c. 507, s. 5; c. 545, s. 4; 1977, c. 771, s. 4; 1989, c. 727, s. 218(62); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(f), (m).)

§ 143B-135.78. Acquisition of rights-of-way and lands; manner of acquiring.

The State of North Carolina may use lands for trail purposes within the boundaries of areas under its administration that are included in the rights-of-way selected for the Appalachian Trail System. The Department of Administration may acquire lands or easements by donation or purchase with funds donated or appropriated for such purpose. (1973, c. 545, s. 5; 2015-241, s. 14.30(f).)

§ 143B-135.80. Expenditures authorized.

The Department is authorized to spend any federal, State, local or private funds available for this purpose to the Department for acquisition and development of the Appalachian Trail System. (1973, c. 545, s. 6; 1977, c. 771, s. 4; 1989, c. 727, s. 125; 2015-241, s. 14.30(f).)

Part 34. North Carolina Trails System.

§ 143B-135.90. Short title.

This Part shall be known and may be cited as the "North Carolina Trails System Act." (1973, c. 670, s. 1; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.92. Declaration of policy and purpose.

(a) In order to provide for the ever-increasing outdoor recreation needs of an expanded population and in order to promote public access to, travel within, and enjoyment and appreciation of the outdoor, natural and remote areas of the State, trails should be established in natural, scenic areas of the State, and in and near urban areas.

(b) The purpose of this Part is to provide the means for attaining these objectives by instituting a State system of scenic and recreation trails, coordinated with and complemented by existing and future local trail segments or systems, and by prescribing the methods by which, and standards according to which, components may be added to the State trails system. (1973, c. 670, s. 1; 1993, c. 184, s. 1; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.94. Definitions.

Except as otherwise required by context, the following terms when used in this Part shall be construed respectively to mean:

(1) "Department" means the North Carolina Department of Natural and Cultural Resources.

(2) "Political subdivision" means any county, any incorporated city or town, or other political subdivision.

(3) "Scenic easement" means a perpetual easement in land which

a. Is held for the benefit of the people of North Carolina,

b. Is specifically enforceable by its holder or beneficiary, and

c. Limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of land and activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it.

(4) "Secretary" means the Secretary of Natural and Cultural Resources, except as otherwise specified in this Part.

(5) "State trails system" means the trails system established in this Part or pursuant to the State Parks Act, Part 32 of this Article, and including all trails and trail segments, together with their rights-of-way, added by any of the procedures described in this Part or Part 32 of this Article.

(6) "Trail" means:

a. Park trail. – A trail designated and managed as a unit of the North Carolina State Parks System under Part 32 of this Article.

b. Designated trail. – A trail designated by the Secretary pursuant to this Part as a component of the State trails system and that is managed by another governmental agency or by a corporation listed with the Secretary of State.

c. A State scenic trail, State recreation trail, or State connecting trail under G.S. 143B-135.96 when the intended primary use of the trail is to serve as a park trail or designated trail.

d. Any other trail that is open to the public and that the owner, lessee, occupant, or person otherwise in control of the land on which the trail is located allows to be used as a trail without compensation, including a

trail that is not designated by the Secretary as a component of the State trails system.

(7) "Trails Committee" means the North Carolina Trails Committee established by Part 35 of this Article. (1973, c. 670, s. 1; 1977, c. 771, s. 4; 1989, c. 727, s. 218(63); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1993, c. 184, s. 2; 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(f), (m).)

§ 143B-135.96. Composition of State trails system.

The State trails system shall be composed of designated:

(1) State scenic trails, which are defined as extended trails so located as to provide maximum potential for the appreciation of natural areas and for the conservation and enjoyment of the significant scenic, historic, natural, ecological, geological or cultural qualities of the areas through which such trails may pass.

(2) State recreation trails, which are defined as trails planned principally for recreational value and may include trails for foot travel, horseback, nonmotorized bicycles, nonmotorized water vehicles, and two-wheel- and four-wheel-drive motorized vehicles. More than one of the aforesaid types of travel may be permitted on a single trail in the discretion of the Secretary.

(3) Connecting or side trails, which will provide additional points of public access to State recreation or State scenic trails or which will provide connections between such trails. (1973, c. 670, s. 1; 1993, c. 184, s. 3; 2015-241, s. 14.30(f).)

§ 143B-135.98. Authority to designate trails.

The Department may establish and designate trails on:

(1) Lands administered by the Department,

(2) Lands under the jurisdiction of a State department, political subdivision, or federal agency, or

(3) Private lands provided, fee-simple title, lesser estates, scenic easements, easements of surface ingress and egress running with the land, leases, or other written agreements are obtained from landowners through which a State trail may pass. (1973, c. 670, s. 1; 1979, c. 6, s. 1; 1991, c. 115, s. 1; 1993, c. 184, s. 4; 2015-241, s. 14.30(f).)

§ 143B-135.100. Use of State land for bicycling; creation of trails by volunteers.

(a) Any land held in fee simple by this State, any agency of this State, or any land purchased or leased with funds provided by this State may be open and available for use by bicyclists upon establishment of a usage agreement. The usage agreement shall be established between the land manager and any local cycling group or organization intending to use the land and shall specify the terms and conditions for use of the land. The land manager shall designate a representative with knowledge of off-road bicycle trail building to negotiate the agreement. Upon establishment of the usage agreement, any bicyclist may use the land pursuant to the agreement.

The land manager shall not be required to create, maintain, or make available any special trails, paths, or other accommodations to any user of the land for cycling purposes. However, once a usage agreement has been established, any local cycling group or organization may create and maintain special trails for cycling purposes. Any trails created for the purpose of off-road cycling shall be created and maintained using commonly accepted best practices.

(b) Notwithstanding the provisions of subsection (a) of this section, any land may be restricted or removed from use by bicyclists if it is determined by the State, an agency of the State, or the holder of land purchased or leased with State funds that the use would cause substantial harm to the land or the environment or that the use would violate another State or federal law. Before restricting or removing land from use by bicyclists, the State, the agency of the State, or the holder of the land purchased or leased with State funds must show why the lands should not be open for use by bicyclists. Local cycling groups or organizations shall be notified of the intent to restrict or remove the land from use by bicyclists and provided an opportunity to show why cycling should be allowed on the land.

(c) Repealed by Session Laws 2016-90, s. 5, effective July 11, 2016.

(d) Any land open and available for use by bicyclists, pursuant to subsection (a) of this section, shall also be available to members of the public for hiking and walking. Persons using the land pursuant to this subsection shall yield the right-of-way to bicyclists when hiking or walking on any trails created and maintained for the purpose of off-road cycling and so designated along that trail.

(e) Notwithstanding any other provision of this section, any hiking, walking, or use of bicycles on game lands administered by the Wildlife Resources Commission shall be restricted to roads and trails designated for vehicular use. Hiking, walking, or bicycle use by persons not hunting shall be restricted to days closed to hunting. The Wildlife Resources Commission may restrict the use of bicycles on game lands where necessary to protect sensitive wildlife habitat or species. (2007-449, s. 1; 2015-241, s. 14.30(f); 2016-90, s. 5.)

§ 143B-135.102. Trails Committee duties.

(a) The Committee shall meet in various sections of the State not less than two times annually to advise the Department on all matters directly or indirectly pertaining to trails, their use, extent, location, and the other objectives and purposes of this Part.

(b) The Committee shall coordinate trail development among local governments, and shall assist local governments in the formation of their trail plans and advise the Department quarterly of its findings.

(c) The Secretary, with advice of the Committee, shall study trail needs and potentials, and make additions to the State Trails System as needed. The Secretary shall submit an annual report by October 1 of each year to the Governor, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division on trail activities by the Department, including rights-of-way that have been established and on the program for implementing this Part. Each report shall include a short statement on the significance of the various trails to the System. The Secretary shall make such rules as to trail development, management, and use that are necessary for the

proper implementation of this Part. (1973, c. 670, s. 1; c. 1262, s. 82; 1987, c. 827, s. 132; 2015-241, ss. 14.30(f), (m); 2017-57, s. 14.1(jj).)

§ 143B-135.104. Location of trails.

The process of locating routes of designated trails to be added to the system shall be as follows:

For State scenic trails, the Secretary or a designee, after consulting with the Committee, shall recommend a route. For State recreation trails and for connecting or side trails, the Secretary or a designee, after consulting with the Committee, shall select the route. The Secretary may provide technical assistance to political subdivisions or private, nonprofit organizations that develop, construct, or maintain designated trails or other public trails that complement the State trails system. When a route shall traverse land within the jurisdiction of a governmental unit or political subdivision, the Department shall consult with such unit or such subdivision prior to its final determination of the location of the route. The selected route shall be compatible with preservation or enhancement of the environment it traverses. Reasonable effort shall be made to minimize any adverse effects upon adjacent landowners and users. Notice of the selected route shall be published by the Department in a newspaper of general circulation in the area in which the trail is located, together with appropriate maps and descriptions to be conspicuously posted at the appropriate courthouse. Such publication shall be prior to the designation of the trail by the Secretary. (1973, c. 670, s. 1; 1993, c. 184, s. 5; 2015-241, s. 14.30(f).)

§ 143B-135.106. Scenic easements within right-of-way.

Within the boundaries of the right-of-way, the Secretary of the North Carolina Department of Administration may acquire, on behalf of the State of North Carolina, lands in fee title, or interest in land in the form of scenic easements, cooperative agreements, easements of surface ingress and egress running with the land, leases, or less than fee estates. Acquisition of land or of interest therein may be by gift, purchased with donated funds or funds appropriated by the governmental agencies for this purpose, proceeds from the sale of bonds or exchange. Any change in value of land resulting from the grant of an easement shall be taken into consideration in the assessment of the land for tax purposes. (1973, c. 670, s. 1; 2015-241, s. 14.30(f).)

§ 143B-135.108. Trails within parks; conflict of laws.

Any component of the System that is or shall become a part of any State park, recreation area, wildlife management area, or similar area shall be subject to the provisions of this Part as well as any other laws under which the other areas are administered, and in the case of conflict between the provisions the more restrictive provisions shall apply. (1973, c. 670, s. 1; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.110. Uniform trail markers.

The Department, in consultation with the Committee, shall establish a uniform marker for trails contained in the System. An additional appropriate symbol characterizing specific

trails may be included on the marker. The markers shall be placed at all access points, together with signs indicating the modes of locomotion that are prohibited for the trail, provided that where the trail constitutes a portion of a national scenic trail, use of the national scenic trail uniform marker shall be considered sufficient. The route of the trail and the boundaries of the right-of-way shall be adequately marked. (1973, c. 670, s. 1; 2015-241, s. 14.30(f).)

§ 143B-135.112. Adopt-A-Trail Program.

The Department shall establish an Adopt-A-Trail Program to coordinate with the Trails Committee and local groups or persons on trail development and maintenance. Local involvement shall be encouraged, and interested groups are authorized to "adopt-a-trail" for such purposes as placing trail markers, trail building, trail blazing, litter control, resource protection, and any other activities related to the policies and purposes of this Part. (1987, c. 738, s. 153(a); 2015-241, s. 14.30(f), (m).)

§ 143B-135.114. Administrative policy.

The North Carolina Trails System shall be administered by the Department according to the policies and criteria set forth in this Part. The Department shall, in addition, have or designate the responsibility for maintaining the trails, building bridges, campsites, shelters, and related public-use facilities where required. (1973, c. 670, s. 1; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.116. Incorporation in National Trails System.

Nothing in this Part shall preclude a component of the State Trails System from becoming a part of the National Trails System. The Secretary shall coordinate the State Trails System with the National Trails System and is directed to encourage and assist any federal studies for inclusion of North Carolina trails in the National Trails System. The Department may enter into written cooperative agreements for joint federal-State administration of a North Carolina component of the National Trails System, provided such agreements for administration of land uses are not less restrictive than those set forth in this Part. (1973, c. 670, s. 1; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.118. Trail use liability.

(a) Any person, as an owner, lessee, occupant, or otherwise in control of land, who allows without compensation another person to use the land for designated trail or other public trail purposes or to construct, maintain, or cause to be constructed or maintained a designated trail or other public trail owes the person the same duty of care he owes a trespasser.

(b) Any person who without compensation has constructed, maintained, or caused to be constructed or maintained a designated trail or other public trail pursuant to a written agreement with any person who is an owner, lessee, occupant, or otherwise in control of land on which a trail is located shall owe a person using the trail the same duty of care

owed a trespasser. (1987, c. 498, s. 1; 1991, c. 38, s. 1; 1993, c. 184, s. 6; 2015-241, ss. 14.30(f), (m).)

Part 35. North Carolina Trails Committee.

§ 143B-135.130. North Carolina Trails Committee – creation; powers and duties.

There is hereby created the North Carolina Trails Committee of the Department of Natural and Cultural Resources. The Committee shall have the following functions and duties:

(1) To meet not less than two times annually to advise the Department on all matters directly or indirectly pertaining to trails, their use, extent, location, and the other objectives and purposes of G.S. 143B-135.102.

(2) To coordinate trail development among local governments, and to assist local governments in the formation of their trail plans and advise the Department of its findings.

(3) To advise the Secretary of trail needs and potentials pursuant to G.S. 143B-135.102. (1973, c. 1262, s. 80; 1977, c. 771, s. 4; 1989, c. 727, s. 218(145); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(f), (m).)

§ 143B-135.132. North Carolina Trails Committee – members; selection; removal; compensation.

The North Carolina Trails Committee shall consist of seven members appointed by the Secretary of Natural and Cultural Resources. Two members shall be from the mountain section, two from the Piedmont section, two from the coastal plain, and one at large. They shall as much as possible represent various trail users.

Committee members shall serve staggered terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Secretary of Natural and Cultural Resources shall designate a member of the Committee to serve as chairman at the pleasure of the Governor.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973. (1973, c. 1262, s. 81; 1977, c. 771, s. 4; 1989, c. 727, s. 218(146); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(f), (m).)

Part 36. Natural and Scenic Rivers System.

§ 143B-135.140. Short title.

This Part shall be known and may be cited as the "Natural and Scenic Rivers Act of 1971." (1971, c. 1167, s. 2; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.142. Declaration of policy.

The General Assembly finds that certain rivers of North Carolina possess outstanding natural, scenic, educational, geological, recreational, historic, fish and wildlife, scientific and cultural values of great present and future benefit to the people. The General Assembly further finds as policy the necessity for a rational balance between the conduct of man and the preservation of the natural beauty along the many rivers of the State. This policy includes retaining the natural and scenic conditions in some of the State's valuable rivers by maintaining them in a free-flowing state and to protect their water quality and adjacent lands by retaining these natural and scenic conditions. It is further declared that the preservation of certain rivers or segments of rivers in their natural and scenic condition constitutes a beneficial public purpose. (1971, c. 1167, s. 2; 2015-241, s. 14.30(f).)

§ 143B-135.144. Declaration of purpose.

The purpose of this Part is to implement the policy as set out in G.S. 143B-135.142 by instituting a North Carolina natural and scenic rivers system, and by prescribing methods for inclusion of components to the system from time to time. (1971, c. 1167, s. 2; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.146. Definitions.

As used in this Part, unless the context requires otherwise:

(1) "Department" means the Department of Natural and Cultural Resources.

(2) "Free-flowing," as applied to any river or section of a river, means existing or flowing in natural condition without substantial impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the North Carolina natural and scenic rivers system shall not automatically bar its consideration for such inclusion: Provided, that this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the system.

(3) "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(4) "Road" means public or private highway, hard-surface road, dirt road, or railroad.

(5) "Scenic easement" means a perpetual easement in land which (i) is held for the benefit of the people of North Carolina, (ii) is specifically enforceable by its holder or beneficiary, and (iii) limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of the land and activities conducted thereon. The object of such limitations and obligations is the maintenance or enhancement of the natural beauty of the land in question or of the areas affected by it.

(6) "Secretary" means the Secretary of Natural and Cultural Resources. (1971, c. 1167, s. 2; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 122; 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(f), (m).)

§ 143B-135.148. Types of scenic rivers.

The following types of rivers are eligible for inclusion in the North Carolina natural and scenic rivers system:

Class I. Natural river areas. Those free-flowing rivers or segments of rivers and adjacent lands existing in a natural condition. Those rivers or segments of rivers that are free of man-made impoundments and generally inaccessible except by trail, with the lands within the boundaries essentially primitive and the waters essentially unpolluted. These represent vestiges of primitive America.

Class II. Scenic river areas. Those rivers or segments of rivers that are largely free of impoundments, with the lands within the boundaries largely primitive and largely undeveloped, but accessible in places by roads.

Class III. Recreational river areas. Those rivers or segments of rivers that offer outstanding recreation and scenic values and that are largely free of impoundments. They may have some development along their shorelines and have more extensive public access than natural or scenic river segments. Recreational river segments may also link two or more natural and/or scenic river segments to provide a contiguous designated river area. No provision of this section shall interfere with flood control measures; provided that recreational river users can continue to travel the river. (1971, c. 1167, s. 2; 1989, c. 752, s. 156(a); 2015-241, s. 14.30(f).)

§ 143B-135.150. Criteria for system.

For the inclusion of any river or segment of river in the natural and scenic river system, the following criteria must be present:

(1) River segment length – must be no less than one mile.

(2) Boundaries – of the system shall be the visual horizon or such distance from each shoreline as may be determined to be necessary by the Secretary, but shall not be less than 20 feet.

(3) Water quality – shall not be less than that required for Class "C" waters as established by the North Carolina Environmental Management Commission.

(4) Water flow – shall be sufficient to assure a continuous flow and shall not be subjected to withdrawal or regulation to the extent of substantially altering the natural ecology of the stream.

(5) Public access – shall be limited, but may be permitted to the extent deemed proper by the Secretary, and in keeping with the property interest acquired by the Department and the purpose of this Part. (1971, c. 1167, s. 2; 1973, c. 1262, ss. 23, 86; 1989, c. 654, s. 1; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.152. Components of system; management plan; acquisition of land and easements; inclusion in national system.

That segment of the south fork of the New River extending from its confluence with Dog Creek in Ashe County downstream through Ashe and Alleghany Counties to its confluence with the north fork of the New River and the main fork of the New River in

Ashe and Alleghany Counties downstream to the Virginia State line shall be a scenic river area and shall be included in the North Carolina Natural and Scenic Rivers System.

The Department shall prepare and implement a management plan for this river section. This management plan shall recognize and provide for the protection of the existing undeveloped scenic and pastoral features of the river. Furthermore, it shall specifically provide for continued use of the lands adjacent to the river for normal agricultural activities, including, but not limited to, cultivation of crops, raising of cattle, growing of trees and other practices necessary to these agricultural pursuits.

For purposes of implementing this section and the management plan, the Department may acquire lands or interests in lands, provide for protection of scenic values as described in G.S. 143B-135.160, and provide for public access. Easements obtained for the purpose of implementing this section and the management plan shall not abridge the water rights being exercised on May 26, 1975.

Should the Governor seek inclusion of this river segment in the National System of Wild and Scenic Rivers by action of the Secretary of Interior, such inclusion shall be at no cost to the federal government, as prescribed in the National Wild and Scenic Rivers Act, and therefore shall be under the terms described in this section of the North Carolina Wild and Scenic Rivers Act and in the management plan developed pursuant thereto. (1973, c. 879; 1975, c. 404; 1977, c. 555; c. 771, s. 4; 1985, c. 129, s. 3; 1987, c. 827, s. 127; 1989, c. 654, s. 2; c. 765; 1999-147, s. 1; 2012-200, s. 24; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.154. Additional components.

That segment of the Linville River beginning at the State Highway 183 bridge over the Linville River and extending approximately 13 miles downstream to the boundary between the United States Forest Service lands and lands of Duke Power Company (latitude 35° 50' 20") shall be a natural river area and shall be included in the North Carolina Natural and Scenic River System.

That segment of the Horsepasture River in Transylvania County extending downstream from Bohaynee Road (N.C. 281) to Lake Jocassee shall be a natural river and shall be included in the North Carolina Natural and Scenic Rivers System.

That segment of the Lumber River extending from county road 1412 in Scotland County downstream to the North Carolina-South Carolina state line, a distance of approximately 102 river miles, shall be included in the Natural and Scenic Rivers System and classified as follows: from county road 1412 in Scotland County downstream to the junction of the Lumber River and Back Swamp shall be classified as scenic; from the junction of the Lumber River and Back Swamp downstream to the junction of the Lumber River and Jacob Branch and the river within the Fair Bluff town limits shall be classified as recreational; and from the junction of the Lumber River and Jacob Branch downstream to the North Carolina-South Carolina state line, excepting the Fair Bluff town limits, shall be classified as natural. (1975, c. 698; 1985, c. 344, s. 1; 1989, c. 752, s. 156(b); 2015-241, s. 14.30(f).)

§ 143B-135.156. Administrative agency; federal grants; additions to the system; regulations.

(a) The Department is the agency of the State of North Carolina with the duties and responsibilities to administer and control the North Carolina natural and scenic rivers system.

(b) The Department is the agency of the State with the authority to accept federal grants of assistance in planning, developing (which would include the acquisition of land or an interest in land), and administering the natural and scenic rivers system.

(c) The Secretary of the Department shall study and from time to time submit to the Governor, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division proposals for the additions to the system of rivers and segments of rivers which, in the Secretary's judgment, fall within one or more of the categories set out in G.S. 143B-135.148. Each proposal shall specify the category of the proposed addition and shall be accompanied by a detailed report of the facts which, in the Secretary's judgment, makes the area a worthy addition to the system.

(c1) Before submitting any proposal under subsection (c) of this section for the addition to the system of a river or segment of a river, the Secretary or the Secretary's authorized representative shall hold a public hearing in the county or counties where the river or segment of river is situated. Notice of the public hearing shall be given by publishing a notice once each week for two consecutive weeks in a newspaper having general circulation in the county where the hearing is to be held, the second of the notices appearing not less than 10 days before the hearing. Any person attending the hearing shall be given an opportunity to be heard. No public hearing, however, is required with respect to a river bounded solely by the property of one owner, who consents in writing to the addition of the river to the system.

(c2) The Department shall also conduct an investigation on the feasibility of the inclusion of a river or a segment of river within the system and shall file a written report with the proposal described in subsection (c) of this section.

(c3) The Department, before submitting a proposal under subsection (c) of this section, shall notify in writing the owner, lessee, or tenant of any lands adjoining the river or segment of river of its intention to make the proposal. In the event the Department, after due diligence, is unable to determine the owner or lessee of the land, the Department may publish a notice for four successive weeks in a newspaper having general circulation in the county where the land is situated of its intention to make a proposal for the addition of a river or segment of river to the system.

(d) Upon receipt of a request in the form of a resolution from the commissioners of the county or counties in which a river segment is located and upon studying the segment and determining that it meets the criteria set forth in G.S. 143B-135.150, the Secretary may designate the segment a potential component of the natural and scenic rivers system. The designation as a potential component shall be transmitted to the Governor and all appropriate State agencies. Any segment so designated is subject to the provisions of this Part applicable to designated rivers, except for acquisition by condemnation or otherwise, and to any rules adopted pursuant to this Part. The Secretary shall make a full report and,

if appropriate, a proposal for an addition to the natural and scenic rivers system to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division within 90 days after the convening of the next session of the General Assembly following issuance of the designation, and the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources shall determine whether to designate the segment as a component of the natural and scenic rivers system. If the next session of the General Assembly fails to take affirmative action on the designation, the designation as a potential component shall expire.

(e) The Department may adopt rules to implement this Part. (1971, c. 1167, s. 2; 1973, c. 911; c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1985, c. 129, s. 1; 1987, c. 827, ss. 125, 128; 1989, c. 727, s. 123; 2015-241, ss. 14.30(f), (m); 2017-57, s. 14.1(kk).)

§ 143B-135.158. Raising the status of an area.

Whenever in the judgment of the Secretary of the Department a scenic river segment has been sufficiently restored and enhanced in its natural scenic and recreational qualities, such segment may be reclassified with the approval of the Department, to a natural river area status and thereafter administered accordingly. (1971, c. 1167, s. 2; 1973, c. 1262, ss. 28, 86; 2015-241, s. 14.30(f).)

§ 143B-135.160. Land acquisition.

(a) The Department of Administration is authorized to acquire for the Department, within the boundaries of a river or segment of river as set out in G.S. 143B-135.150 on behalf of the State of North Carolina, lands in fee title or a lesser interest in land, preferably "scenic easements." Acquisition of land or interest therein may be by donation, purchase with donated or appropriated funds, exchange or otherwise.

(b) The Department of Administration in acquiring real property or a property interest therein as set out in this Part shall have and may exercise the power of eminent domain in accordance with Article 3 of Chapter 40A of the General Statutes. (1971, c. 1167, s. 2; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1987, c. 827, ss. 127, 129; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.162. Claim and allowance of charitable deduction for contribution or gift of easement.

The contribution or donation of a "scenic easement," right-of-way or any other easement or interest in land to the State of North Carolina, as provided in this Part, shall be deemed a contribution to the State of North Carolina within the provisions of G.S. 105-130.9 and section 170(c)(1) of the Internal Revenue Code. The value of the contribution or donation shall be the fair market value of the easement or other interest in land when the contribution or donation is made. (1971, c. 1167, s. 2; 1991, c. 45, s. 23; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.164. Component as part of State park, wildlife refuge, etc.

Any component of the State natural and scenic rivers system that is or shall become a part of any State park, wildlife refuge, or state-owned area shall be subject to the provisions of this Part and the laws under which the other areas may be administered, and in the case of conflict between the provisions of these laws, the more restrictive provisions shall apply. (1971, c. 1167, s. 2; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.166. Component as part of national wild and scenic river system.

Nothing in this Part shall preclude a river or segment of a river from becoming part of the national wild and scenic river system. The Secretary is directed to encourage and assist any federal studies for the inclusion of North Carolina rivers in the national system. The Secretary may enter into cooperative agreements for joint federal-state administration of a North Carolina river or segment of river: Provided, that such agreements relating to water and land use are not less restrictive than the requirements of this Part. (1971, c. 1167, s. 2; 1973, c. 1262, s. 86; 2015-241, ss. 14.30(f), (m).)

§ 143B-135.168. Violations.

(a) Civil Action. – Whoever violates, fails, neglects or refuses to obey any provision of this Part or rule or order of the Secretary may be compelled to comply with or obey the same by injunction, mandamus, or other appropriate remedy.

(b) Penalties. – Whoever violates, fails, neglects or refuses to obey any provision of this Part or rule or order of the Secretary is guilty of a Class 3 misdemeanor and may be punished only by a fine of not more than fifty dollars ($50.00) for each violation, and each day such person shall fail to comply, where feasible, after having been officially notified by the Department shall constitute a separate offense subject to the foregoing penalty. (1971, c. 1167, s. 2; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1987, c. 827, s. 125; 1989, c. 727, s. 124; 1993, c. 539, s. 872; 1994, Ex. Sess., c. 24, s. 14(c); 2015-241, ss. 14.30(f), (m).)

§ 143B-135.170. Authorization of advances.

The Department of Administration is hereby authorized to advance from land-purchase appropriations necessary amounts for the purchase of land in those cases where reimbursement will be later effected by the Bureau of Outdoor Recreation of the United States Department of the Interior. (1971, c. 1167, s. 2; 2015-241, s. 14.30(f).)

§ 143B-135.172. Restrictions on project works on natural or scenic river.

The State Utilities Commission may not permit the construction of any dam, water conduit, reservoir, powerhouse transmission line, or any other project works on or directly affecting any river that is designated as a component or potential component of the State Natural and Scenic Rivers System. No department or agency of the State may assist by loan, grant, license, permit, or otherwise in the construction of any water resources project that would have a direct and adverse effect on any river that is designated as a component or potential component of the State Natural and Scenic Rivers System. This section shall not, however, preclude licensing of or assistance to a development below or above a

designated or potential component. No department or agency of the State may recommend authorization of any water resources project that would have a direct and adverse effect on any river that is designated as a component or potential component of the State Natural and Scenic Rivers System, or request appropriations to begin construction of any such project, regardless of when authorized, without advising the Secretary in writing of its intention to do so at least 60 days in advance. Such department or agency making such recommendation or request shall submit a written impact statement to the General Assembly to accompany the recommendation or request specifically describing how construction of the project would be in conflict with the purposes of this act and how it would affect the component or potential component. (1985, c. 129, s. 2; 2015-241, s. 14.30(f).)

Part 37. Division of North Carolina Aquariums.

§ 143B-135.180. Division of North Carolina Aquariums – creation.

The Division of North Carolina Aquariums is created in the Department of Natural and Cultural Resources. (1985, c. 202, s. 3; 1995, c. 509, s. 98; 1997-286, s. 2; 1997-400, ss. 6.3(a), (b); 1997-443, s. 11A.119(b); 2015-241, ss. 14.30(g), (n).)

§ 143B-135.182. Division of North Carolina Aquariums – organization; powers and duties.

(a) The Division of North Carolina Aquariums shall be organized as prescribed by the Secretary of Natural and Cultural Resources and shall exercise the following powers and duties:

(1) Establish and maintain the North Carolina Aquariums.

(2) Administer the operations of the North Carolina Aquariums, such administrative duties to include, but not be limited to the following:

a. Adopt goals and objectives for the Aquariums and review and revise these goals and objectives periodically.

b. Review and approve requests for use of the Aquarium facilities and advise the Secretary of Natural and Cultural Resources on the most appropriate use consistent with the goals and objectives of the Aquariums.

c. Continually review and evaluate the types of projects and programs being carried out in the Aquarium facilities and determine if the operation of the facilities is in compliance with the established goals and objectives.

d. Recommend to the Secretary of Natural and Cultural Resources any policies and procedures needed to assure effective staff performance and proper liaison among Aquarium facilities in carrying out the overall purposes of the Aquarium programs.

e. Review Aquarium budget submissions to the Secretary of Natural and Cultural Resources.

f. Recruit and recommend to the Secretary of Natural and Cultural Resources candidates for the positions of directors of the Aquariums.

g. Create local advisory committees in accordance with the provisions of G.S. 143B-135.186.

(3) Notwithstanding Article 3A of Chapter 143 of the General Statutes, and G.S. 143-49(4), dispose of any exhibit, exhibit component, or object from the collections of the North Carolina Aquariums by sale, lease, or trade. A sale, lease, or trade under this subdivision shall be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums. After deducting the expenses attributable to the sale or lease, the net proceeds of any sale or lease shall be credited to the North Carolina Aquariums Fund.

(4) Assume any other powers and duties assigned to it by the Secretary.

(b) The Secretary may adopt any rules and procedures necessary to implement this section. (1985, c. 202, s. 3; 1991, c. 320, s. 3; 1993, c. 321, ss. 28(d), 28(e); 1997-286, ss. 3; 1997-400, s. 6.3(b), (c); 1997-443, ss. 11A.119(a), 11A.123; 1999-49, s. 1; 2015-241, ss. 14.30 (c), (g), (n), (w).)

§ 143B-135.184. North Carolina Aquariums; purpose.

The purpose of establishing and maintaining the North Carolina Aquariums is to promote an awareness, understanding, and appreciation of the diverse natural and cultural resources associated with North Carolina's oceans, estuaries, rivers, streams, and other aquatic environments. (1991, c. 320, s. 4; 1993, c. 321, s. 28(d); 1997-400, s. 6.3(b); 2015-241, s. 14.30(g).)

§ 143B-135.186. Local advisory committees; duties; membership.

Local advisory committees created pursuant to G.S. 143B-135.182(a)(2) shall assist each North Carolina Aquarium in its efforts to establish projects and programs and to assure adequate citizen-consumer input into those efforts. Members of these committees shall be appointed by the Secretary of Natural and Cultural Resources for three-year terms from nominations made by the Director of the Division of North Carolina Aquariums. Each committee shall select one of its members to serve as chairperson. Members of the committees shall serve without compensation for services or expenses. (1991, c. 320, s. 4; 1993, c. 321, ss. 28(d), 28(f); 1997-286, ss. 4; 1997-400, s. 6.3(b), (d); 1997-443, ss. 11A.119(a), 11A.123; 2015-241, ss. 14.30(g), (n); 2015-268, s. 5.4(c).)

§ 143B-135.188. North Carolina Aquariums; fees; fund.

(a) Fees. – The Secretary of Natural and Cultural Resources may adopt a schedule of fees for the aquariums and piers operated by the North Carolina Aquariums, including:

(1) Gate admission fees.

(2) Facility rental fees.

(3) Educational programs.

(b) Fund. – The North Carolina Aquariums Fund is hereby created as a special fund. The North Carolina Aquariums Fund shall be used for the following purposes with respect to the aquariums and the pier operated by the Division of North Carolina Aquariums:

(1) Repair, renovation, expansion, maintenance, and educational exhibit construction. Funds used for repair, renovation, and expansion projects may be transferred to a capital projects fund to account for use of the funds for each project.
(2) Payment of the debt service and lease payments related to the financing of facility expansions, subject to G.S. 143B-135.190.
(3) Matching of private funds that are raised for these purposes.

(c) Disposition of Receipts. – All receipts derived from the collection of admissions charges and other fees and the lease or rental of property or facilities shall be credited to the aquariums' General Fund operating budget. At the end of each fiscal year, the Secretary may transfer from the North Carolina aquariums' General Fund operating budget to the North Carolina Aquariums Fund an amount not to exceed the sum of the following:
(1) One million five hundred thousand dollars ($1,500,000).
(2) The amount needed to cover the expenses described by subdivision (2) of subsection (b) this section.
(3) Any donations, gifts, and devises received by the North Carolina aquariums.

(d) Approval. – The Secretary may approve the use of the North Carolina Aquariums Fund for repair and renovation projects at the aquariums-related facilities that comply with the following:
(1) The total project cost is less than three hundred thousand dollars ($300,000).
(2) **(Effective until July 1, 2019)** The project meets the requirements of G.S. 143C-4-3(b).
(2) **(Effective July 1, 2019)** The project meets the requirements of G.S. 143C-8-13(a).
(3) The project is paid for from funds appropriated to the Fund.
(4) The project does not obligate the State to provide increased recurring funding for operations.

(e) Repealed by Session Laws 2015-286, s. 4.12(d), effective October 22, 2015.

(f) Report. – The Department shall submit to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division by September 30 of each year a report on the North Carolina Aquariums Fund that shall include the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (1997-286, s. 5; 1997-400, s. 6.3(b); 1997-443, s. 11A.119(b); 1999-49, s. 2; 2002-159, s. 46; 2005-276, s. 12.10; 2012-142, s. 12.5(a); 2013-413, s. 42(a); 2014-100, s. 14.2C; 2014-115, s. 17; 2015-241, ss. 14.30(g), (n); 2015-268, s. 5.4(d); 2015-286, s. 4.12(d); 2016-94, s. 16.6(b); 2017-57, ss. 14.3(h), 36.12(e).)

§ 143B-135.190. Satellite areas prohibited absent General Assembly authorization.

Notwithstanding any other provision of law, State funds shall not be used for any of the following purposes unless specifically authorized by the General Assembly:
(1) Construction of any satellite area.
(2) Commencement of any capital project in connection with the construction or acquisition of any satellite area.
(3) Operation of any satellite area.

For purposes of this section, the term "satellite area" means any property or facility that is to be operated by the Division of North Carolina Aquariums that is located somewhere other than on the site of the aquariums at Pine Knoll Shores, Roanoke Island, and Fort Fisher. (2012-142, s. 12.5(c); 2015-241, s. 14.30(g).)

Part 38. North Carolina Parks and Recreation Authority.

§ 143B-135.200. North Carolina Parks and Recreation Authority; creation; powers and duties.

The North Carolina Parks and Recreation Authority is created, to be administered by the Department of Natural and Cultural Resources. The North Carolina Parks and Recreation Authority shall have at least the following powers and duties:

(1) To receive public and private donations, appropriations, grants, and revenues for deposit into the Parks and Recreation Trust Fund.
(2) To allocate funds for land acquisition from the Parks and Recreation Trust Fund.
(3) To allocate funds for repairs, renovations, improvements, construction, and other capital projects from the Parks and Recreation Trust Fund.
(4) To solicit financial and material support from public and private sources.
(5) To develop effective public and private support for the programs and operations of the parks and recreation areas.
(6) To consider and to advise the Secretary of Natural and Cultural Resources on any matter the Secretary may refer to the North Carolina Parks and Recreation Authority. (1995, c. 456, s. 1; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(h), (o).)

§ 143B-135.202. North Carolina Parks and Recreation Authority; members; selection; compensation; meetings.

(a) Membership. – The North Carolina Parks and Recreation Authority shall consist of nine members. The members shall include persons who are knowledgeable about park and recreation issues in North Carolina or with expertise in finance. In making appointments, each appointing authority shall specify under which subdivision of this subsection the person is appointed. Members shall be appointed as follows:

(1) One member appointed by the Governor.
(2) One member appointed by the Governor.
(3) One member appointed by the Governor.
(4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
(5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
(6) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
(7) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(b) Terms. – Members shall serve staggered terms of office of three years. Members shall serve no more than two consecutive three-year terms. After serving two consecutive three-year terms, a member is not eligible for appointment to the Authority for at least one year after the expiration date of that member's most recent term. Upon the expiration of a three-year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The terms of members appointed under subdivision (1), (5), or (8) of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by three. The terms of members appointed under subdivision (2), (4), or (7) of subsection (a) of this section shall expire on July 1 of years that follow by one year those years that are evenly divisible by three. The terms of members appointed under subdivision (3), (6), or (9) of subsection (a) of this section shall expire on July 1 of years that precede by one year those years that are evenly divisible by three.

(c) Chair. – The Governor shall appoint one member of the North Carolina Parks and Recreation Authority to serve as Chair.

(d) Vacancies. – A vacancy on the North Carolina Parks and Recreation Authority shall be filled by the appointing authority responsible for making the appointment to that position as provided in subsection (a) of this section. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(e) Removal. – The Governor may remove, as provided in Article 10 of Chapter 143C of the General Statutes any member of the North Carolina Parks and Recreation Authority appointed by the Governor for misfeasance, malfeasance, or nonfeasance. The General Assembly may remove any member of the North Carolina Parks and Recreation Authority appointed by the General Assembly for misfeasance, malfeasance, or nonfeasance.

(f) Compensation. – The members of the North Carolina Parks and Recreation Authority shall receive per diem and necessary travel and subsistence expenses according to the provisions of G.S. 138-5.

(g) Meetings. – The North Carolina Parks and Recreation Authority shall meet at least quarterly at a time and place designated by the Chair.

(h) Quorum. – A majority of the North Carolina Parks and Recreation Authority shall constitute a quorum for the transaction of business.

(i) Staff. – All clerical and other services required by the North Carolina Parks and Recreation Authority shall be provided by the Secretary of Natural and Cultural Resources. (1995, c. 456, s. 1; 1996, 2nd Ex. Sess., c. 15, s. 16.1; 1997-443, s. 11A.119(a); 1997-496, s. 10; 2001-424, s. 19.3(a); 2006-203, s. 105; 2007-437, s. 2; 2013-360, s. 14.5(a); 2015-241, ss. 14.30(h), (o).)

Part 39. North Carolina Zoological Park Council.

§ 143B-135.205. North Carolina Zoological Park Council – creation; powers and duties.

There is hereby created the North Carolina Zoological Park Council of the Department of Natural and Cultural Resources. The North Carolina Zoological Park Council shall have the following functions and duties:

(1) To advise the Secretary on the basic concepts of and for the Zoological Park, approve conceptual plans for the Zoological Park and its buildings.

(2) To advise on the construction, furnishings, equipment and operations of the North Carolina Zoological Park.

(3) To establish and set admission fees with the approval of the Secretary of Natural and Cultural Resources as provided in G.S. 143B-135.213.

(4) To recommend programs to promote public appreciation of the North Carolina Zoological Park.

(5) To disseminate information on animals and the park as deemed necessary.

(6) To develop effective public support of the North Carolina Zoological Park through whatever means are desirable and necessary.

(7) To solicit financial and material support from various private sources within and without the State of North Carolina.

(8) To advise the Secretary of Natural and Cultural Resources upon any matter the Secretary may refer to it. (1973, c. 1262, s. 83; 1977, c. 771, s. 4; 1981, c. 278, s. 2; 1989, c. 727, s. 218(147); 1997-443, s. 11A.119(a); 2015-241, ss.14.30(i), (p).)

§ 143B-135.207. North Carolina Zoological Park Council – members; selection; removal; chairman; compensation; quorum; services.

The North Carolina Zoological Park Council of the Department of Natural and Cultural Resources shall consist of 15 members appointed by the Governor, one of whom shall be the Chairman of the Board of Directors of the North Carolina Zoological Society.

At the end of the respective terms of office of the initial members of the Council, the Governor, to achieve staggered terms, shall appoint five members for terms of two years, five members for terms of four years and five members for terms of six years. Thereafter, the appointment of their successors shall be for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council to serve as chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Cultural Resources. (1973, c. 1262, s. 84; 1977, c. 771, s. 4; 1979, c. 30, s. 1; 1989, c. 727, s. 218(148); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(i), (p).)

§ 143B-135.209. North Carolina Zoo Fund.

(a) Fund. – The North Carolina Zoo Fund is created as a special fund. The North Carolina Zoo Fund shall be used for the following types of projects at the North Carolina Zoological Park and to match private funds raised for these types of projects:

(1) Repair, renovation, expansion, maintenance, and educational exhibit construction. Funds used for repair, renovation, and expansion projects may be transferred to a capital projects fund to account for use of the funds for each project.

(2) Renovations of exhibits in habitat clusters, visitor services facilities, and support facilities (including greenhouses and temporary animal holding areas).

(3) The acquisition, maintenance, or replacement of tram equipment as required to maintain adequate service to the public.

(b) Disposition of Receipts. – All receipts derived from the collection of admissions charges and other fees, the lease or rental of property or facilities, and the disposition of products of the land or structures shall be credited to the North Carolina Zoological Park's General Fund operating budget. At the end of each fiscal year, the Secretary may transfer from the North Carolina Zoological Park's General Fund operating budget to the North Carolina Zoo Fund an amount not to exceed the sum of one million five hundred thousand dollars ($1,500,000) and any donations, gifts, and devises received by the North Carolina Zoological Park.

(c) Approval. – The Secretary may approve the use of the North Carolina Zoo Fund for repair and renovation projects at the North Carolina Zoological Park recommended by the Council that comply with the following:

(1) The total project cost is less than three hundred thousand dollars ($300,000).

(2) **(Effective until July 1, 2019)** The project meets the requirements of G.S. 143C-4-3(b).

(2) **(Effective July 1, 2019)** The project meets the requirements of G.S. 143C-8-13(a).

(3) The project is paid for from funds appropriated to the Fund.

(4) The project does not obligate the State to provide increased recurring funding for operations.

(d) Report. – The Department shall submit to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division by September 30 of each year a report on the North Carolina Zoo Fund that shall include the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (1989, c. 752, s. 154; 1995, c. 324, s. 26.11; 1997-443, s. 11A.119(a); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2005-386, s. 5; 2010-142, s. 4; 2015-241, ss. 14.30(i), (p); 2016-94, s. 16.6(a); 2017-57, ss. 14.3(i), 36.12(f).)

§ 143B-135.210. Right to receive gifts.

In order to carry out the purposes of this Part, the Council is authorized to acquire by gift or will, absolutely or in trust, from individuals, corporations, or any other source money or other property, or any interests in property, which may be retained, sold or otherwise used to promote the purposes of this Part. The use of gifts shall be subject to such limitations as may be imposed thereon by donors, notwithstanding any other provisions of this Part. (1969, c. 1104, s. 8; 2015-241, ss. 14.30(j), (q).)

§ 143B-135.211. Tax exemption for gifts to North Carolina Zoological Park.

All gifts made to the North Carolina Zoological Park for the purposes of this Part shall be exempt from every form of taxation including, but not by the way of limitation, ad valorem, intangible, gift, inheritance and income taxation. Proceeds from the sale of any property acquired under the provisions of this Part shall be deposited in the North Carolina State treasury and shall be credited to the North Carolina Zoological Park. (1969, c. 1104, s. 9; 1973, c. 1262, s. 85; 2015-241, ss. 14.30(j), (q).)

§ 143B-135.212. Cities and counties.

Cities and counties are hereby authorized to expend funds derived from nontax sources and to make gifts of surplus property, to assist in carrying out the purposes of this Part. (1969, c. 1104, s. 10; 2015-241, ss. 14.30(j), (q).)

§ 143B-135.213. Sources of funds.

(a) It is the intent of this Part that the funds for the creation, establishment, construction, operation and maintenance of the North Carolina Zoological Park shall be obtained primarily from private sources; however, the Council under the supervision and approval and with the assistance of the Secretary of Natural and Cultural Resources is hereby authorized to receive and expend such funds as may from time to time become available by appropriation or otherwise from the State of North Carolina; provided, that the Council shall not in any manner pledge the faith and credit of the State of North Carolina for any of its purposes.

(b) The Council with the approval of the Secretary of Natural and Cultural Resources is authorized to establish and set admission fees which are reasonable and consistent with the purpose and function of the North Carolina Zoological Park.

(c) Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Council may dispose of any exhibit, exhibit component, or object from the collections of the North Carolina Zoological Park by sale, lease, or trade. A sale, lease, or trade under this subsection shall be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums. After deducting the expenses attributable to the sale or lease, the net proceeds of any sale or lease shall be credited to the North Carolina Zoo Fund. (1969, c. 1104, s. 11; 1973, c. 1262, s. 85; 1977, c. 771, s. 4; 1981, c. 278, s. 1; 1989, c. 727, s. 218(101); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(j), (q); 2017-57, s. 14.3(j).)

§ 143B-135.214. Powers of Council and Department regarding certain fee negotiations, contracts, and capital improvements.

(a) The exception for the North Carolina Zoological Park set forth in G.S. 143-341(3) shall apply only to projects requiring the estimated expenditure of public money of two million dollars ($2,000,000) or less. The Council and the Department of Natural and Cultural Resources shall, with respect to the design, construction, or renovation of buildings, utilities, and other property developments of the North Carolina Zoological Park that fall below that threshold:

(1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.

(2) Develop procedures governing the responsibilities of the Council and the Department to perform the duties of the Department of Administration under G.S. 133-1.1(d) and G.S. 143-341(3).

(3) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the Council and the Department shall consult with the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.

(b) The Council and Department shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(c) A contract may not be divided for the purpose of evading the monetary limit under this section.

(d) Notwithstanding any other provision of this Chapter, the Department of Administration shall not be the awarding authority for contracts awarded pursuant to this section.

(e) This section shall not exempt any capital improvement project from review and approval as may be required by law by the entity having jurisdiction over the subject property.

(f) The Department shall annually report to the State Building Commission the following:

(1) A list of projects governed by this section.

(2) The estimated cost of each project along with the actual cost.

(3) The name of each person awarded a contract under this section.

(4) Whether the person or business awarded a contract under this section meets the definition of "minority business" or "minority person" as defined in G.S. 143-128.2(g).

(g) Unless clearly indicated otherwise, nothing in this section is intended to relieve the Department or the Council from the obligations imposed by Article 3 of Chapter 143 of the General Statutes. (2017-57, s. 36.8(b).)

Part 40. North Carolina State Museum of Natural Sciences.

§ 143B-135.215. Commission created; membership.

There is created an Advisory Commission for the North Carolina State Museum of Natural Sciences which shall determine its own organization. It shall consist of at least nine members, which shall include the Director of the North Carolina State Museum of Natural Sciences, the Commissioner of Agriculture, the State Geologist and Secretary of Natural and Cultural Resources, the Director of the Institute of Fisheries Research of the University of North Carolina, the Director of the Wildlife Resources Commission, the Superintendent of Public Instruction, or qualified representative of any or all of the above-named members, and at least three persons representing the East, the Piedmont, and the Western areas of the State. Members appointed by the Governor shall serve for four-year staggered terms. Terms shall begin on 1 September. Members appointed by the Governor shall not serve more than three consecutive four-year terms. Any member may be removed by the Governor for cause. (1961, c. 1180, s. 1; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(119); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1993, c. 561, ss. 116(b), (f); 1997-443, s. 11A.119(a); 2007-495, s. 4(a); 2015-241, ss. 14.30(k), (r).)

§ 143B-135.217. Duties of Commission; meetings, formulation of policies and recommendations to Governor and General Assembly.

It shall be the duty of the Advisory Commission for the North Carolina State Museum of Natural Sciences to meet at least twice each year, to formulate policies for the advancement of the Museum, to make recommendations to the Governor and to the General Assembly concerning the Museum, and to assist in promoting and developing wider and more effective use of the North Carolina State Museum of Natural Sciences as an educational, scientific and historical exhibit. (1961, c. 1180, s. 2; 1993, c. 561, ss. 116(b), (f); 2015-241, ss. 14.30(k).)

§ 143B-135.219. No compensation of members; reimbursement for expenses.

Members of the Advisory Commission shall serve without compensation and shall be reimbursed for actual expenses incurred while in attendance at meetings of the Commission at the same rate as that established for reimbursement of State employees. Payment for such reimbursement for actual expense shall be made from the Contingency and Emergency Fund. (1961, c. 1180, s. 3; 1993, c. 561, s. 116(b); 2015-241, s. 14.30(k).)

§ 143B-135.221. Reports to General Assembly.

The Commission shall prepare and submit a report outlining the needs of the North Carolina State Museum of Natural Sciences and recommendations for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division on or before October 1 of each year. (1961, c. 1180, s. 4; 1993, c. 561, ss. 116(b), (f); 2010-142, s. 5; 2015-241, ss. 14.30(k), (r); 2017-57, s. 14.1(*ll*).)

§ 143B-135.223. Museum of Natural Sciences; disposition of objects.

Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Department of Natural and Cultural Resources may sell or exchange any object from the collection of the Museum of Natural Sciences when it would be in the best interest of the Museum to do so. Sales or exchanges shall be conducted in accordance with generally accepted practices for accredited museums. If an object is sold, the net proceeds of the sale shall be deposited in the State treasury to the credit of a special fund to be used for the improvement of the Museum's collections or exhibits. (1991 (Reg. Sess., 1992), c. 900, s. 175; 1997-261, s. 24; 1998-212, s. 21(a); 2015-241, ss. 14.30(k), (r).)

§ 143B-135.225. Museum of Natural Sciences; fees; fund.

(a) Fund. – The North Carolina Museum of Natural Sciences Fund is created as a special fund. The North Carolina Museum of Natural Sciences Fund shall be used for repair, renovation, expansion, maintenance, and educational exhibit construction at the North Carolina Museum of Natural Sciences and to match private funds raised for these projects.

(b) Certain Admission Fees Permitted; Disposition of Receipts. – The Museum may collect a charge for special exhibitions, special events, and other temporary attractions. All Museum receipts shall be credited to the North Carolina Museum of Natural Sciences' General Fund operating budget. At the end of each fiscal year, the Secretary may transfer from the North Carolina Museum of Natural Sciences' General Fund operating budget to the North Carolina Museum of Natural Sciences Fund an amount not to exceed one million dollars ($1,000,000).

(c) Approval. – The Secretary may approve the use of the North Carolina Museum of Natural Sciences Fund for repair and renovation projects at the North Carolina Museum of Natural Sciences recommended by the Advisory Commission that comply with the following:

(1) The total project cost is less than three hundred thousand dollars ($300,000).

(2) **(Effective until July 1, 2019)** The project meets the requirements of G.S. 143C-4-3(b).

(2) **(Effective July 1, 2019)** The project meets the requirements of G.S. 143C-8-13(a).

(d) Report. – The Department shall submit to the House and Senate appropriations committees with jurisdiction over natural and economic resources and the Fiscal Research Division by September 30 of each year a report on the North Carolina Museum of Natural Sciences Fund that shall include the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (2015-241, s. 14.30(r); 2015-268, s. 5.4(e); 2017-57, s. 36.12(g).)

§ 143B-135.227. North Carolina Science Museums Grant Program.

(a) Grant Program. – The North Carolina State Museum of Natural Sciences (hereinafter "Museum of Natural Sciences") shall administer the North Carolina Science Museums Grant Program as a competitive grant program. Any museum in the State may

apply for a grant under the Program, but grant funds shall be awarded only if the museum meets the criteria established in subsection (d) of this section. No museum shall be guaranteed a grant under the Program.

(b) Transition Requirements. – For the 2016-2017 fiscal year, the Museum of Natural Sciences shall award grants for a one-year period as set forth in this subsection. Any museum may submit an application for funding. If the museum received funding during the 2015-2016 fiscal year under the Grassroots Science Program, and the Museum of Natural Sciences determines those museums meet the criteria for funding established in subsection (d) of this section, it shall be funded at a level determined as set forth in subsection (b1) of this section. Funds remaining after funding of eligible 2015-2016 fiscal year Grassroots Science Program recipients may be awarded to other museums under the criteria set forth in subsections (b1), (d), and (e) of this section.

(b1) Tier-Based Funding Preferences. – The Museum of Natural Sciences shall reserve seven hundred fifty thousand dollars ($750,000) for the purpose of awarding grants to museums located in development tier one counties and six hundred thousand dollars ($600,000) for museums located in development tier two counties. The development tier designation of a county shall be determined as provided in G.S. 143B-437.08. If, after the initial awarding of grants to all museum applicants who meet the eligibility criteria provided for in subsection (d) of this section, there are funds remaining in any development tier category, the Museum of Natural Sciences may reallocate those funds to another development tier category. The maximum amount of each grant awarded in any fiscal year shall be (i) seventy-five thousand dollars ($75,000) for a museum in a development tier one county; (ii) sixty thousand dollars ($60,000) for a museum in a development tier two county; and (iii) fifty thousand dollars ($50,000) for a museum in a development tier three county. For purposes of this subsection, a museum located in a rural census tract, as defined in G.S. 143B-472.127(a)(2), in a development tier two or development tier three county shall be subject to the maximum grant amount for a development tier one county.

(c) Beginning July 1, 2017, it is the intent of the General Assembly that the Museum of Natural Sciences shall award grants under this program for a two-year period. For each two-year grant cycle, the Museum of Natural Sciences shall reserve the amounts for development tier one and tier two counties and shall award the maximum grant amounts for each year of the grant cycle as provided in subsection (b1) of this section. The tier-based funding preferences in subsection (b1) of this section and the requirements of subsections (d) and (e) of this section shall apply to the two-year grants. If there are funds remaining after the awarding of grants to all museum applicants meeting the eligibility criteria set forth in subsection (d) of this section in any grant cycle, the remaining balance of funds shall be distributed equally to all museum applicants awarded funds during that grant cycle without regard to the maximum grant amounts established in subsection (b1) of this section.

(d) To be eligible to receive a grant under the competitive grant program, a museum 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 either (i) a nonprofit organization that is exempt from federal income taxes pursuant to section 501(c)(3) of the Internal Revenue Code or (ii) an organization that received funding in fiscal year 2015-2016 from the Grassroots Science Program.

(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.

(6) In its application, in a format to be determined by the Museum of Natural Sciences, a detailed plan for (i) the proposed use of the funds and (ii) measurements to demonstrate at the end of the grant cycle that the use of the funds has had the projected results.

(e) 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.

(f) The Department may create one new position to administer the program using no more than fifty thousand dollars ($50,000) of funds appropriated to the North Carolina Science Museums Grant Program in each fiscal year. In addition to administering the Grant Program, this position shall also (i) serve as a liaison between grant applicants or recipients and the Museum to answer questions and assist with grant applications; (ii) foster collaboration between the Museum and grant recipients with respect to education program development and the loaning of exhibits from the Museum or between grantee institutions; and (iii) undertake other duties in support of the Grant Program at the discretion of the Director of the Museum. (2015-241, s. 15.18A(b); 2016-94, s. 16.5; 2017-57, s. 14.11.)

§ 143B-135.229. North Carolina Museum of Natural Sciences at Whiteville; satellite museum.

The Department of Natural and Cultural Resources shall establish and administer the North Carolina Museum of Natural Sciences at Whiteville in Columbus County as a satellite museum of the North Carolina State Museum of Natural Sciences. (1998-212, s. 14.1(a); 2015-241, ss. 14.30(k), (r).)

Part 41. Clean Water Management Trust Fund.

§ 143B-135.230. Purpose.

It is the intent of the General Assembly that moneys from the Fund created under this Part shall be used to help finance projects that enhance or restore degraded surface waters; protect and conserve surface waters, including drinking supplies, and contribute toward a network of riparian buffers and greenways for environmental, educational, and recreational benefits; provide buffers around military bases to protect the military mission; acquire land that represents the ecological diversity of North Carolina; and acquire land that contributes to the development of a balanced State program of historic properties. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 2003-340, s. 1.3; 2007-549, s. 1; 2011-374, s. 2.1; 2014-100, s. 14.8(a); 2015-241, s. 14.30(k1).)

§ 143B-135.232. Definitions.

The following definitions apply in this Part:

(1) Council. – The advisory council for the Clean Water Management Trust Fund.
(2) Fund. – The Clean Water Management Trust Fund created pursuant to this Part.
(3) Land. – Real property and any interest in, easement in, or restriction on real property.
(4) Local government unit. – Defined in G.S. 159G-20.
(5) Trustees. – The trustees of the Clean Water Management Trust Fund. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 2003-340, s. 1.3; 2005-454, s. 4; 2006-252, s. 2.13; 2014-100, s. 14.8(b); 2015-241, ss. 14.30(k1), (r1).)

§ 143B-135.234. Clean Water Management Trust Fund.

(a) Fund Established. – The Clean Water Management Trust Fund is established as a special revenue fund to be administered by the Department of Natural and Cultural Resources. The Fund receives revenue from the following sources and may receive revenue from other sources:

(1) Annual appropriations.
(2) Special registration plates under G.S. 20-81.12.
(3) Other special registration plates under G.S. 20-79.7.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Board of Trustees.

(c) Fund Purposes. – Moneys from the Fund are appropriated annually to finance projects to clean up or prevent surface water pollution and for land preservation in accordance with this Part. Revenue in the Fund may be used for any of the following purposes:

(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses.

(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and enhancing drinking water supplies, including the development of water supply reservoirs.

(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.

(4) To restore previously degraded lands to reestablish their ability to protect water quality.

(5) To facilitate planning that targets reductions in surface water pollution.

(6) To finance innovative efforts, including pilot projects, to improve stormwater management, to reduce pollutants entering the State's waterways, to improve water quality, and to research alternative solutions to the State's water quality problems.

(7) To provide buffers around military bases or for State matching funds for the Readiness and Environmental Protection Initiative, a federal funding initiative that provides funds for military buffers.

(8) To acquire land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes.

(9) To acquire land that contributes to the development of a balanced State program of historic properties.

(10), (11) Repealed by Session Laws 2015-241, s. 14.4, effective July 1, 2015.

(d) Repealed by Session Laws 2015-241, s. 14.4, effective July 1, 2015. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 2001-424, s. 32.17; 2003-340, s. 1.3; 2004-179, s. 4.4; 2005-454, s. 5; 2007-549, s. 2; 2011-145, s. 13.26(b); 2011-374, s. 2.2; 2013-360, s. 14.3(d); 2014-100, ss. 14.13A(b), 14.21(b); 2015-241, ss. 14.4, 14.30(k1), (r1), (w); 2017-197, s. 4.12.)

§ 143B-135.236. North Carolina Conservation Easement Endowment Fund.

(a) The North Carolina Conservation Easement Endowment Fund is established as a special fund in the Office of the State Treasurer. The principal of the Endowment Fund shall consist of a portion of grant funds transferred by the Trustees to the Endowment Fund from the Clean Water Management Trust Fund for stewardship activities related to projects for conservation easements funded from the Clean Water Management Trust Fund. The principal of the Endowment Fund may also consist of any proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Endowment Fund and any investment income that is not used in accordance with subsection (b) of this section. The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of the Chair of the Board of Trustees. No expenditure or disbursement shall be made from the principal of the Endowment Fund.

(b) The Trustees may authorize the disbursement of the endowment investment income only for activities related to stewardship of conservation easements owned by the State. (2008-107, s. 12.9(a); 2015-241, s. 14.30(k1).)

§ 143B-135.238. Grant requirements.

(a) Eligible Applicants. – Any of the following are eligible to apply for a grant from the Fund for the purpose of protecting and enhancing water quality:

(1) A State agency.

(2) A local government unit.

(3) A nonprofit corporation whose primary purpose is the conservation, preservation, or restoration of our State's cultural, environmental, or natural resources.

(b) Criteria. – The criteria developed by the Trustees under G.S. 143B-135.242 apply to grants made under this Part.

(c) Matching Requirement. – The Board of Trustees shall establish matching requirements for grants awarded under this Part. This requirement may be satisfied by the donation of land to a public or private nonprofit conservation organization as approved by the Board of Trustees. The Board of Trustees may also waive the requirement to match a grant pursuant to guidelines adopted by the Board of Trustees.

(d) Restriction. – No grant shall be awarded under this Part to satisfy compensatory mitigation requirements under 33 USC § 1344 or G.S. 143-214.11.

(e) Withdrawal. – An award of a grant under this Part is withdrawn if the grant recipient fails to enter into a construction contract for the project within one year after the date of the award, unless the Trustees find that the applicant has good cause for the failure. If the Trustees find good cause for a recipient's failure, the Trustees must set a date by which the recipient must take action or forfeit the grant. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 2003-340, s. 1.3; 2005-454, s. 6; 2006-178, s. 1; 2007-185, s. 1; 2014-100, s. 14.8(c); 2015-241, ss. 14.30(k1), (r1).)

§ 143B-135.240. Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.

(a) Board of Trustees Established. – There is established the Clean Water Management Trust Fund Board of Trustees. The Clean Water Management Trust Fund Board of Trustees shall be administratively located within the Department of Natural and Cultural Resources.

(b) Membership. – The Clean Water Management Trust Fund Board of Trustees shall be composed of nine members appointed to three-year terms as follows:

(1) One member appointed by the Governor to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(2) One member appointed by the Governor to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(3) One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.

(4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that are evenly divisible by three.

(7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.

(c) Qualifications. – The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. When appointing members of the Authority, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall give consideration to adequate representation from the various regions of the State and shall give consideration to the appointment of members who are knowledgeable in any of the following areas:

(1) Acquisition and management of natural areas.

(2) Conservation and restoration of water quality.

(3) Wildlife and fisheries habitats and resources.

(4) Environmental management.

(5) Historic preservation.

(d) Limitation on Length of Service. – No member of the Board of Trustees shall serve more than two consecutive three-year terms or a total of 10 years.

(e) Chair. – The Governor shall appoint one member to serve as Chair of the Board of Trustees.

(f) Vacancies. – An appointment to fill a vacancy on the Board of Trustees created by the resignation, removal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.

(g) Frequency of Meetings. – The Board of Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.

(h) Quorum. – A majority of the membership of the Board of Trustees constitutes a quorum for the transaction of business.

(i) Per Diem and Expenses. – Each member of the Board of Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable. Per diem, subsistence, and travel expenses

of the Trustees shall be paid from the Fund. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 1997-443, s. 11A.119(a); 2001-474, s. 10; 2003-340, s. 1.3; 2003-422, s. 1; 2006-178, s. 2; 2013-360, s. 14.3(e); 2014-100, s. 14.8(d); 2015-241, ss. 14.30(k1), (r1), (u).)

§ 143B-135.242. Clean Water Management Trust Fund Board of Trustees: powers and duties.

(a) Allocate Grant Funds. – The Trustees shall allocate moneys from the Fund as grants. A grant may be awarded only for a project or activity that satisfies the criteria and furthers the purposes of this Part.

(b) Develop Grant Criteria. – The Trustees shall develop criteria for awarding grants under this Part. The criteria developed shall include consideration of the following:

(1) The significant enhancement and conservation of water quality in the State.
(2) The objectives of the various basinwide management plans for the State's river basins and watersheds.
(3) The promotion of regional integrated ecological networks insofar as they affect water quality.
(4) The specific areas targeted as being environmentally sensitive.
(5) The geographic distribution of funds as appropriate.
(6) The preservation of water resources with significant recreational or economic value and uses.
(7) The development of a network of riparian buffer-greenways bordering and connecting the State's waterways that will serve environmental, educational, and recreational uses.
(8) Water supply availability and the public's need for resources adequate to meet demand for essential water uses. Criteria developed pursuant to this subdivision may include consideration of the likelihood of a proposed water supply project ultimately being permitted and built.
(9) The protection or preservation of land with outstanding natural or cultural heritage values.
(10) The protection or preservation of land that contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon; contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature; or represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.
(11) The protection or preservation of a site or structure that is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(c) Develop Additional Guidelines. – The Trustees may develop guidelines in addition to the grant criteria consistent with and as necessary to implement this Part.

(d) Acquisition of Land. – The Trustees may acquire land by purchase, negotiation, gift, or devise. Any acquisition of land by the Trustees must be reviewed and approved by the Council of State and the deed for the land subject to approval of the Attorney General before the acquisition can become effective. In determining whether to acquire land as permitted by this Part, the Trustees shall consider whether the acquisition furthers the

purposes of this Part and may also consider recommendations from the Council. Nothing in this section shall allow the Trustees to acquire land under the right of eminent domain.

(e) Exchange of Land. – The Trustees may exchange any land they acquire in carrying out the powers conferred on the Trustees by this Part.

(f) Land Management. – The Trustees may designate managers or managing agencies of the lands acquired under this Part.

(g) Rule-making Authority. – The Trustees may adopt rules to implement this Part. Chapter 150B of the General Statutes applies to the adoption of rules by the Trustees. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a), (c); 1999-237, s. 15.11; 2003-340, s. 1.3; 2004-179, s. 4.5; 2011-374, s. 2.4; 2013-360, s. 14.3(f); 2013-414, s. 58(b); 2014-3, s. 14.14(f); 2014-100, s. 14.8(e); 2015-241, ss. 14.30(k1), (r1).)

§ 143B-135.244. Clean Water Management Trust Fund: reporting requirement.

The Chair of the Board of Trustees shall report no later than December 1 each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Environmental Review Commission, the Subcommittees of the House of Representatives and Senate Appropriations Committees with jurisdiction over natural and economic resources, and the Fiscal Research Division of the General Assembly regarding the implementation of this Part. The report shall include a list of the projects awarded grants from the Fund for the previous 12-month period. The list shall include for each project a description of the project, the amount of the grant awarded for the project, and the total cost of the project. (1997-443, s. 7.10; 2002-148, s. 3; 2003-340, s. 1.3; 2015-241, s. 14.30(k1), (r1); 2017-57, s. 14.1(dd).)

§ 143B-135.246. Clean Water Management Trust Fund: Executive Director and staff.

The Secretary of Natural and Cultural Resources shall select and appoint a competent person in accordance with this section as Executive Director of the Clean Water Management Trust Fund Board of Trustees. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Trustees and shall serve as the chief administrative officer of the Trustees. Subject to the approval of the Secretary of Natural and Cultural Resources, the Executive Director may employ such clerical and other assistants as may be deemed necessary.

The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources. The salary of the Executive Director shall be fixed by the Secretary of Natural and Cultural Resources, and the Executive Director shall be allowed travel and subsistence expenses in accordance with G.S. 138-6. The Executive Director's salary and expenses shall be paid from the Fund. The term of office of the Executive Director shall be at the pleasure of the Secretary of Natural and Cultural Resources.

These employees shall be exempt from the North Carolina Human Resources Act, as provided in G.S. 126-5(c1). (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 2001-424, s. 32.16(b); 2003-340, s. 1.3; 2013-360, s. 14.3(g); 2013-382, s. 9.1(c); 2015-241, ss. 14.30(k1), (r1), (v).)

§ 143B-135.248. Clean Water Management Trust Fund: Advisory Council.

There is established the Clean Water Management Trust Fund Advisory Council. The Council shall advise the Trustees with regard to allocations made from the Fund, and other issues as requested by the Trustees. The Council shall be composed of the following or its designees:

(1) Commissioner of Agriculture.
(2) Chair of the Wildlife Resources Commission.
(3) Secretary of Environmental Quality.
(4) Secretary of the Department of Commerce.
(5) Secretary of Natural and Cultural Resources. (1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 1997-443, s. 11A.119(a); 2001-474, s. 11; 2003-340, s. 1.3; 2014-100, s. 14.8(f); 2015-241, ss. 14.30(k1), (r1), (v), (x).)

Part 42. Nature Preserves Act.

§ 143B-135.250. Short title.

This Part shall be known as the Nature Preserves Act. (1985, c. 216, s. 1; 2015-241, ss. 14.30(k2), (r2).)

§ 143B-135.252. Declaration of policy and purpose.

(a) The continued population growth and land development in North Carolina have made it necessary and desirable that areas of natural significance be identified and preserved before they are destroyed. These natural areas are irreplaceable as laboratories for scientific research, as reservoirs of natural materials for uses that may not now be known, as habitats for plant and animal species and biotic communities, as living museums where people may observe natural biotic and environmental systems and the interdependence of all forms of life, and as reminders of the vital dependence of the health of the human community on the health of the other natural communities.

(b) It is important to the people of North Carolina that they retain the opportunity to maintain contact with these natural communities and environmental systems of the earth and to benefit from the scientific, aesthetic, cultural, and spiritual values they possess. The purpose of this Part is to establish and maintain a State Registry of Natural Heritage Areas and to prescribe methods by which nature preserves may be dedicated for the benefit of present and future citizens of the State. (1985, c. 216, s. 1; 2015-241, s. 14.30(k2).)

§ 143B-135.254. Definitions.

As used in this Part, unless the context requires otherwise:

(1) "Articles of dedication" means the writing by which any estate, interest, or right in a natural area is formally dedicated as a nature preserve as authorized in G.S. 143B-135.260.
(2) "Dedicate" means to transfer to the State an estate, interest, or right in a natural area in any manner authorized in G.S. 143B-135.260.
(3) "Natural area" means an area of land, water, or both land and water, whether publicly or privately owned, that (i) retains or has reestablished its natural

character, (ii) provides habitat for rare or endangered species of plants or animals, (iii) or has biotic, geological, scenic, or paleontological features of scientific or educational value.

(4) "Nature preserve" means a natural area that has been dedicated pursuant to G.S. 143B-135.260.

(5) "Owner" means any individual, corporation, partnership, trust, or association, and all governmental units except the State, its departments, agencies or institutions.

(6) "Registration" means an agreement between the Secretary and the owner of a natural area to protect and manage the natural area for its specified natural heritage resource values.

(7) "Secretary" means the Secretary of Natural and Cultural Resources. (1985, c. 216, s. 1; 1989, c. 727, s. 218(68); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(k2), (r2).)

§ 143B-135.256. Powers and duties of the Secretary.

The Secretary shall:

(1) Establish by rule the criteria for selection, registration, and dedication of natural areas and nature preserves.

(2) Cooperate or contract with any federal, State, or local government agency, private conservation organization, or person in carrying out the purposes of this Part.

(3) Maintain a Natural Heritage Program to provide assistance in the selection and nomination for registration or dedication of natural areas. The Program shall include classification of natural heritage resources, an inventory of their locations, and a data bank for that information. The Program shall cooperate with the Department of Agriculture and Consumer Services in the selection and nomination of areas that contain habitats for endangered and rare plant species, and shall cooperate with the Wildlife Resources Commission in the selection and nomination of areas that contain habitats for endangered and rare animal species. Information from the natural heritage data bank may be made available to public agencies and private persons for environmental assessment and land management purposes. Use of the inventory data for any purpose inconsistent with the Natural Heritage Program may not be authorized. The Program shall include other functions as may be assigned for registration, dedication, and protection of natural areas and nature preserves.

(4) Prepare a Natural Heritage Plan that shall govern the Natural Heritage Program in the creation of a system of registered and dedicated natural areas.

(5) Publish and disseminate information pertaining to natural areas and nature preserves within the State.

(6) Appoint advisory committees composed of representatives of federal, State, and local governmental agencies, scientific and academic institutions, conservation organizations, and private business, to advise him on the identification, selection, registration, dedication, and protection of natural areas and nature preserves.

(7) Submit to the Governor, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division a biennial report on or before February 15 of odd-numbered years describing the activities of the past biennium and plans for the coming biennium, and detailing specific recommendations for action that the Secretary deems necessary for the improvement of the Program. (1985, c. 216, s. 1; 1987, c. 827, s. 152; 1997-261, s. 82; 2015-241, s. 14.30(k2), (r2); 2017-57, s. 14.1(mm).)

§ 143B-135.258. Registration of natural areas.

(a) The Secretary shall maintain a State Registry of voluntarily protected natural areas to be called the North Carolina Registry of Natural Heritage Areas. Registration of natural areas shall be accomplished through voluntary agreement between the owner of the natural area and the Secretary. State-owned lands may be registered by agreement with the agency to which the land is allocated. Registration agreements may be terminated by either party at any time, and termination removes the area from the Registry.

(b) A natural area shall be registered when an agreement to protect and manage the natural area for its specified natural heritage resource value has been signed by the owner and the Secretary. The owner of a registered natural area shall be given a certificate signifying the inclusion of the area in the Registry. (1985, c. 216, s. 1; 2015-241, s. 14.30(k2).)

§ 143B-135.260. Dedication of nature preserves.

(a) The State may accept the dedication of nature preserves on lands deemed by the Secretary to qualify as outstanding natural areas. Nature preserves may be dedicated by voluntary act of the owner. The owner of a qualified natural area may transfer fee simple title or other interest in land to the State. Nature preserves may be acquired by gift, grant, or purchase. Dedication of a preserve shall become effective only upon acceptance of the articles of dedication by the State. Articles of dedication shall be recorded in the office of the register of deeds in the county or counties in which the natural area is located.

(b) Articles of dedication may include any of the following:

(1) Restrictions and other provisions relating to management, use, development, transfer, and public access, and any other restrictions and provisions as may be necessary or advisable to further the purposes of this Part.

(2) Definitions, consistent with the purposes of this Part, of the respective rights and duties of the owner and of the State and procedures to be followed in case of violation of restrictions.

(3) The recognition and creation of reversionary rights, transfers upon conditions or with limitations, and gifts over.

(4) Varying provisions from one nature preserve to another in accordance with differences in the characteristics and conditions of the several areas.

(c) Subject to the approval of the Governor and Council of State, the State may enter into amendments of any articles of dedication upon finding that the amendment will not permit an impairment, disturbance, use, or development of the area inconsistent with the

purposes of this Part. If the fee simple estate in the nature preserve is not held by the State under this Part, no amendment may be made without the written consent of the owner of the other interests therein. (1985, c. 216, s. 1; 2015-241, ss. 14.30(k2), (r2).)

§ 143B-135.262. Nature preserves held in trust.

Lands dedicated for nature preserves pursuant to this Part are held in trust by the State for those uses and purposes expressed in this Part for the benefit of the people of North Carolina. These lands shall be managed and protected according to regulations adopted by the Secretary. Lands dedicated as a nature preserve pursuant to G.S. 143B-135.260 may not be used for any purpose inconsistent with the provisions of this Part, or disposed of, by the State without a finding by the Governor and Council of State that the other use or disposition is in the best interest of the State. (1985, c. 216, s. 1; 2015-241, ss. 14.30(k2), (r2).)

§ 143B-135.264. Dedication of state-owned lands to nature preserves; procedures.

Subject to the approval of the Governor and Council of State, state-owned lands may be dedicated as a nature preserve. State-owned lands shall be dedicated by allocation pursuant to the provisions of G.S. 143-341(4)g. Lands dedicated pursuant to this section may be removed from dedication upon the approval of the Governor and Council of State. (1985, c. 216, s. 1; 2015-241, s. 14.30(k2).)

§ 143B-135.266. Dedication of preserves by local governmental units.

All local units of government may dedicate lands as nature preserves by transfer of fee simple title or other interest in land to the State. (1985, c. 216, s. 1; 2015-241, s. 14.30(k2).)

§ 143B-135.268. Acquisition of land by State.

All acquisitions or dispositions of an interest in land by the State pursuant to this Part shall be subject to the provisions of Chapter 146 of the General Statutes. (1985, c. 216, s. 1; 2015-241, ss. 14.30(k2), (r2).)

§ 143B-135.270. Assessment of land subject to permanent dedication agreement.

For purposes of taxation, privately owned land subject to a nature preserve dedication agreement shall be assessed on the basis of the true value of the land less any reduction in value caused by the agreement. (1985, c. 216, s. 1; 2015-241, s. 14.30(k2).)

§ 143B-135.272. Access to information; fees.

(a) The Secretary may establish fees to defray the costs associated with any of the following:

(1) Responding to inquiries requiring customized environmental review services or the costs associated with developing, improving, or maintaining technology that supports an online interface for external users to access Natural Heritage Program data. The Secretary may reduce or waive the fee established under this subsection if the Secretary determines that a waiver or reduction of the fee is in the public interest.

(2) Any activity authorized under G.S. 143B-135.234(10), including an inventory of natural areas conducted under the Natural Heritage Program, conservation and protection planning, and informational programs for owners of natural areas, as defined in G.S. 143B-135.254.

(b) Fees collected under this section are receipts of the Department of Natural and Cultural Resources and shall be deposited in the Clean Water Management Trust Fund for the purpose of supporting the operations of the Natural Heritage Program. (2014-100, s. 14.13A(a); 2015-241, ss. 14.30(k2), (r2).)

Article 3.

Department of Health and Human Services.

Part 1. General Provisions.

§ 143B-136: Repealed by Session Laws 1997-443, s. 11A.2.

§ 143B-136.1. Department of Health and Human Services – creation.

There is created a department to be known as the "Department of Health and Human Services," with the organization, duties, functions, and powers defined in this Article and other applicable provisions of law. (1997-443, s. 11A.3.)

§ 143B-137: Repealed by Session Laws 1997-443, s. 11A.2.

§ 143B-137.1. Department of Health and Human Services – duties.

It shall be the duty of the Department to provide the necessary management, development of policy, and establishment and enforcement of standards for the provisions of services in the fields of public and mental health and rehabilitation with the intent to assist all citizens – as individuals, families, and communities – to achieve and maintain an adequate level of health, social and economic well-being, and dignity. Whenever possible, the Department shall emphasize preventive measures to avoid or to reduce the need for costly emergency treatments that often result from lack of forethought. The Department shall establish priorities to eliminate those excessive expenses incurred by the State for lack of adequate funding or careful planning of preventive measures. (1997-443, s. 11A.3.)

§ 143B-138: Repealed by Session Laws 1997-443, s. 11A.2.

§ 143B-138.1. Department of Health and Human Services – functions and organization.

(a) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, committees, or subunits of the Department of Human Resources are transferred to and vested in the Department of Health and Human Services by a Type I transfer, as defined in G.S. 143A-6:

(1) Division of Aging.
(2) Division of Services for the Blind.
(3) Division of Medical Assistance.

(4) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
(5) Division of Social Services.
(6) Division of Health Service Regulation.
(7) Division of Vocational Rehabilitation.
(8) Repealed by Session Laws 1998-202, s. 4(v), effective January 1, 1999.
(9) Division of Services for the Deaf and the Blind.
(10) Repealed by Session Laws 2011-326, s. 19, effective June 27, 2011.
(11) Division of Child Development.
(12) Office of Rural Health.

(b) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, committees, or subunits of the Department of Human Resources are transferred to and vested in the Department of Health and Human Services by a Type II transfer, as defined in G.S. 143A-6:

(1) Respite Care Program.
(2) Governor's Advisory Council on Aging.
(3) Commission for the Blind.
(4) Professional Advisory Committee.
(5) Consumer and Advocacy Advisory Committee for the Blind.
(6) Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.
(7) Social Services Commission.
(8) Child Day Care Commission.
(9) Medical Care Commission.
(10) Emergency Medical Services Advisory Council.
(11), (12) Repealed by Session Laws 2013-247, s. 3, effective July 3, 2013.
(13) North Carolina Council for the Hearing Impaired.
(14) Repealed by Session Laws 2002, ch. 126, s. 10.10D(c), effective October 1, 2002.
(15) Council on Developmental Disabilities.

(c) The functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, committees, or subunits of the Department of Environment, Health, and Natural Resources are transferred to and vested in the Department of Health and Human Services by a Type I transfer, as defined in G.S. 143A-6:

(1) Division of Dental Health.
(2) State Center for Health Statistics.
(3) Division of Epidemiology.
(4) Division of Health Promotion.
(5) Division of Maternal and Child Health.
(6) Office of Minority Health.
(7) Office of Public Health Nursing.
(8) Division of Laboratory Services.
(9) Office of Local Health Services.
(10) Division of Postmortem Medicolegal Examinations.
(11) Office of Women's Health.

(d) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, committees, or subunits of the Department of Environment, Health, and Natural Resources are transferred to and vested in the Department of Health and Human Services by a Type II transfer, as defined in G.S. 143A-6:

(1) Commission for Public Health.
(2) Council on Sickle Cell Syndrome.
(3) Repealed by Session Laws 2011-266, s. 1.30(b), effective July 1, 2011.
(4) Commission of Anatomy.
(5) Minority Health Advisory Council.
(6) Advisory Committee on Cancer Coordination and Control.

(e) The Department of Health and Human Services is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State. (1997-443, s. 11A.3; 1998-202, s. 4(v); 2002-126, s. 10.10D(c); 2007-182, ss. 1, 2; 2011-266, s. 1.30(b); 2011-326, s. 19; 2013-247, s. 3.)

§ 143B-139. Department of Health and Human Services – head.

The Secretary of Health and Human Services shall be the head of the Department. (1973, c. 476, s. 120; 1997-443, s. 11A.122.)

§ 143B-139.1. Secretary of Health and Human Services to adopt rules applicable to local health and human services agencies.

The Secretary of the Department of Health and Human Services may adopt rules applicable to local health and human services agencies for the purpose of program evaluation, fiscal audits, and collection of third-party payments. The Secretary may adopt and enforce rules governing:

(1) The placement of individuals in licensable facilities located outside the individual's community and ability of the providers to return the individual to the individual's community as soon as possible without detriment to the individual or the community.
(2) The monitoring of mental health, developmental disability, and substance abuse services.
(3) The communication procedures between the area authority or county program, the local department of social services, the local education authority, and the criminal justice agency, if involved with the individual, regarding the placement of the individual outside the individual's community and the transfer of the individual's records in accordance with law.
(4) The enrollment and revocation of enrollment of Medicaid providers who have been previously sanctioned by the Department and want to provide services under this Article. (1975, c. 875, s. 45; 1997-443, s. 11A.101; 2002-164, s. 4.5.)

§ 143B-139.2. Secretary of Health and Human Services requests for grants-in-aid from non-State agencies.

It is the intent of this General Assembly that non-State health and human services agencies submit their appropriation requests for grants-in-aid through the Secretary of the Department of Health and Human Services for recommendations to the Governor and the General Assembly, and that agencies receiving these grants, at the request of the Secretary of the Department of Health

and Human Services, provide a postaudit of their operations that has been done by a certified public accountant. (1975, c. 875, s. 16; 1989, c. 727, s. 173; 1997-443, s. 11A.102; 2006-203, s. 103.)

§ 143B-139.2A: Repealed by Session Laws 2017-57, s. 11A.14(g), effective July 1, 2017.

§ 143B-139.3. Department of Health and Human Services – authority to contract with other entities.

(a) The Department of Health and Human Services is authorized to contract with any governmental agency, person, association, or corporation for the accomplishment of its duties and responsibilities provided that the expenditure of funds pursuant to such contracts shall be for the purposes for which the funds were appropriated and is not otherwise prohibited by law.

(b) The Department is authorized to enter into contracts with and to act as intermediary between any federal government agency and any county of this State for the purpose of assisting the county to recover monies expended by a county-funded financial assistance program; and, as a condition of such assistance, the county shall agree to hold and save harmless the Department against any claims, loss, or expense which the Department might incur under the contracts by reason of any erroneous, unlawful, or tortious act or omission of the county or its officials, agents, or employees. (1979, 2nd Sess., c. 1094, s. 1; 1983, c. 13; 1997-443, s. 11A.118(a).)

§ 143B-139.4. Department of Health and Human Services; authority to assist private nonprofit organizations.

(a) The Secretary of the Department of Health and Human Services may allow employees of the Department or provide other appropriate services to assist any private nonprofit organization which works directly with services or programs of the Department and whose sole purpose is to support the services and programs of the Department. Except as provided in G.S. 143B-164.18, a Department employee shall be allowed to work with an organization no more than 20 hours in any one month. These services are not subject to the provisions of Chapter 150B of the General Statutes.

(b) A private, nonprofit organization that receives employee assistance or other appropriate services in accordance with subsection (a) of this section, shall document all contributions received, including employee time, supplies, materials, equipment, and physical space. The documentation shall also provide an estimated value of all contributions received as well as any compensation paid to or bonuses received by State employees. This documentation shall be submitted annually to the Secretary of the Department of Health and Human Services in a format approved by the Secretary. Nonprofit organizations with less than five hundred thousand dollars ($500,000) in annual income shall submit an affidavit or annual audit from the chief officer of the organization providing and attesting to the financial condition of the organization and the expenditure of funds or use of State employee services or other State services, within six months from the nonprofit's fiscal year end. The board of directors of each private, nonprofit organization with an annual income of five hundred thousand dollars ($500,000) or more shall secure and pay for the services of the State Auditor's Office or employ a certified public accountant to conduct an annual audit of the financial accounts of the organization. The board of directors shall transmit to the Secretary of the Department a copy of the annual financial audit report of the private nonprofit organization. Nothing in this subsection shall be construed to relieve the private, nonprofit organization from other applicable reporting requirements established by law.

(c) Notwithstanding the limitations of subsection (a) of this section, the Secretary of the Department of Health and Human Services may assign employees of the Office of Rural Health and Resource Development to serve as in-kind match to nonprofit organizations working to establish health care programs that will improve health care access while controlling costs. (1987, c. 634, s. 1; 1997-443, s. 11A.118(a); 1999-237, s. 11.3; 2001-412, s. 3; 2006-66, s. 10.19.)

§ 143B-139.4A. Office of Rural Health to work with organizations for expansion of mental health and substance abuse services.

The North Carolina Office of Rural Health of the Department of Health and Human Services, in conjunction with the North Carolina Foundation for Advanced Health Programs through the Center of Excellence in Integrated Care, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the Governor's Institute on Substance Abuse, North Carolina Community Care Networks, Inc., the North Carolina Community Health Center Association, and other professional associations, shall work to expand the collocation in primary care practices serving the adult population of licensed health professionals trained in providing mental health and substance abuse services. (2011-185, s. 5; 2015-241, s. 12A.16(b).)

§ 143B-139.4B. Office of Rural Health to oversee and monitor establishment and administration of statewide telepsychiatry program.

(a) The following definitions apply in this section:

(1) Community-based site. – Community-based health care setting to include, but not limited to, public health department, rural health center, rural health clinic, federally qualified health center, school-based health center, free and charitable clinic that accepts reimbursement.

(1a) Consultant site. – The hospital or other site at which the consulting provider is physically located at the time the consulting provider delivers the mental health or substance abuse care by means of telepsychiatry.

(1b) Consulting provider. – A physician or other health care provider licensed in this State to provide mental health or substance abuse care.

(2) Hospital. – A facility licensed under Chapter 131E or Chapter 122C of the General Statutes, or a State facility listed in G.S. 122C-181.

(3) Referring site. – The hospital or approved community-based site at which the patient is physically located.

(4) Telepsychiatry. – The delivery of mental health or substance abuse care, including diagnosis or treatment, by means of two-way real-time interactive audio and video by a consulting provider at a consultant site to an individual patient at a referring site. The term does not include the standard use of telephones, facsimile transmissions, unsecured electronic mail, or a combination of these in the course of care.

(5) Recodified as G.S. 143B-139.4B(a)(1b) by Session Laws 2018-44, s. 15.1, effective July 1, 2018.

(b) The North Carolina Office of Rural Health shall oversee the establishment and administration of a statewide telepsychiatry program that allows referring sites to utilize consulting providers at a consultant site to provide timely psychiatric assessment and rapid

initiation of treatment for patients at the referring emergency department site experiencing an [a] mental health or substance abuse or for patients in need of mental health or substance abuse care at an approved community-based site. Notwithstanding the provisions of Article 3 of Chapter 143 of the General Statutes or any other provision of law, the Office of Rural Health shall contract with East Carolina University Center for Telepsychiatry and e-Behavioral Health to administer the telepsychiatry program. The contract shall include a provision requiring East Carolina University Center for Telepsychiatry and e-Behavioral Health to work toward implementing this program on a statewide basis by no later than January 1, 2014, and to report annually to the Office of Rural Health on the following performance measures:

(1) Number of consultant sites and referring sites participating in the program.
(2) Number of psychiatric assessments conducted under the program, reported by site or region.
(3) Length of stay of patients receiving telepsychiatry services in the emergency departments of hospitals participating in the program, reported by disposition.
(4) Number of involuntary commitments recommended as a result of psychiatric assessments conducted by consulting providers under the program, reported by site or region and by year, and compared to the number of involuntary commitments recommended prior to implementation of this program.

(c) The Office of Rural Health shall have all of the following powers and duties relative to the statewide telepsychiatry program:

(1) Ongoing oversight and monitoring of the program.
(2) Ongoing monitoring of the performance of East Carolina University Center for Telepsychiatry and e-Behavioral Health under its contract with the Department, including all of the following:
    a. Review of the performance measures described in subsection (b) of this section.
    b. Annual site visits to East Carolina University Center for Telepsychiatry and e-Behavioral Health.
(3) Facilitation of program linkages with critical access hospitals and small rural hospitals.
(4) Conducting visits to referring sites and consultant sites to monitor implementation of the program; and upon implementation, conducting these site visits at least once annually.
(5) Addressing barriers and concerns identified by consulting providers, consultant sites, and referring sites participating in the program.
(6) Encouraging participation in the program by all potential consultant sites, consulting providers, and referring sites throughout the State and promoting continued participation in the program by consultant sites, consulting providers, and referring sites throughout the State.
(7) Compiling a list of recommendations for future tele-health initiatives, based on operation of the statewide telepsychiatry program.
(8) Reviewing on a quarterly basis the financial statements of East Carolina University Center for Telepsychiatry and e-Behavioral Health related to the

telepsychiatry program in order to compare and monitor projected and actual program costs.

(9) Annually reporting to the Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on or before November 1 on the operation and effectiveness of the program. The report shall include information on each of the performance measures described in subsection (b) of this section.

(d) The Department shall adopt rules necessary to ensure the health and safety of patients who receive care, diagnosis, or treatment under the telepsychiatry program authorized by this section. (2013-360, s. 12A.2B(b); 2015-241, s. 12A.16(b); 2018-44, s. 15.1.)

§ 143B-139.4C. Office of Rural Health; administration of loan repayment programs.

(a) The Department of Health and Human Services, Office of Rural Health, shall use funds appropriated to the Department for loan repayment to medical, dental, and psychiatric providers practicing in State hospitals or in rural or medically underserved communities in this State to combine the following loan repayment programs in order to achieve efficient and effective management of these programs:

(1) The Physician Loan Repayment Program.

(2) The Psychiatric Loan Repayment Program.

(3) The Loan Repayment Initiative at State Facilities.

(b) These funds may be used for the following additional purposes:

(1) Continued funding of the State Loan Repayment Program for primary care providers and expansion of State incentives to general surgeons practicing in Critical Access Hospitals located across the State.

(2) Expansion of the State Loan Repayment Program to include eligible providers residing in North Carolina who use telemedicine in rural and underserved areas. (2017-57, s. 11A.9; 2018-88, s. 3(a).)

§ 143B-139.4D. Department of Health and Human Services; coordination of health information technology.

(a) The Department of Health and Human Services, in cooperation with the State Chief Information Officer, shall coordinate health information technology policies and programs within the State of North Carolina. The goal of the Chief Information Officer of the Department of Health and Human Services in coordinating State health information technology policy and programs shall be to avoid duplication of efforts and to ensure that each State agency, public entity, and private entity that undertakes health information technology activities does so within the area of its greatest expertise and technical capability and in a manner that supports coordinated State and national goals, which shall include at least all of the following:

(1) Ensuring that patient health information is secure and protected, in accordance with applicable law.

(2) Improving health care quality, reducing medical errors, reducing health disparities, and advancing the delivery of patient-centered medical care.

(3) Providing appropriate information to guide medical decisions at the time and place of care.

(4) Ensuring meaningful public input into health information technology infrastructure development.

(5) Improving the coordination of information among hospitals, laboratories, physicians' offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information.

(6) Improving public health services and facilitating early identification and rapid response to public health threats and emergencies, including bioterrorist events and infectious disease outbreaks.

(7) Facilitating health and clinical research.

(8) Promoting early detection, prevention, and management of chronic diseases.

(b) The Department, in cooperation with the Department of Information Technology, shall establish and direct a health information technology management structure that is efficient and transparent and that is compatible with the Office of the National Coordinator for Health Information Technology (National Coordinator) governance mechanism. The health information technology management structure shall be responsible for all of the following:

(1) Developing a State Plan for implementing and ensuring compliance with national health information technology standards and for the most efficient, effective, and widespread adoption of health information technology.

(2) Ensuring that (i) specific populations are effectively integrated into the State Plan, including aging populations, populations requiring mental health services, and populations utilizing the public health system, and (ii) unserved and underserved populations receive priority consideration for health information technology support.

(3) Identifying all health information technology stakeholders and soliciting feedback and participation from each stakeholder in the development of the State Plan.

(4) Ensuring that existing health information technology capabilities are considered and incorporated into the State Plan.

(5) Identifying and eliminating conflicting health information technology efforts where necessary.

(6) Identifying available resources for the implementation, operation, and maintenance of health information technology, including identifying resources and available opportunities for North Carolina institutions of higher education.

(7) Ensuring that potential State Plan participants are aware of health information technology policies and programs and the opportunity for improved health information technology.

(8) Monitoring health information technology efforts and initiatives in other states and replicating successful efforts and initiatives in North Carolina.

(9) Monitoring the development of the National Coordinator's strategic plan and ensuring that all stakeholders are aware of and in compliance with its requirements.

(10) Monitoring the progress and recommendations of the Health Information Technology Policy and Standards Committee and ensuring that all stakeholders remain informed of the Committee's recommendations.

(11) Monitoring all studies and reports provided to the United States Congress and reporting to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the impact of report recommendations on State efforts to implement coordinated health information technology. (2017-57, s. 11A.1; 2018-5, s. 11A.1.)

§ 143B-139.5. Department of Health and Human Services; adult care State/county share of costs for State-County Special Assistance programs.

State funds available to the Department of Health and Human Services shall pay fifty percent (50%), and the counties shall pay fifty percent (50%) of the authorized rates for care in adult care homes including area mental health agency-operated or contracted-group homes. The Department shall use the State's appropriation to the State-County Special Assistance program for this program, for the State-County Special Assistance in-home program, and for rental assistance. Each county shall use county funds budgeted for the State-County Special Assistance program for this program, for the State-County Special Assistance in-home program, and for rental assistance. (1991, c. 689, s. 128; 1995, c. 535, s. 31; 1997-443, s. 11A.118(a); 2012-142, s. 10.23(f); 2014-100, s. 12D.2.)

§ 143B-139.5A. Collaboration between Division of Social Services and Commission of Indian Affairs on Indian Child Welfare Issues.

The Division of Social Services, Department of Health and Human Services, shall work in collaboration with the Commission of Indian Affairs, Department of Administration, and the North Carolina Directors of Social Services Association to develop, in a manner consistent with federal law, an effective process through which the following can be accomplished:

(1) Establishment of a relationship between the Division of Social Services and the Indian tribes set forth in G.S. 143B-407(a), either separately or through a central entity, that will enable these tribes, in general, and tribal councils or other tribal organizations, in particular, to receive reasonable notice of identified Indian children who are being placed in foster care or adoption or who otherwise enter the child protective services system, and to be consulted on policies and other matters pertinent to placement of Indian children in foster care or adoption.

(2) Agreement on a process by which North Carolina Indians might be identified and recruited for purposes of becoming foster care and adoptive parents.

(3) Agreement on a process by which the cultural, social, and historical perspective and significance associated with Indian life may be taught to appropriate child welfare workers and to foster and adoptive parents.

(4) Identification or formation of Indian child welfare advocacy, placement and training entities with which the Department of Health and Human Services might contract or otherwise form partnerships for the purpose of implementing the provisions of this act.

(5) Development of a valid and reliable process through which Indian children within the child welfare system can be identified.

(6) Identify the appropriate roles of the State and of Indian tribes, organizations and agencies to ensure successful means for securing the best interests of Indian children. (2001-309, s. 1.)

§ 143B-139.5B. Department of Health and Human Services – provision for joint training.

The Department of Health and Human Services shall offer joint training of Division of Health Service Regulation consultants, county DSS adult home specialists, and adult care home providers. The training shall be offered no fewer than two times per year, and subject matter of the training should be based on one or more of the 10 deficiencies cited most frequently in the State during the immediately preceding calendar year. The joint training shall be designed to reduce inconsistencies experienced by providers in the survey process, to increase objectivity by DHSR consultants and DSS specialists in conducting surveys, and to promote a higher degree of understanding between facility staff and DHSR consultants and DSS specialists in what is expected during the survey process. (2001-385, s. 1(c); 2007-182, s. 1; 2008-187, s. 25.)

§ 143B-139.5C. Internet data warehouse for provider records; annual review of accrediting body policies to avoid duplication.

(a) The Secretary shall allow private sector development and implementation of an Internet-based, secure, and consolidated data warehouse and archive for maintaining corporate, fiscal, and administrative records of providers by September 1, 2011. This data warehouse shall not be used to store consumer records. Use of the consolidated data warehouse by the service provider agency is optional. Providers that choose to utilize the data warehouse shall ensure that the data is up to date and accessible to the regulatory body. A provider shall submit any revised, updated information to the data warehouse within 10 business days after receiving the request. The regulatory body that conducts administrative monitoring must use the data warehouse for document requests. If the information provided to the regulatory body is not current or is unavailable from the data warehouse and archive, the regulatory body may contact the provider directly. A provider that fails to comply with the regulatory body's requested documents may be subject to an on-site visit to ensure compliance. Access to the data warehouse must be provided without charge to the regulatory body under this subsection.

(b) The Secretary shall review on an annual basis updates to policy made by the following national accrediting bodies: Council on Accreditation (COA), CARF International, Council on Quality and Leadership (CQL), the Joint Commission, NCQA, and URAC and shall take actions necessary to ensure that DHHS policy or procedural requirements do not duplicate the updated accreditation standards. (2011-253, ss. 1(c), 2.)

§ 143B-139.6. Confidentiality of records.

All privileged patient medical records in the possession of the Department of Health and Human Services shall be confidential and shall not be public records pursuant to G.S. 132-1. (1991 (Reg. Sess., 1992), c. 890, s. 20; 1997-443, s. 11A.118(a).)

§ 143B-139.6A. Secretary's responsibilities regarding availability of early intervention services.

The Secretary of the Department of Health and Human Services shall ensure, in cooperation with other appropriate agencies, that all types of early intervention services specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the federal early intervention legislation, are available to all eligible infants and toddlers and their families to the extent funded by the General Assembly.

The Secretary shall coordinate and facilitate the development and administration of the early intervention system for eligible infants and toddlers and shall assign among the cooperating agencies the responsibility, including financial responsibility, for services. The Secretary shall be advised by the Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5, and may enter into formal interagency agreements to establish the collaborative relationships with the Department of Public Instruction, other appropriate agencies, and other public and private service providers necessary to administer the system and deliver the services.

As part of the permission to refer parents to services under the early intervention system for eligible infants and toddlers, the Secretary shall include the Governor Morehead School for the Blind, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf as agencies included on any permission to refer release form provided to parents for contact regarding services.

The Secretary shall adopt rules to implement the early intervention system, in consultation with all other appropriate agencies. (2001-437, s. 1.20(b); 2016-123, s. 5.8.)

§ 143B-139.6B. Department of Health and Human Services; authority to deduct payroll for child care services.

Notwithstanding G.S. 143-3.3 and pursuant to rules adopted by the State Controller, an employee of the Department of Health and Human Services may, in writing, authorize the Department to periodically deduct from the employee's salary or wages paid for employment by the State, a designated lump sum to be paid to satisfy the cost of services received for child care provided by the Department. (2005-276, s. 10.8.)

§ 143B-139.6C. Cooling-off period for certain Department employees.

(a) Ineligible Vendors. – The Secretary of the Department of Health and Human Services shall not contract for goods or services with a vendor that employs or contracts with a person who is a former employee of the Department and uses that person in the administration of a contract with the Department.

(b) Vendor Certification. – The Secretary shall require each vendor submitting a bid or contract to certify that the vendor will not use a former employee of the Department in the administration of a contract with the Department in violation of the provisions of subsection (a) of this section.

(c) A violation of the provisions of this section shall void the contract.

(d) Definitions. – As used in this section, the following terms mean:

(1) Administration of a contract. – The former employee's duties and responsibilities for the vendor include oversight of the performance of a contract, or authority to make decisions regarding a contract, including

interpretation of a contract, development of specifications or terms of a contract, or award of a contract.

(2) Former employee of the Department. – A person who, for any period within the preceding six months, was employed as an employee or contract employee of the Department of Health and Human Services and personally participated in any of the following:

a. The award of a contract to the vendor.

b. An audit, decision, investigation, or other action affecting the vendor.

c. Regulatory or licensing decisions that applied to the vendor. (2015-245, s. 14(a); 2016-121, s. 2(i).)

Part 1A. Consolidated County Human Services.

§ 143B-139.7. Consolidated county human services funding.

(a) The Secretary of the Department of Health and Human Services shall adopt rules and policies to provide that:

(1) Any dedicated funding streams for local public health services, for social services, and for mental health, developmental disabilities, and substance abuse services may flow to a consolidated county human services agency and the consolidated human services board in the same manner as that for funding nonconsolidated county human services, unless a different manner of allocation is otherwise required by law.

(2) The fiscal accountability and reporting requirements pertaining to local health boards, social services boards, and area mental health authority boards apply to a consolidated human services board.

(b) The Secretary of the Department of Health and Human Services may adopt any other rule or policy required to facilitate the provision of human services by a consolidated county human services agency or a consolidated human services board.

(c) For the purposes of this section, "consolidated county human services agency" means a county human services agency created pursuant to G.S. 153A-77(b). "Consolidated human services board" means a county human services board established pursuant to G.S. 153A-77(b). (1995 (Reg. Sess., 1996), c. 690, s. 1; 1997-443, s. 11A.118(a).)

§ 143B-140: Repealed by Session Laws 1989, c. 727, s. 174.

Part 2. Board of Human Resources.

§ 143B-141. Repealed by Session Laws 1983, c. 494, effective June 10, 1983.

Part 3. Commission for Public Health.

§§ 143B-142 through 143B-146: Recodified as §§ 130A-29 through 130A-33 by Session Laws 1989, c. 727, s. 175.

Part 3A. Education Programs in Residential Schools.

§ 143B-146.1. Mission of schools; definitions.

(a) It is the intent of the General Assembly that the mission of the residential school community is to challenge with high expectations each child to learn, to achieve, and to fulfill his or her potential.

(b) The following definitions apply in this Part:

(1) Reserved.

(2) Department. – The Department of Health and Human Services.

(3) Instructional personnel. – Assistant principals, teachers, instructional personnel, instructional support personnel, and teacher assistants employed in a residential school.

(4) Participating school. – A residential school that is required to participate in the Program.

(4a) Program. – The School-Based Management and Accountability Program developed by the State Board.

(4b) Residential school. – A school operated by the Department of Health and Human Services that provides residential services to students. For the purposes of this Part, "residential school" does not include a school operated pursuant to Article 9C of Chapter 115C.

(5) Residential school personnel. – The individuals included in G.S. 143B-146.16(a)(2).

(6) Schools. – The residential schools under the control of the Secretary.

(7) Secretary. – The Secretary of Health and Human Services.

(8) State Board. – The State Board of Education.

(9) Repealed by Session Laws 2013-247, s. 5, effective July 3, 2013. (1998-131, s. 5; 2005-195, s. 1; 2013-247, s. 4; 2015-65, s. 1.3.)

§ 143B-146.2. School-Based Management and Accountability Program in residential schools.

(a) The Secretary, in consultation with the General Assembly and the State Board, may designate residential schools that must participate in the Program. The primary goal of the Program is to improve student performance. The Program is based upon an accountability, recognition, assistance, and intervention process in order to hold each participating school, its principal, and the instructional personnel accountable for improved student performance in that school.

(b) In order to support the participating schools in the implementation of this Program, the State Board, in consultation with the Secretary, shall adopt guidelines, including guidelines to:

(1) Assist the Secretary and the participating schools in the development and implementation of the Program.

(2) Recognize the participating schools that meet or exceed their goals.

(3) Identify participating schools that are low-performing and assign assistance teams to those schools. The assistance teams should include individuals with expertise in residential schools, individuals with experience in the education of children with disabilities, and others the State Board, in consultation with the Secretary, considers appropriate.

(4) Enable assistance teams to make appropriate recommendations.

(c) The Program shall provide increased decision making and parental involvement at the school level with the goal of improving student performance.

(d) Consistent with improving student performance, the Secretary shall provide maximum flexibility to participating schools in the use of funds to enable those schools to accomplish their goals. (1998-131, s. 5; 2001-424, s. 21.81(c); 2005-195, s. 2; 2013-247, s. 5; 2015-65, s. 1.4.)

§ 143B-146.3. Annual performance goals.

The Program shall (i) focus on student performance in the basics of reading, mathematics, and communications skills in elementary and middle schools, (ii) focus on student performance in courses required for graduation and on other measures required by the State Board in the high schools, and (iii) hold participating schools accountable for the educational growth of their students. To those ends, the State Board shall design and implement an accountability system that sets annual performance standards for each participating school in order to measure the growth in performance of the students in each individual school. (1998-131, s. 5; 2015-65, s. 1.5.)

§ 143B-146.4: Repealed by Session Laws 2015-65, s. 1.6, effective June 11, 2015.

§ 143B-146.5. Identification of low-performing schools.

(a) The State Board shall design and implement a procedure to identify low-performing schools on an annual basis. Low-performing schools are those participating schools in which there is a failure to meet the minimum growth standards, as defined by the State Board, and a majority of students are performing below grade level.

(b) By July 10 of each year, the Secretary shall do a preliminary analysis of test results to determine which participating schools the State Board may identify as low-performing under this section. The Secretary then shall proceed under G.S. 143B-146.7. In addition, within 30 days of the initial identification of a school as low-performing by the Secretary or the State Board, whichever occurs first, the Secretary shall develop a preliminary plan for addressing the needs of that school. Before the Secretary adopts this plan, the Secretary shall make the plan available to the residential school personnel and the parents and guardians of the students of the school, and shall allow for written comments. Within five days of adopting the plan, the Secretary shall submit the plan to the State Board. The State Board shall review the plan expeditiously and, if appropriate, may offer recommendations to modify the plan. The Secretary shall consider any recommendations made by the State Board.

(c) Each identified low-performing school shall provide written notification to the parents of students attending that school. The written notification shall include a statement that the State Board of Education has found that the school has "failed to meet the minimum growth standards, as defined by the State Board, and a majority of students in the school are performing below grade level." This notification also shall include a description of the steps the school is taking to improve student performance. (1998-131, s. 5.)

§ 143B-146.6. Assistance teams; review by State Board.

(a) The State Board may assign an assistance team to any school identified as low-performing under this Part or to any other school that the State Board determines would

benefit from an assistance team. The State Board shall give priority to low-performing schools in which the educational performance of the students is declining. The Department shall, with the approval of the Secretary, provide staff as needed and requested by an assistance team.

(b) When assigned to an identified low-performing school, an assistance team shall:

(1) Review and investigate all facets of school operations, including instructional and residential, and assist in developing recommendations for improving student performance at that school.

(2) Evaluate at least semiannually the principal and instructional personnel assigned to the school and make findings and recommendations concerning their performance.

(3) Collaborate with school staff, the Department, and the Secretary in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to alleviate problems and improve student performance at that school.

(4) Make recommendations as the school develops and implements this plan.

(5) Review the school's progress.

(6) Report, as appropriate, to the Secretary, the State Board, and the parents on the school's progress. If an assistance team determines that an accepted school improvement plan developed under G.S. 143B-146.12 is impeding student performance at a school, the team may recommend to the Secretary that he vacate the relevant portions of that plan and direct the school to revise those portions.

(c) If a participating school fails to improve student performance after assistance is provided under this section, the assistance team may recommend that the assistance continue or that the Secretary take further action under G.S. 143B-146.7.

(d) The Secretary, in consultation with the State Board, shall annually review the progress made in identified low-performing schools. (1998-131, s. 5; 2005-195, s. 4; 2011-145, s. 7.13(u); 2011-391, s. 14(b).)

§ 143B-146.7. Consequences for personnel at low-performing schools.

(a) Within 30 days of the initial identification of a school as low-performing, whether by the Secretary under G.S. 143B-146.5(b) or by the State Board under G.S. 143B-146.5(a), the Secretary shall take one of the following actions concerning the school's principal: (i) decide whether the principal should be retained in the same position, (ii) decide whether the principal should be retained in the same position and a plan of remediation should be developed, (iii) decide whether the principal should be transferred, or (iv) proceed under the North Carolina Human Resources Act to dismiss or demote the principal. The principal may be retained in the same position without a plan for remediation only if the principal was in that position for no more than two years before the school is identified as low-performing. The principal shall not be transferred to another position unless (i) it is in a principal position in which the principal previously demonstrated at least two years of success, (ii) there is a plan to evaluate and provide remediation to the principal for at least one year following the transfer to assure the principal does not impede student performance at the school to which the principal is being transferred; and (iii) the parents of the students at the school to which the principal is being transferred are notified. The

principal shall not be transferred to another low-performing school. The Secretary may, at any time, proceed under the North Carolina Human Resources Act for the dismissal of any principal who is assigned to a low-performing school to which an assistance team has been assigned. The Secretary shall proceed under the North Carolina Human Resources Act for the dismissal of any principal when the Secretary receives from the assistance team assigned to that school two consecutive evaluations that include written findings and recommendations regarding the principal's inadequate performance. The Secretary shall order the dismissal of the principal if the Secretary determines from available information, including the findings of the assistance team, that the low performance of the school is due to the principal's inadequate performance. The Secretary may order the dismissal of the principal if (i) the Secretary determines that the school has not made satisfactory improvement after the State Board assigned an assistance team to that school; and (ii) the assistance team makes the recommendation to dismiss the principal. The Secretary may order the dismissal of a principal before the assistance team assigned to the principal's school has evaluated that principal if the Secretary determines from other available information that the low performance of the school is due to the principal's inadequate performance. The burden of proof is on the principal to establish that the factors leading to the school's low performance were not due to the principal's inadequate performance. The burden of proof is on the Secretary to establish that the school failed to make satisfactory improvement after an assistance team was assigned to the school. Two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team are substantial evidence of the inadequate performance of the principal. Within 15 days of the Secretary's decision concerning the principal, but no later than September 30, the Secretary shall submit to the State Board a written notice of the action taken and the basis for that action.

(b) At any time after the State Board identifies a school as low-performing under this Part, the State Board shall proceed under G.S. 115C-325(p1) or G.S. 115C-325.11 for the dismissal of licensed instructional personnel assigned to that school.

(c) At any time after the State Board identifies a school as low-performing under this Part, the Secretary shall proceed under the North Carolina Human Resources Act for the dismissal of instructional personnel who are not certificated when the Secretary receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the instructional personnel. The Secretary may proceed under the North Carolina Human Resources Act for the dismissal of instructional personnel who are not certificated when: (i) the Secretary determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school; and (ii) that the assistance team makes the recommendation to dismiss that person for a reason that constitutes just cause for dismissal under the North Carolina Human Resources Act.

(d) The certificated instructional personnel working in a participating school at the time the school is identified by the State Board as low-performing are subject to G.S. 115C-105.38A.

(e) The Secretary may terminate the contract of a school administrator dismissed under this section. Nothing in this section shall prevent the Secretary from refusing to renew the contract of any person employed in a school identified as low-performing under this Part. (1998-131, s. 5; 2005-195, s. 5; 2013-360, s. 9.7(m), (w); 2013-382, s. 9.1(c); 2017-157, s. 2(n).)

§ 143B-146.8. Evaluation of licensed personnel and principals; action plans; State Board notification.

(a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at least once each year all licensed personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under G.S. 115C-325(a)(6) with career status or a teacher as defined in G.S. 115C-325.1(6) on contract, either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

Notwithstanding this subsection or any other law, the principal shall observe at least three times annually, a teacher shall observe at least once annually, and the principal shall evaluate at least once annually, all teachers who have been employed for less than three consecutive years. All other employees defined as teachers under G.S. 115C-325(a)(6) with career status or teachers as defined in G.S. 115C-325.1(6) on a four-year contract who are assigned to participating schools that are not designated as low-performing shall be evaluated annually unless the State Board adopts rules that allow specified categories of teachers with career status or on four-year contracts to be evaluated more or less frequently. The State Board also may adopt rules requiring the annual evaluation of nonlicensed personnel. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school.

(b) Action Plans. – If a licensed employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the principal that: (i) the employee receive an action plan designed to improve the employee's performance; or (ii) the principal recommend that the employee who is a career employee be dismissed or demoted as provided in G.S. 115C-325 or the employee who is a teacher on contract not be recommended for renewal; or (iii) if the employee who is a teacher on contract engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion under G.S. 115C-325.4 be instituted. The principal shall determine whether to develop an action plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or

assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist in evaluating licensed personnel and developing effective action plans within the time allotted under this section. The State Board may adopt policies for the development and implementation of action plans or professional development plans for personnel who do not require action plans under this section.

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the principal or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the principal shall recommend that the employee with career status be dismissed or demoted under G.S. 115C-325, or that an employee's contract not be renewed or if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be dismissed or demoted under G.S. 115C-325.4. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If an employee is dismissed for cause or an employee's contract is not renewed as a result of a superintendent's recommendation under subsection (b) or (c) of this section, the State Board shall be notified of the action, and the State Board annually shall provide to all local boards of education the names of those individuals. If a local board hires one of these individuals, that local board shall proceed under G.S. 115C-333(d).

(e) Civil Immunity. – There shall be no liability for negligence on the part of the Secretary or the State Board, or their employees, arising from any action taken or omission by any of them in carrying out this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection is waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(f) Evaluation of Principals. – Each year the Secretary shall evaluate the principals. (1998-131, s. 5; 2005-195, s. 6; 2013-247, s. 6; 2013-360, ss. 9.7(n), (x); 2017-157, ss. 2(k), (n).)

§ 143B-146.9. Assessment teams.

The State Board shall develop guidelines for the Secretary to use to create assessment teams. The Secretary shall assign an assessment team to every low-performing school that has not received an assistance team. The Secretary shall ensure that assessment team members are trained in the proper administration of the employee evaluation used in the participating schools. If service on an assessment team is an additional duty for an employee of a local school administrative unit

or an employee of a residential school, the Secretary may pay the employee for that additional work.

Assessment teams shall:

(1) Conduct evaluations of certificated personnel in low-performing schools;
(2) Provide technical assistance and training to principals who conduct evaluations of certificated personnel;
(3) Develop action plans for certificated personnel; and
(4) Assist principals in the development and implementation of action plans. (1998-131, s. 5; 2005-195, s. 7.)

§ 143B-146.10. Development of performance standards and criteria for certificated personnel.

The State Board, in consultation with the Secretary, shall revise and develop uniform performance standards and criteria to be used in evaluating certificated personnel, including school administrators. These standards and criteria shall include improving student achievement, employee skills, and employee knowledge. The standards and criteria for school administrators also shall include building-level gains in student learning and effectiveness in providing for school safety and enforcing student discipline. The Secretary shall develop guidelines for evaluating principals. The guidelines shall include criteria for evaluating a principal's effectiveness in providing safe schools and enforcing student discipline. (1998-131, s. 5; 2005-195, s. 8.)

§ 143B-146.11. School calendar.

Each school shall adopt a school calendar that includes a minimum of 180 days and 1,000 hours of instruction covering at least nine calendar months. In the development of its school calendar, each school shall consult with parents, the residential school personnel, and the local school administrative unit in which that school is located. (1998-131, s. 5.)

§ 143B-146.12: Repealed by Session Laws 2011-145, s. 7.13(v), effective July 1, 2011.

§ 143B-146.13. School technology plan.

(a) No later than December 15, 1998, the Secretary shall develop a school technology plan for the residential schools that meets the requirements of the State school technology plan. In developing a school technology plan, the Secretary is encouraged to coordinate its planning with other agencies of State and local government, including local school administrative units.

The Department of Information Technology shall assist the Secretary in developing the parts of the plan related to its technological aspects, to the extent that resources are available to do so. The Department of Public Instruction shall assist the Secretary in developing the instructional and technological aspects of the plan.

The Secretary shall submit the plan that is developed to the Department of Information Technology for its evaluation of the parts of the plan related to its technological aspects and to the Department of Public Instruction for its evaluation of the instructional aspects of the plan. The State Board of Education, after consideration of the evaluations of the Department of Information Technology and the Department of Public Instruction, shall approve all plans that comply with the requirements of the State school technology plan.

(b) After a plan is approved by the State Board of Education, all funds spent for technology in the residential schools shall be used to implement the school technology plan. (1998-131, s. 5; 2004-129, s. 45; 2015-241, s. 7A.4(x).)

§ 143B-146.14. Dispute resolution; appeals to Secretary.

The Secretary shall establish a procedure for the resolution of disputes between the residential schools and the parents or guardians of students who attend the schools.

An appeal shall lie from the decision of all residential school personnel to the Secretary or the Secretary's designee. In all of these appeals it is the duty of the Secretary to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records. (1998-131, s. 5.)

§ 143B-146.15. Duty to report certain acts to law enforcement.

When the principal has personal knowledge or actual notice from residential school personnel or other reliable source that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency. Failure to report under this section is a Class 3 misdemeanor. For purposes of this section, "school property" shall include any building, bus, campus, grounds, recreational area, or athletic field, in the charge of the principal or while the student is under the supervision of school personnel. It is the intent of the General Assembly that the principal notify the Secretary of any report made to law enforcement under this section. (1998-131, s. 5; 2005-195, s. 10; 2013-247, s. 7.)

§ 143B-146.16. Residential school personnel criminal history checks.

(a) As used in this section:

(1) "Criminal history" means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates the employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel. Such crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35,

Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(2) "Residential school personnel" means any:

a. Employee of a residential school whether full time or part time, or

b. Independent contractor or employee of an independent contractor of a residential school, if the independent contractor carries out duties customarily performed by residential school personnel,

whether paid with federal, State, local, or other funds, who has significant access to students in a residential school. Residential school personnel includes substitute teachers, driver training teachers, bus drivers, clerical staff, houseparents, and custodians.

(b) The Secretary shall require an applicant for a residential school personnel position to be checked for a criminal history before the applicant is offered an unconditional job. A residential school may employ an applicant conditionally while the Secretary is checking the person's criminal history and making a decision based on the results of the check.

The Secretary shall not require an applicant to pay for the criminal history check authorized under this subsection.

(c) The Department of Justice shall provide to the Secretary the criminal history from the State and National Repositories of Criminal Histories of any applicant for a residential school personnel position in a residential school. The Secretary shall require the person to be checked by the Department of Justice to (i) be fingerprinted and to provide any additional information required by the Department of Justice to a person designated by the Secretary, or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The Secretary shall consider refusal to consent when making employment decisions and decisions with regard to independent contractors.

The Secretary shall not require an applicant to pay for being fingerprinted.

(d) The Secretary shall review the criminal history it receives on a person. The Secretary shall determine whether the results of the review indicate that the employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as residential school personnel and shall use the information when making employment decisions and decisions with regard to independent contractors. The Secretary shall make written findings with regard to how it used the information when making employment decisions and decisions with regard to independent contractors.

(e) The Secretary shall provide to the State Board of Education the criminal history received on a person who is certificated, certified, or licensed by the State Board. The State Board shall review the criminal history and determine whether the person's certificate or license should be revoked in accordance with State laws and rules regarding revocation.

(f) All the information received by the Secretary through the checking of the criminal history or by the State Board in accordance with subsection (d) of this section is privileged information and is not a public record but is for the exclusive use of the Secretary or the State Board of Education. The Secretary or the State Board of Education may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(g) There shall be no liability for negligence on the part of the Secretary, the Department of Health and Human Services or its employees, a residential school or its employees, or the State Board of Education, Superintendent of Public Instruction, or their members or employees, individually or collectively, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes. (1998-131, s. 5; 2012-12, s. 2(xx); 2015-181, s. 47; 2016-126, 4th Ex. Sess., s. 27.)

§§ 143B-146.17 through 143B-146.20. Reserved for future codification purposes.

§ 143B-146.21. Policies, reports, and other miscellaneous provisions.

(a) The Secretary of Health and Human Services shall consult with the State Board of Education in its implementation of this act as it pertains to improving the educational programs at the residential schools. The Secretary also shall fully inform and consult with the chairs of the Appropriations Subcommittees on Education and Health and Human Services of the Senate and the House of Representatives on a regular basis as the Secretary carries out his duties under this act.

(b) Repealed by Session Laws 2013-247, s. 8, effective July 3, 2013.

(c) The Department of Public Instruction, the Board of Governors of The University of North Carolina, and the State Board of Community Colleges shall offer and communicate the availability of professional development opportunities to the personnel assigned to the residential schools.

(d) The Secretary of Health and Human Services shall adopt policies to ensure that students of the residential schools are given priority to residing in the independent living facilities on each school's campus.

(e) The Secretary of Health and Human Services, in consultation with the Office of State Human Resources, shall set the salary supplement paid to teachers, instructional support personnel, and school-based administrators who are employed in the programs

operated by the Department of Health and Human Services and are licensed by the State Board of Education. The salary supplement shall be at least five percent (5%), but not more than the percentage supplement they would receive if they were employed in the local school administrative unit where the job site is located. These salary supplements shall not be paid to central office staff. Nothing in this subsection shall be construed to include "merit pay" under the term "salary supplement". (1998-131, ss. 3, 10, 17; 2001-424, s. 21.81(a); 2005-276, s. 29.19(a); 2013-247, s. 8; 2013-382, s. 9.1(c).)

§ 143B-146.22: Repealed by Session Laws 2001-424, s. 21.80(a).

§§ 143B-146.23 through 143B-146.27. Reserved for future codification purposes.

Part 4. Mental Health, Developmental Disabilities, and Substance Abuse Services.

§ 143B-147. Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – creation, powers and duties.

(a) There is hereby created the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services with the power and duty to adopt, amend and repeal rules to be followed in the conduct of State and local mental health, developmental disabilities, substance abuse programs including education, prevention, intervention, screening, assessment, referral, detoxification, treatment, rehabilitation, continuing care, emergency services, case management, and other related services. Such rules shall be designed to promote the amelioration or elimination of the mental illness, developmental disabilities, or substance abuse problems of the citizens of this State. Rules establishing standards for certification of child care centers providing Developmental Day programs are excluded from this section and shall be adopted by the Child Care Commission under G.S. 110-88. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall have the authority:

(1) To adopt rules regarding the

a. Admission, including the designation of regions, treatment, and professional care of individuals admitted to a facility operated under the authority of G.S. 122C-181(a), that is now or may be established;

b. Operation of education, prevention, intervention, treatment, rehabilitation and other related services as provided by area mental health, developmental disabilities, and substance abuse authorities, county programs, and all providers of public services under Part 4 of Article 4 of Chapter 122C of the General Statutes;

c. Hearings and appeals of area mental health, developmental disabilities, and substance abuse authorities as provided for in Part 4 of Article 4 of Chapter 122C of the General Statutes; and

d and e. Repealed by Session Laws 2001-437, s. 1.21(a), effective July 1, 2002.

f. Standards of public services for mental health, developmental disabilities, and substance abuse services.

(2) To adopt rules for the licensing of facilities for the mentally ill, developmentally disabled, and substance abusers, under Article 2 of Chapter 122C of the General Statutes. These rules shall include all of the following:

a. Standards for the use of electronic supervision devices during client sleep hours for facilities licensed under 10A NCAC 27G. 1700 or any related or subsequent regulations setting licensing standards for such facilities.

b. Personnel requirements for facilities licensed under 10A NCAC 27G. 1700, or any related or subsequent regulations setting licensing standards for such facilities, when continuous electronic supervision that meets the standards established under sub-subdivision a. of this of this subdivision is present.

(3) To advise the Secretary of the Department of Health and Human Services regarding the need for, provision and coordination of education, prevention, intervention, treatment, rehabilitation and other related services in the areas of:

a. Mental illness and mental health,

b. Developmental disabilities,

c. Substance abuse.

d. Repealed by Session Laws 2001-437, s. 1.21(a), effective July 1, 2002.

(4) To review and advise the Secretary of the Department of Health and Human Services regarding all State plans required by federal or State law and to recommend to the Secretary any changes it thinks necessary in those plans; provided, however, for the purposes of meeting State plan requirements under federal or State law, the Department of Health and Human Services is designated as the single State agency responsible for administration of plans involving mental health, developmental disabilities, and substance abuse services.

(5) To adopt rules relating to the registration and control of the manufacture, distribution, security, and dispensing of controlled substances as provided by G.S. 90-100.

(6) To adopt rules to establish the professional requirements for staff of licensed facilities for the mentally ill, developmentally disabled, and substance abusers. Such rules may require that one or more, but not all staff of a facility be either licensed or certified. If a facility has only one professional staff, such rules may require that that individual be licensed or certified. Such rules may include the recognition of professional certification boards for those professions not licensed or certified under other provisions of the General Statutes provided that the professional certification board evaluates applicants on a basis which protects the public health, safety or welfare.

(7) Except where rule making authority is assigned under that Article to the Secretary of the Department of Health and Human Services, to adopt rules to implement Article 3 of Chapter 122C of the General Statutes.

(8) To adopt rules specifying procedures for waiver of rules adopted by the Commission.

(9) To adopt rules establishing a process for non-Medicaid eligible clients to appeal to the Division of Mental Health, Developmental Disabilities, and Substance

Abuse Services of the Department of Health and Human Services decisions made by an area authority or county program affecting the client. The purpose of the appeal process is to ensure that mental health, developmental disabilities, and substance abuse services are delivered within available resources, to provide an additional level of review independent of the area authority or county program to ensure appropriate application of and compliance with applicable statutes and rules, and to provide additional opportunities for the area authority or county program to resolve the underlying complaint. Upon receipt of a written request by the non-Medicaid eligible client, the Division shall review the decision of the area authority or county program and shall advise the requesting client and the area authority or county program as to the Division's findings and the bases therefor. Notwithstanding Chapter 150B of the General Statutes, the Division's findings are not a final agency decision for purposes of that Chapter. Upon receipt of the Division's findings, the area authority or county program shall issue a final decision based on those findings. Nothing in this subdivision shall be construed to create an entitlement to mental health, developmental disabilities, and substance abuse services.

(10) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall develop and adopt rules by December 1, 2013, to require forensic evaluators appointed pursuant to G.S. 15A-1002(b) to meet the following requirements:

a. Complete all training requirements necessary to be credentialed as a certified forensic evaluator.

b. Attend annual continuing education seminars that provide continuing education and training in conducting forensic evaluations and screening examinations of defendants to determine capacity to proceed and in preparing written reports required by law.

(b) All rules hereby adopted shall be consistent with the laws of this State and not inconsistent with the management responsibilities of the Secretary of the Department of Health and Human Services provided by this Chapter and the Executive Organization Act of 1973.

(c) All rules and regulations pertaining to the delivery of services and licensing of facilities heretofore adopted by the Commission for Mental Health and Mental Retardation Services, controlled substances rules and regulations adopted by the North Carolina Drug Commission, and all rules and regulations adopted by the Commission for Mental Health, Mental Retardation and Substance Abuse Services shall remain in full force and effect unless and until repealed or superseded by action of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(d) All rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall be enforced by the Department of Health and Human Services.

(e) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall by December 1, 2013, adopt guidelines for treatment of individuals who are involuntarily committed following a determination of incapacity to proceed and a referral pursuant to G.S. 15A-1003. The guidelines shall require a treatment plan that uses

best practices in an effort to restore the individual's capacity to proceed in the criminal matter. (1973, c. 476, s. 129; 1977, c. 568, ss. 2, 3; c. 679, s. 1; 1981, c. 51, s. 1; 1983, c. 718, s. 5; 1983 (Reg. Sess., 1984), c. 1110, s. 6; 1985, c. 589, ss. 47-54; 1985 (Reg. Sess., 1986), c. 863, s. 33; 1989, c. 625, s. 23; 1991, c. 309, s. 1; 1993, c. 396, s. 6; 1997-443, s. 11A.118(a); 2001-437, s. 1.21(a); 2005-276, s. 10.35(a); 2009-187, s. 1; 2009-490, s. 6; 2013-18, ss. 9, 10.)

§ 143B-148. Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – members; selection; quorum; compensation.

(a) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall consist of 32 members, as follows:

(1) Eight shall be appointed by the General Assembly, four upon the recommendation of the Speaker of the House of Representatives, and four upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. In recommending appointments under this section, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall give consideration to ensuring a balance of appointments that represent those who may have knowledge and expertise in adult issues and those who may have knowledge and expertise in children's issues. Of the four appointments recommended by the President Pro Tempore of the Senate, one shall be an attorney licensed in this State with preference given to an attorney with experience in the practice of administrative law, one shall be a physician licensed to practice medicine in North Carolina, with preference given to a psychiatrist, and two shall be members of the public. Of the four appointments recommended by the Speaker of the House of Representatives, one shall be an attorney licensed in this State with preference given to an attorney with experience in the practice of mental health law, one shall be a physician licensed to practice medicine in North Carolina who has expertise and experience in the field of developmental disabilities, or a professional holding a Ph.D. with experience in the field of developmental disabilities, and two shall be members of the public. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(2) Twenty-four shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3)b, and the remainder at-large members.

The Governor's appointees shall represent the following categories of appointment:

a. Three professionals licensed or certified under Chapter 90 or Chapter 90B of the General Statutes who are practicing, teaching, or conducting research in the field of mental health.

b. Four consumers or immediate family members of consumers of mental health services. Of these four, at least one shall be a consumer and at least one shall be an immediate family member of a consumer. No more than two of the consumers or immediate family members shall be selected from nominations submitted by the Coalition 2001 or its successor organization.

c. Two professionals licensed or certified under Chapter 90 or Chapter 90B of the General Statutes who are practicing, teaching, or conducting research in the field of developmental disabilities, and one individual who is a "qualified professional" as that term is defined in G.S. 122C-3(31) who has experience in the field of developmental disabilities.

d. Four consumers or immediate family members of consumers of developmental disabilities services. Of these four, at least one shall be a consumer and at least one shall be an immediate family member of a consumer. No more than two of the consumers or immediate family members shall be selected from nominations submitted by the Coalition 2001 or its successor organization.

e. Two professionals licensed or certified under Chapter 90 of the General Statutes who are practicing, teaching, or conducting research in the field of substance abuse, and one professional who is a certified prevention specialist or who specializes in the area of addiction education.

f. An individual knowledgeable and experienced in the field of controlled substances regulation and enforcement. The controlled substances appointee shall be selected from recommendations made by the Attorney General of North Carolina.

g. A physician licensed to practice medicine in North Carolina who has expertise and experience in the field of substance abuse with preference given to a physician that is certified by the American Society of Addiction Medicine (ASAM).

h. Four consumers or immediate family members of consumers of substance abuse services. Of these four, at least one shall be a consumer and at least one shall be an immediate family member of a consumer. No more than two of the consumers or immediate family members shall be selected from nominations submitted by the Coalition 2001 or its successor organization.

i. An attorney licensed in this State. The appointments of professionals licensed or certified under Chapter 90 or Chapter 90B of the General Statutes made in accordance with this subdivision, and physicians appointed in accordance with subdivision (1) of this subsection shall be selected from nominations submitted to the appointing authority by the respective professional associations.

(2a) The terms of all Commission members shall be three years. All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves. A member appointed on and after July 1, 2002, shall not serve more than two consecutive terms.

(3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid.

(b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 through 143B-20 relating to appointment, qualifications, terms and removal of members shall apply to all members of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(c) Commission members shall receive per diem, travel and subsistence allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(d) A majority of the Commission shall constitute a quorum for the transaction of business.

(e) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Health and Human Services. To ensure effective and efficient coordination of rules and policies adopted by the Commission and the Secretary, the Secretary shall assign an individual who is knowledgeable about and experienced in the rule-making processes of the Commission and the Secretary and in the fields of mental health, developmental disabilities, and substance abuse to assist the Commission in carrying out its duties and responsibilities. (1973, c. 476, s. 130; 1977, c. 679, s. 2; 1981, c. 51, s. 1; 1981 (Reg. Sess., 1982), c. 1191, ss. 55.1 through 57; 1989, c. 625, s. 23; 1991 (Reg. Sess., 1992), c. 1038, s. 17; 1995, c. 490, s. 34; 1997-443, s. 11A.118(a); 2001-437, s. 1.21(b); 2001-486, s. 2.13; 2001-487, s. 90.5; 2002-61, s. 1; 2007-504, s. 2.5(a).)

§ 143B-149. Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – officers.

The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members and shall serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term. (1973, c. 476, s. 131; 1977, c. 679, s. 3; 1981, c. 51, s. 1; 1989, c. 625, s. 23.)

§ 143B-150. Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – regular and special meetings.

The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least eight members. (1973, c. 476, s. 132; 1977, c. 679, s. 4; 1981, c. 51, s. 1; 1989, c. 625, s. 23.)

§ 143B-150.1. Use of funds for North Carolina Child Treatment Program.

(a) State funds appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the North Carolina Child Treatment Program shall be used exclusively for the following purposes:

(1) To continue to provide clinical training and coaching to licensed clinicians on an array of evidence-based treatments and to provide a statewide platform to assure accountability and measurable outcomes.

(2) To maintain and manage a public roster of program graduates, linking high-quality clinicians with children, families, and professionals.

(3) To partner with leadership within the State, local management entities/managed care organizations as defined in G.S. 122C-3, and the private sector to bring

effective mental health treatment to children in juvenile justice and mental health facilities.

(b) All data, including any entered or stored in the State-funded secure database developed for the North Carolina Child Treatment Program to track individual-level and aggregate-level data with interface capability to work with existing networks within State agencies, is and remains the sole property of the State. (2017-57, s. 11F.1(b).)

Part 4A. Family Preservation Act.

§ 143B-150.5. Family Preservation Services Program established; purpose.

(a) There is established the Family Preservation Services Program of the Department of Health and Human Services. To the extent that funds are made available, locally-based family preservation services shall be available to all 100 counties. The Secretary of the Department of Health and Human Services shall be responsible for the development and implementation of the Family Preservation Services Program as established in this Part.

(b) The purpose of the Family Preservation Services Program is, where feasible and in the best interests of the child and the family, to keep the family unit intact by providing intensive family-centered services that help create, within the family, positive, long-term changes in the home environment.

(c) Family preservation services shall be financed in part through grants to local agencies for the development and implementation of locally-based family preservation services. Grants to local agencies shall be made in accordance with the provisions of G.S. 143B-150.6.

(d) The Secretary of the Department of Health and Human Services shall ensure the cooperation of the Division of Social Services, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Division of Medical Assistance, in carrying out the provisions of this Part. (1991, c. 743, s. 1; 1997-443, s. 11A.118(a); 2000-137, s. 4(z); 2001-424, s. 21.50(f).)

§ 143B-150.6. Program services; eligibility; grants for local projects; fund transfers.

(a) Services: Services to be provided under the Family Preservation Services Program shall include but are not limited to: family assessment, intensive family and individual counseling, client advocacy, case management, development and enhancement of parenting skills, and referral for other services as appropriate.

(b) Eligibility: Families eligible for services under the Family Preservation Services Program are those with children ages 0-17 years who are at risk of imminent separation through placement in public welfare, mental health, or juvenile justice systems.

(c) Service Delivery: Services delivered to eligible families under the Family Preservation Services Program shall be provided in accordance with the following requirements:

(1) Each eligible family shall receive intensive family preservation services, beginning with identification of an imminent risk of out-of-home placement for an average of four weeks but not more than six weeks;

(2) At least one-half of a caseworker's time spent providing family preservation services to each eligible family shall be provided in the family's home and community;

(3) Family preservation caseworkers shall be available to each eligible family by telephone and on call for visits 24 hours a day, seven days a week.

(4) Each family preservation caseworker shall provide services to a maximum of four families at any given time.

(d) Grants for local projects: The Secretary of the Department of Health and Human Services shall award grants to local agencies for the development and implementation of locally-based family preservation services projects. The number of grants awarded and the level of funding of each grant for each fiscal year shall be contingent upon and determined by funds appropriated for that purpose by the General Assembly.

(e) Inter-agency fund transfers: The Department may allow the Division of Social Services and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to use funds available to each Division to support family preservation services provided by the Division under the Program; provided that such use does not violate federal regulations pertaining to, or otherwise jeopardize the availability of federal funds. (1991, c. 743, s. 1; 1997-443, s. 11A.118(a); 1999-423, s. 9; 2001-424, s. 21.50(g).)

§§ 143B-150.7 through 143B-150.9: Repealed by Session Laws 2001-424, ss. 21.50(h) to (j).

§§ 143B-150.10 through 143B-150.19. Reserved for future codification purposes.

Part 4B. State Child Fatality Review Team.

§ 143B-150.20. State Child Fatality Review Team; establishment; purpose; powers; duties; report by Division of Social Services.

(a) There is established in the Department of Health and Human Services, Division of Social Services, a State Child Fatality Review Team to conduct in-depth reviews of any child fatalities which have occurred involving children and families involved with local departments of social services child protective services in the 12 months preceding the fatality. Steps in this in-depth review shall include interviews with any individuals determined to have pertinent information as well as examination of any written materials containing pertinent information.

(b) The purpose of these reviews shall be to implement a team approach to identifying factors which may have contributed to conditions leading to the fatality and to develop recommendations for improving coordination between local and State entities which might have avoided the threat of injury or fatality and to identify appropriate remedies. The Division of Social Services shall make public the findings and recommendations developed for each fatality reviewed relating to improving coordination between local and State entities. These findings shall not be admissible as evidence in any civil or administrative proceedings against individuals or entities that participate in child fatality reviews conducted pursuant to this section. The State Child Fatality Review Team shall consult with the appropriate district attorney in accordance with G.S. 7B-2902(d) prior to the public release of the findings and recommendations.

(c) The State Child Fatality Review Team shall include representatives of the local departments of social services and the Division of Social Services, a member of the local Community Child Protection Team, a member of the local child fatality prevention team, a representative from local law enforcement, a prevention specialist, and a medical professional.

(d) The State Child Fatality Review Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this subsection, including police investigative data, medical examiner investigative data, health records, mental health records, and social services records. The State Child Fatality Review Team may receive a copy of any reviewed materials necessary to the conduct of the fatality review. Any member of the State Child Fatality Review Team may share, only in an official meeting of the State Child Fatality Review Team, any information available to that member that the State Child Fatality Review Team needs to carry out its duties.

If the State Child Fatality Review Team does not receive information requested under this subsection within 30 days after making the request, the State Child Fatality Review Team may apply for an order compelling disclosure. The application shall state the factors supporting the need for an order compelling disclosure. The State Child Fatality Review Team shall file the application in the district court of the county where the investigation is being conducted, and the court shall have jurisdiction to issue any orders compelling disclosure. Actions brought under this section shall be scheduled for immediate hearing, and subsequent proceedings in these actions shall be given priority by the appellate courts.

(e) Meetings of the State Child Fatality Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the State Child Fatality Review Team may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of closed sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any executive session shall be sealed from public inspection.

(f) All otherwise confidential information and records acquired by the State Child Fatality Review Team, in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings except pursuant to an order of the court; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. In addition, all otherwise confidential information and records created by the State Child Fatality Review Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. No member of the State Child Fatality Review Team, nor any person who attends a meeting of the State Child Fatality Review Team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

(g) Each member of the State Child Fatality Review Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

(h) Repealed by Session Laws 2013-360, s. 12A.8(f), effective July 1, 2013. (1998-202, s. 13(oo); 1998-212, s. 12.22(e); 1999-190, s. 4; 2000-67, s. 11.14(a); 2003-304, s. 6; 2013-360, s. 12A.8(f).)

Part 5. Eugenics Commission.

§§ 143B-151 through 143B-152: Repealed by Session Laws 1977, c. 497.

Part 5A. S.O.S. Program.

§ 143B-152.1: Repealed by Session Laws 2009-451, s. 18.6, as amended by Session Laws 2010-123, s. 6.2, effective July 1, 2009.

§ 143B-152.2: Repealed by Session Laws 2009-451, s. 18.6, as amended by Session Laws 2010-123, s. 6.2, effective July 1, 2009.

§ 143B-152.3: Repealed by Session Laws 2009-451, s. 18.6, as amended by Session Laws 2010-123, s. 6.2, effective July 1, 2009.

§ 143B-152.4: Repealed by Session Laws 2009-451, s. 18.6, as amended by Session Laws 2010-123, s. 6.2, effective July 1, 2009.

§ 143B-152.5: Repealed by Session Laws 2009-451, s. 18.6, as amended by Session Laws 2010-123, s. 6.2, effective July 1, 2009.

§ 143B-152.6: Repealed by Session Laws 2009-451, s. 18.6, as amended by Session Laws 2010-123, s. 6.2, effective July 1, 2009.

§ 143B-152.7: Repealed by Session Laws 2009-451, s. 18.6, as amended by Session Laws 2010-123, s. 6.2, effective July 1, 2009.

§ 143B-152.8. Reserved for future codification purposes.

§ 143B-152.9. Reserved for future codification purposes.

Part 5B. Family Resource Center Grant Program.

§ 143B-152.10. Family Resource Center Grant Program; creation; purpose; intent.

(a) There is created in the Department of Health and Human Services the Family Resource Center Grant Program. The purpose of the program is to provide grants to implement family support programs that are research-based and have been evaluated for effectiveness that provide services to children from birth through 17 years of age and to their families that:

(1) Enhance the children's development and ability to attain academic and social success;

(1a) Prevent child abuse and neglect by implementing program models that have been evaluated and found to improve outcomes for children and families;

(2) Ensure a successful transition from early childhood education programs and child care to the public schools;
(3) Assist families in achieving economic independence and self-sufficiency; and
(4) Mobilize public and private community resources to help children and families in need.

(b) It is the intent of the General Assembly to encourage and support broad-based collaboration among public and private agencies and among people who reflect the racial and socioeconomic diversity in communities to develop initiatives that (i) improve outcomes for children by preventing child abuse and neglect, (ii) enhance and strengthen the ability of families to ensure the safety, health, and well-being of their children, (iii) enhance the ability of families to become advocates for and supporters of the children in their families, and (iv) enhance the ability of families to function as nurturing and effective family units.

(c) It is further the intent of the General Assembly that this program shall be targeted to those neighborhoods that have disproportionately high levels of (i) children who would be less likely to attain educational or social success, (ii) families with low incomes, and (iii) crime and juvenile delinquency. (1994, Ex. Sess., c. 24, s. 31(a); 1997-443, s. 11A.118(a); 2007-130, s. 1.)

§ 143B-152.11. Administration of program.

The Department of Health and Human Services shall develop and implement the Family Resource Center Grant Program. The Department shall:

(1) Sponsor a statewide conference for teams of interested representatives to provide background information and assistance regarding all aspects of the program;
(2) Disseminate information regarding the program to interested local community groups;
(3) Provide initial technical assistance and ongoing technical assistance to grant recipients;
(4) Administer funds appropriated by the General Assembly;
(5) Monitor the grants funded and the ongoing operations of family resource centers;
(6) Revoke a grant if necessary or appropriate;
(7) Report to the General Assembly and the Joint Legislative Commission on Governmental Operations, in accordance with G.S. 143B-152.15; and
(8) Adopt rules to implement this Part. (1994, Ex. Sess., c. 24, s. 31(a); 1997-443, s. 11A.118(a).)

§ 143B-152.12. Eligible applicants: applications for grants.

(a) A community-or neighborhood-based 501(c)(3) entity or a consortium consisting of one or more local 501(c)(3) entities and one or more local school administrative units may apply for a grant.

(b) Applicants for grants shall identify the neighborhood or neighborhoods whose children and families will be served by a family resource center. The decision-making process for identifying and establishing family resource centers shall reflect the racial and socioeconomic diversity of the neighborhood or neighborhoods to be served.

(c) A grant application shall include a process for assessing on an annual basis the success of the local plan in addressing problems. (1994, Ex. Sess., c. 24, s. 31(a).)

§ 143B-152.13. Grants review and selection.

(a) The Department shall develop and disseminate a request for applications and establish procedures to be followed in developing and submitting applications to establish local family resource centers and administering grants to establish local family resource centers.

(b) The Secretary of Health and Human Services shall appoint a State task force to assist the Secretary in reviewing grant applications. The State task force shall include representatives of the Department of Health and Human Services, the Department of Public Instruction, local school administrative units, educators, parents, the juvenile justice system, social services, and governmental agencies providing services to children, and other members the Secretary considers appropriate. In appointing the State task force, the Secretary shall consult with the Superintendent of Public Instruction in an effort to coordinate the membership of this State task force, the State task force appointed by the Secretary pursuant to G.S. 143B-152.5, and the State task force appointed by the Superintendent pursuant to G.S. 115C-238.42.

In reviewing grant applications, the Secretary and the State task force may consider (i) the severity of the local problems as determined by the needs assessment data, (ii) the likelihood that the locally designed plan will result in high quality services for children and their families, (iii) evidence of local collaboration and coordination of services, (iv) any innovative or experimental aspects of the plan that will make it a useful model for replication in other counties, (v) the availability of other resources or funds, (vi) the incidence of crime and juvenile delinquency, (vii) the amount needed to implement the proposal, and (viii) any other factors consistent with the intent of this Part.

(c) In determining the amount of funds an applicant receives, the Secretary and the State task force may consider (i) the number of children to be served, (ii) the number and percentage of children to be served who participate in the subsidized lunch program, (iii) the number and percentage of school-aged children to be served with two working parents or one single parent, (iv) the availability of other resources or funds, and (v) the amount needed to implement the proposal.

(d) The Secretary shall award the grants. (1994, Ex. Sess., c. 24, s. 31(a); 1997-443, s. 11A.118(a).)

§ 143B-152.14. Cooperation of State and local agencies.

All agencies of the State and local government, including the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, departments of social services, health departments, local mental health, developmental disabilities, and substance abuse authorities, court personnel, law enforcement agencies, The University of North Carolina, the community college system, and cities and counties, shall cooperate with the Department of Health and Human Services, and local nonprofit corporations that receive grants in coordinating the program at the State level and in implementing the program at the local level. The Secretary of Health and Human Services, after consultation with the Superintendent of Public Instruction, shall develop a plan for ensuring the cooperation of State agencies and local agencies and encouraging the cooperation of private entities, especially those receiving State funds, in the coordination and implementation of the program. (1994, Ex. Sess., c. 24, s. 31(a); 1997-443, s.

11A.118(a); 1998-202, s. 4(y); 2000-137, s. 4(cc); 2011-145, s. 19.1(l); 2017-186, s. 2(gggggg); 2018-47, s. 6(c).)

§ 143B-152.15. Program evaluation; reporting requirements.

(a) The Department of Health and Human Services shall develop and implement an evaluation system that will assess the efficiency and effectiveness of the Family Resource Center Grant Program. The department shall design this system to:

(1) Provide information to the Department and to the General Assembly on how to improve and refine the programs;

(2) Enable the Department and the General Assembly to assess the overall quality, efficiency, and impact of the existing programs;

(3) Enable the Department and the General Assembly to determine whether to modify the Family Resource Center Grant Program; and

(4) Provide a detailed fiscal analysis of how State funds for these programs were used.

(b) Repealed by Session Laws 2013-360, s. 12A.8(b), effective July 1, 2013.

(c) A local 501(c)(3) entity or consortium that receives a grant under this Part shall report by August 1 of each year to the Department on the implementation of the program. This report shall demonstrate the extent to which the local family resource center has met the local needs, goals, and anticipated outcomes as set forth in the grant application. (1994, Ex. Sess., c. 24, s. 31(a); 1997-443, s. 11A.118(a); 2001-424, s. 21.48(f); 2013-360, s. 12A.8(b).)

Part 6. Social Services Commission.

§ 143B-153. Social Services Commission – creation, powers and duties.

There is hereby created the Social Services Commission of the Department of Health and Human Services with the power and duty to adopt rules and regulations to be followed in the conduct of the State's social service programs with the power and duty to adopt, amend, and rescind rules and regulations under and not inconsistent with the laws of the State necessary to carry out the provisions and purposes of this Article. Provided, however, the Department of Health and Human Services shall have the power and duty to adopt rules and regulations to be followed in the conduct of the State's medical assistance program. [The Commission has the following powers and duties:]

(1) The Social Services Commission is authorized and empowered to adopt such rules and regulations that may be necessary and desirable for the programs administered by the Department of Health and Human Services as provided in Chapter 108A of the General Statutes of the State of North Carolina.

(2) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:

a. For the programs of public assistance established by federal legislation and by Article 2 of Chapter 108A of the General Statutes of the State of North Carolina with the exception of the program of medical assistance established by G.S. 108A-25(b);

b. To achieve maximum cooperation with other agencies of the State and with agencies of other states and of the federal government in rendering services to strengthen and maintain family life and to help recipients of public assistance obtain self-support and self-care;

c. For the placement and supervision of dependent juveniles and of delinquent juveniles who are placed in the custody of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and payment of necessary costs of foster home care for needy and homeless children as provided by G.S. 108A-48;

d. For the payment of State funds to private child-placing agencies as defined in G.S. 131D-10.2(4) and residential child care facilities as defined in G.S. 131D-10.2(13) for care and services provided to children who are in the custody or placement responsibility of a county department of social services. The Commission shall establish standardized rates for child caring institutions. In establishing standardized rates, the Commission shall consider the rate-setting recommendations provided by the Office of the State Auditor; and

e. For client assessment and independent case management pertaining to the functions of county departments of social services for public assistance programs authorized under paragraph a. of this subdivision.

(2a) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:

a. For social services programs established by federal legislation and by Article 3 of G.S. Chapter 108A;

b. For implementation of Title XX of the Social Security Act, except for Title XX services provided solely through the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, by promulgating rules and regulations in the following areas:

1. Eligibility for all services established under a Comprehensive Annual Services Plan, as required by federal law;
2. Standards to implement all services established under the Comprehensive Annual Services Plan;
3. Maximum rates of payment for provision of social services;
4. Fees for services to be paid by recipients of social services;
5. Designation of certain mandated services, from among the services established by the Secretary below, which shall be provided in each county of the State; and
6. Title XX services for the blind, after consultation with the Commission for the Blind.

Provided, that the Secretary is authorized to promulgate all other rules in at least the following areas:

1. Establishment, identification, and definition of all services offered under the Comprehensive Annual Services Plan;
2. Policies governing the allocation, budgeting, and expenditures of funds administered by the Department;

3. Contracting for and purchasing services; and
4. Monitoring for effectiveness and compliance with State and federal law and regulations.

(3) The Social Services Commission shall have the power and duty to establish and adopt standards:
a. For the inspection and licensing of maternity homes as provided by G.S. 131D-1;
b. Repealed by Session Laws 1999-334, s. 3.5, effective October 1, 1999.
c. For the inspection and licensing of child-care institutions as provided by G.S. 131D-10.5;
d. For the inspection and operation of jails or local confinement facilities as provided by G.S. 153A-220 and Article 2 of Chapter 131D of the General Statutes of the State of North Carolina;
e. Repealed by Session Laws 1981, c. 562, s. 7.
f. For the regulation and licensing of charitable organizations, professional fund-raising counsel and professional solicitors as provided by Chapter 131D of the General Statutes of the State of North Carolina.

(4) The Social Services Commission shall have the power and duty to authorize investigations of social problems, with authority to subpoena witnesses, administer oaths, and compel the production of necessary documents.

(5) The Social Services Commission shall have the power and duty to ratify reciprocal agreements with agencies in other states that are responsible for the administration of public assistance and child welfare programs to provide assistance and service to the residents and nonresidents of the State.

(6) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government of grants-in-aid for social services purposes which may be made available for the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(7) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the Board of Social Services shall remain in full force and effect unless and until repealed or superseded by action of the Social Services Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Health and Human Services.

(8) The Commission may establish by regulation, except for Title XX services provided solely through the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, rates or fees for:
a. A fee schedule for the payment of the costs of necessary child care in licensed facilities and registered plans for minor children of needy families.

b. A fee schedule for the payment by recipients for services which are established in accordance with Title XX of the Social Security Act and implementing regulations; and

c. The payment of an administrative fee not to exceed two hundred dollars ($200.00) to be paid by public or nonprofit agencies which employ students under the Plan Assuring College Education (PACE) program.

d. Child support enforcement services as defined by G.S. 110-130.1.

(9) The Commission shall adopt rules governing the obligations of counties to contribute financially to regional social services departments in accordance with G.S. 108A-15.3A(e). (1973, c. 476, s. 134; 1975, c. 747, s. 2; 1977, c. 674, s. 7; 1977, 2nd Sess., c. 1219, ss. 26, 27; 1981, c. 275, s. 5; c. 562, s. 7; c. 961, ss. 1-3; 1983, c. 278, ss. 1, 2; c. 527, s. 2; 1985, c. 206; c. 479, s. 96; c. 689, s. 29f; 1991, c. 462, s. 1; c. 636, s. 19(d); c. 689, s. 105; c. 761, s. 28; 1993, c. 553, s. 46; 1995, c. 449, s. 4; c. 535, s. 32; 1997-443, s. 11A.118(a); 1997-456, s. 22; 1997-506, s. 55; 1998-202, s. 4(z); 1999-334, s. 3.5; 2000-111, s. 4; 2000-137, s. 4(dd); 2000-140, s. 99(a); 2006-66, s. 10.2(c); 2011-145, s. 19.1(*l*); 2017-41, s. 4.5; 2017-102, s. 40(e); 2017-186, s. 2(hhhhhh).)

§ 143B-153.1. Repealed by Session Laws 1983, c. 883, s. 2, effective July 20, 1983.

§ 143B-154. Social Services Commission – members; selection; quorum; compensation.

The Social Services Commission of the Department of Health and Human Services shall consist of one member from each congressional district in the State, all of whom shall be appointed by the Governor for four-year terms.

The initial members of the Commission shall be the appointed members of the current Social Services Commission who shall serve for the remainder of their current terms and four additional members appointed by the Governor for terms expiring April 1, 1981. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, removal or disability of a member shall be for the balance of the unexpired term.

In the event that more than 11 congressional districts are established in the State, the Governor shall on July 1 following the establishment of such additional congressional districts appoint a member of the Commission from that congressional district.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Health and Human Services. (1973, c. 476, s. 135; 1977, c. 516; 1981 (Reg. Sess., 1982), c. 1191, s. 77; 1997-443, s. 11A.118(a).)

§ 143B-155. Social Services Commission – regular and special meetings.

The Social Services Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least four members. (1973, c. 476, s. 136.)

§ 143B-156. Social Services Commission – officers.

The Commission for Social Services shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term. (1973, c. 476, s. 137.)

Part 7. Commission for the Blind.

§ 143B-157. Commission for the Blind – creation, powers and duties.

There is recreated the Commission for the Blind of the Department of Health and Human Services with the power and duty to adopt rules governing the conduct of the State's rehabilitative programs for the blind that are necessary to carry out the provisions and purposes of this Article.

(1) The Commission shall adopt rules that are necessary and desirable for the programs administered by the Department of Health and Human Services as provided in Chapter 111 of the General Statutes of North Carolina.

(2) Repealed by Session Laws 1993, c. 561, s. 89(a).

(3) The Commission shall adopt rules, not inconsistent with the laws of this State, that are required by the federal government for grants-in-aid for rehabilitative purposes for the blind that may be made available to the State from the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(3a) The Commission shall review, analyze, and advise the Department regarding the performance of its responsibilities under the federal rehabilitation program in which the State participates, as it relates to the provision of services to the blind, particularly its responsibilities relating to the following:

a. Eligibility for the program;

b. The extent, scope, and effectiveness of the services provided; and

c. The functions performed by the Department that affect, or that have the potential to affect, the ability of individuals who are blind or visually impaired to achieve rehabilitative goals and objectives under the federal rehabilitation program;

(3b) The Commission shall advise the Department regarding preparation of applications, the State Plan, amendments to this plan, the State needs assessments, and the evaluations required by the federal rehabilitation program; and in partnership with the Department develop, agree to, and review State goals and priorities;

(3c) The Commission shall, to the extent feasible, conduct a review and analysis (i) of the effectiveness of, and consumer satisfaction with, the functions performed by the Department and other public and private entities responsible for performing functions for individuals who are blind or visually impaired, and (ii) of vocational rehabilitation services provided or paid for from funds made

available through other public or private sources and provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals who are blind or visually impaired;

(3d) The Commission shall prepare and submit an annual report to the Governor, the Secretary, and the federal rehabilitation program, and make the report available to the public;

(3e) The Commission shall coordinate with other councils within the State, including the statewide Independent Living Council established under section 705 of the federal Rehabilitation Act, 29 U.S.C. § 720, et seq., the advisory panel established under section 612(a)(21) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1413(A)(12), the Council on Developmental Disabilities described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6024, the State Mental Health Planning Council established pursuant to section 1916(e) of the Public Health Service Act, 42 U.S.C. § 300x-4(e), and the NCWorks Commission;

(3f) The Commission shall advise the Department and provide for coordination with, and establishment of working relationships between, the Department and the Independent Living Council;

(3g) The Commission shall prepare, in conjunction with the Department, a plan for the provision of those resources, including staff and other personnel, that are necessary to carry out the Commission's function under this Part. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan. The agreed-upon resources shall be provided pursuant to G.S. 143B-14. To the extent that there is a disagreement between the Commission and the Department with regard to the resources necessary to carry out the functions of the Commission required by this Part, the Governor shall resolve the disagreement. The Department or other State agency shall not assign any other duties to the staff and other personnel who are assisting the Commission in carrying out its duties that would create a conflict of interest;

(4) The Commission shall adopt rules consistent with the provisions of this Chapter. All rules not inconsistent with the provisions of this Chapter heretofore adopted by the North Carolina State Commission for the Blind shall remain in full force and effect unless and until repealed or superseded by action of the recreated Commission for the Blind. All rules adopted by the Commission shall be enforced by the Department of Health and Human Services. (1973, c. 476, s. 139; 1993, c. 561, s. 89(a); 1997-443, s. 11A.118(a); 2000-121, ss. 29, 30; 2015-241, s. 15.11(e).)

§ 143B-158. Commission for the Blind.

(a) The Commission for the Blind of the Department of Health and Human Services shall consist of 19 members as follows:

(1) One representative of the Statewide Independent Living Council.

(2) One representative of a parent training and information center established pursuant to section 631(c) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1431(c).

(3) One representative of the State's Client Assistance Program.
(4) One vocational rehabilitation counselor who has knowledge of and experience in vocational rehabilitation services for the blind. A vocational rehabilitation counselor appointed pursuant to this subdivision shall serve as a nonvoting member of the Commission if the counselor is an employee of the Department of Health and Human Services.
(5) One representative of community rehabilitation program services providers.
(6) One current or former applicant for, or recipient of, vocational rehabilitation services.
(7) One representative of a disability advocacy group representing individuals who are blind.
(8) One parent, family member, guardian, advocate, or authorized representative of an individual who is blind, has multiple disabilities, and either has difficulty representing himself or herself or who is unable, due to disabilities, to represent himself or herself.
(9) One representative of business, industry, and labor.
(10) One representative of the directors of projects carried out under section 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, if there are any of these projects in the State.
(11) One representative of the Department of Public Instruction.
(12) One representative of the NCWorks Commission.
(12a) Two licensed physicians nominated by the North Carolina Medical Society whose practice is limited to ophthalmology.
(12b) Two optometrists nominated by the North Carolina State Optometric Society.
(12c) Two opticians nominated by the North Carolina Opticians Association.
(13) The Director of the Division of Services for the Blind shall serve as an ex officio, nonvoting member.

(b) The members of the Commission for the Blind shall be appointed by the Governor. The Governor shall appoint members after soliciting recommendations from representatives of organizations representing a broad range of individuals who have disabilities and organizations interested in those individuals. In making appointments to the Commission, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Commission.

(c) Except for individuals appointed to the Commission under subdivisions (12a), (12b), and (12c) of subsection (a) of this section, a majority of Commission members shall be persons who are blind, as defined in G.S. 111-11 and who are not employed by the Division of Services for the Blind.

(d) The Commission for the Blind shall select a Chairperson from among its members.

(e) The term of office of members of the Commission is three years. The term of members appointed under subdivisions (1), (2), (3), (4), and (12a) of subsection (a) of this section shall expire on June 30 of years evenly divisible by three. The term of members appointed under subdivisions (5), (6), (7), (8), and (12b) of subsection (a) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. The term of members appointed under subdivisions (9), (10), (11), (12), and (12c)

of subsection (a) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three.

(f) No individual may be appointed to more than two consecutive three-year terms. Upon the expiration of a term, a member shall continue to serve until a successor is appointed, as provided by G.S. 128-7. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(g) A member of the Commission shall not vote on any issue before the Commission that would have a significant and predictable effect on the member's financial interest. The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(h) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(i) A majority of the Commission shall constitute a quorum for the transaction of business.

(j) All clerical and other services required by the Commission shall be supplied by the Secretary of Health and Human Services. (1973, c. 476, s. 140; 1977, c. 581; 1993, c. 561, s. 89(b); 1997-443, s. 11A.118(a); 2000-121, s. 31; 2013-360, s. 12A.14(b); 2015-241, s. 15.11(f).)

§ 143B-159. Commission for the Blind – regular and special meetings.

The Commission for the Blind shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members. (1973, c. 476, s. 141.)

§ 143B-160. Commission for the Blind – officers.

The Commission for the Blind shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term. (1973, c. 476, s. 142.)

Part 8. Professional Advisory Committee.

§§ 143B-161, 143B-162: Repealed by Session Laws 2013-360, s. 12A.14(a), effective July 1, 2013.

Part 9. Consumer and Advocacy Advisory Committee for the Blind.

§ 143B-163. Consumer and Advocacy Advisory Committee for the Blind – creation, powers and duties.

(a) There is hereby created the Consumer and Advocacy Advisory Committee for the Blind of the Department of Health and Human Services. This Committee shall make a continuing study of the entire range of problems and needs of the blind and visually impaired population of this State and make specific recommendations to the Secretary of Health and Human Services as to how these may be solved or alleviated through legislative action. The Committee shall examine

national trends and programs of other states, as well as programs and priorities in North Carolina. Because of the cost of treating persons who lose their vision, the Committee's role shall also include studying and making recommendations to the Secretary of Health and Human Services concerning methods of preventing blindness and restoring vision.

(b) The Consumer and Advocacy Advisory Committee for the Blind shall advise all State boards, commissions, agencies, divisions, departments, schools, corporations, or other State-administered associations or entities, including the secretary, director and members of said boards, commissions, agencies, divisions, departments, schools, et cetera, on the needs of the citizens of the State of North Carolina who are now or will become visually impaired.

(c) The Consumer and Advocacy Advisory Committee for the Blind shall also advise every State board, commission, agency, division, department, school, corporation, or other State-administered associations or entity concerning sight conservation programs that it supervises, administers or controls.

(d) All State boards, commissions, agencies, divisions, departments, schools, corporations, or other State-administered associations or entities including the secretary, director and members of said State boards, agencies, departments, et cetera, which supervise, administer or control any program for or affecting the citizens of the State of North Carolina who are now or will become visually impaired shall inform the Consumer and Advocacy Advisory Committee for the Blind of any proposed change in policy, program, budget, rule, or regulation which will affect the citizens of North Carolina who are now or will become visually impaired. Said board, commission, et cetera, shall allow the Consumer and Advocacy Advisory Committee for the Blind, prior to passage, unless such change is made pursuant to G.S. 150B-21.1, an opportunity to object to the change and present information and proposals on behalf of the citizens of North Carolina who are now or will become visually impaired. This subsection shall also apply to all sight conservation programs of the State of North Carolina.

(e) Nothing in this statute shall prohibit a board, commission, agency, division, department, et cetera, from implementing any change after allowing the Consumer and Advocacy Advisory Committee for the Blind an opportunity to object and propose alternatives. Shifts in budget items within a program or administrative changes in a program required in the day-to-day operation of an agency, department, or school, et cetera, shall be allowed without prior consultation with said Committee. (1977, c. 842, s. 1; c. 1050; 1979, c. 973, s. 1; 1987, c. 827, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 44; 1997-443, s. 11A.118(a); 2000-121, s. 32.)

§ 143B-164. Consumer and Advocacy Advisory Committee for the Blind – members; selection; quorum; compensation.

(a) The Consumer and Advocacy Advisory Committee for the Blind of the Department of Health and Human Services shall consist of the following members:

(1) One member of the North Carolina Senate to be appointed by the President Pro Tempore of the Senate;
(2) One member of the North Carolina House of Representatives to be appointed by the Speaker of the House of Representatives;
(3) President and Vice-President of the National Federation of the Blind of North Carolina;
(4) President and Vice-President of the North Carolina Council of the Blind;
(5) President and Vice-President of the North Carolina Association of Workers for the Blind;

(6) President and Vice-President of the North Carolina Chapter of the American Association of Workers for the Blind;

(7) Chairman of the State Council of the North Carolina Lions and Executive Director of the North Carolina Lions Association for the Blind, Inc.;

(8) Chairman of the Concession Stand Committee of the Division of Services for the Blind of the Department of Health and Human Services; and

(9) Executive Director of the North Carolina Society for the Prevention of Blindness, Inc.

With respect to members appointed from the General Assembly, these appointments shall be made in the odd-numbered years, and the appointments shall be made for two-year terms beginning on the first day of July and continuing through the 30th day of June two years thereafter; provided, such appointments shall be made within two weeks after ratification of this act, and the first members which may be so appointed prior to July 1 of the year of ratification shall serve through the 30th day of June of the second year thereafter. If any Committee member appointed from the General Assembly ceases to be a member of the General Assembly, for whatever reason, his position on the Committee shall be deemed vacant. In the event that either Committee position which is designated herein to be filled by a member of the General Assembly becomes vacant during a term, for whatever reason, a successor to fill that position shall be appointed for the remainder of the unexpired term by the person who made the original appointment or his successor. Provided members appointed by the President Pro Tempore of the Senate and the Speaker of the House shall not serve more than two complete consecutive terms.

With respect to the remaining Committee members, each officeholder shall serve on the Committee only so long as he holds the named position in the specified organization. Upon completion of his term, failure to secure reelection or appointment, or resignation, the individual shall be deemed to have resigned from the Committee and his successor in office shall immediately become a member of the Committee. Further, if any of the above-named organizations dissolve or if any of the above-stated positions no longer exist, then the successor organization or position shall be deemed to be substituted in the place of the former one and the officeholder in the new organization or of the new position shall become a member of the Committee.

(b) A chairman shall be elected by a majority vote of the Committee members for a one-year term to coincide with the fiscal year of the State. Provided, the first chairman shall be elected for a term to end June 30, 1978.

Provided, further, if any chairman does not desire or is unable to continue to perform as chairman for any reason, including his becoming ineligible to be a member of the Committee as specified in subsection (a), the remaining members shall elect a chairman to fulfill the remainder of his term.

(c) A majority of the members shall constitute a quorum for the transaction of business.

(d) The Committee shall meet once a quarter to act upon any information provided them by any board, commission, agency, division, department, school, et cetera. Special meetings may be held at any time and place within the State at the call of the chairman or upon written request of at least a majority of the members. Provided, a majority of the members shall be allowed to waive any meeting.

(e) All clerical and other services required by the Committee shall be supplied by the Secretary of Health and Human Services.

(f) Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. (1977, c. 842, s. 1; c. 1050; 1979, c. 973, s. 2; 1991, c. 739, s. 27; 1997-443, s. 11A.118(a).)

§§ 143B-164.1 through 143B-164.9. Reserved for future codification purposes.

Part 9A. State School for Sight-Impaired Children.

§§ 143B-164.10 through 143B-164.18: Repealed by Session Laws 2013-247, s. 1(b), effective July 3, 2013.

Part 10. North Carolina Medical Care Commission.

§ 143B-165. North Carolina Medical Care Commission – creation, powers and duties.

There is hereby created the North Carolina Medical Care Commission of the Department of Health and Human Services with the power and duty to promulgate rules and regulations to be followed in the construction and maintenance of public and private hospitals, medical centers, and related facilities with the power and duty to adopt, amend and rescind rules and regulations under and not inconsistent with the laws of the State necessary to carry out the provisions and purposes of this Article.

(1) The North Carolina Medical Care Commission has the duty to adopt statewide plans for the construction and maintenance of hospitals, medical centers, and related facilities, or such other as may be found desirable and necessary in order to meet the requirements and receive the benefits of any federal legislation with regard thereto.

(2) The Commission is authorized to adopt such rules and regulations as may be necessary to carry out the intent and purposes of Article 13 of Chapter 131 of the General Statutes of North Carolina.

(3) The Commission may adopt such reasonable and necessary standards with reference thereto as may be proper to cooperate fully with the Surgeon General or other agencies or departments of the United States and the use of funds provided by the federal government as contained and referenced in Article 13 of Chapter 131 of the General Statutes of North Carolina.

(4) The Commission shall have the power and duty to approve projects in the amounts of grants-in-aid from funds supplied by the federal and State governments for the planning and construction of hospitals and other related medical facilities according to the provisions of Article 13 of Chapter 131 of the General Statutes of North Carolina.

(5) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1388, s. 3.

(6) The Commission has the duty to adopt rules and regulations and standards with respect to the different types of hospitals to be licensed under the provisions of Article 13A of Chapter 131 of the General Statutes of North Carolina.

(7) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for medical facility services and licensure which may be made available to the State by the federal government.

This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(8) The Commission shall adopt such rules and regulations, consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the North Carolina Medical Care Commission shall remain in full force and effect unless and until repealed or superseded by action of the North Carolina Medical Care Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Health and Human Services.

(9) The Commission shall have the power and duty to adopt rules and regulations with regard to emergency medical services in accordance with the provisions of Article 26 of Chapter 130 and Article 56 of Chapter 143 of the General Statutes of North Carolina.

(10) The Commission shall have the power and duty to adopt rules for the operation of nursing homes, as defined by Article 6 of Chapter 131E of the General Statutes.

(11) The Commission is authorized to adopt such rules as may be necessary to carry out the provisions of Part C of Article 6, and Article 10, of Chapter 131E of the General Statutes of North Carolina.

(12) The Commission shall adopt rules, including temporary rules pursuant to G.S. 150B-13, providing for the accreditation of facilities that perform mammography procedures and for laboratories evaluating screening pap smears. Mammography accreditation standards shall address, but are not limited to, the quality of mammography equipment used and the skill levels and other qualifications of personnel who administer mammographies and personnel who interpret mammogram results. The Commission's standards shall be no less stringent than those established by the United States Department of Health and Human Services for Medicare/Medicaid coverage of screening mammography. These rules shall also specify procedures for waiver of these accreditation standards on an individual basis for any facility providing screening mammography to a significant number of patients, but only if there is no accredited facility located nearby. The Commission may grant a waiver subject to any conditions it deems necessary to protect the health and safety of patients, including requiring the facility to submit a plan to meet accreditation standards.

(13) The Commission shall have the power and duty to adopt rules for the inspection and licensure of adult care homes and operation of adult care homes, as defined by Article 1 of Chapter 131D of the General Statutes, and for personnel requirements of staff employed in adult care homes, except where rule-making authority is assigned to the Secretary. (1973, c. 476, s. 148; c. 1090, s. 2; c. 1224, s. 3; 1981, c. 614, s. 10; 1981 (Reg. Sess.,1982), c. 1388, s. 3; 1983 (Reg. Sess., 1984), c. 1022, s. 6; 1987, c. 34; 1991, c. 490, s.4; 1997-443, s. 11A.118(a); 1999-334, ss. 3.6, 3.7).

§ 143B-166. North Carolina Medical Care Commission – members; selection; quorum; compensation.

The North Carolina Medical Care Commission of the Department of Health and Human Services shall consist of 17 members appointed by the Governor. Three of the members appointed by the Governor shall be nominated by the North Carolina Medical Society, one member shall be nominated by the North Carolina Nurses Association, one member shall be nominated by the North Carolina Pharmaceutical Association, one member nominated by the Duke Foundation and one member nominated by the North Carolina Hospital Association. The remaining 10 members of the North Carolina Medical Care Commission shall be appointed by the Governor and selected so as to fairly represent agriculture, industry, labor, and other interest groups in North Carolina. One such member appointed by the Governor shall be a dentist licensed to practice in North Carolina. The initial members of the Commission shall be 18 members of the North Carolina Medical Care Commission who shall serve for a period equal to the remainder of their current terms on the North Carolina Medical Care Commission, six of whose appointments expire June 30, 1973, four of whose appointments expire June 30, 1974, four of whose appointments expire June 30, 1975, and four of whose appointments expire June 30, 1976. To achieve the required 17 members the Governor shall appoint three members to the Commission upon the expiration of four members' initial terms on June 30, 1973. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

Vacancies on said Commission among the membership nominated by a society, association, or foundation as hereinabove provided shall be filled by the Executive Committee or other authorized agent of said society, association or foundation until the next meeting of the society, association or foundation at which time the society, association or foundation shall nominate a member to fill the vacancy for the unexpired term.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Health and Human Services. (1973, c. 476, s. 149; c. 1090, s. 2; 1997-443, s. 11A.118(a).)

§ 143B-167. North Carolina Medical Care Commission – regular and special meetings.

The North Carolina Medical Care Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least nine members. (1973, c. 476, s. 150; c. 1090, s. 2.)

§ 143B-168. North Carolina Medical Care Commission – officers.

The North Carolina Medical Care Commission shall have a chairman and vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term. (1973, c. 476, s. 151; c. 1090, s. 2.)

Part 10A. Child Day-Care Commission.

§ 143B-168.1. Repealed by Session Laws 1987, c. 788, s. 23.

§ 143B-168.2. Repealed by Session Laws 1987, c. 788, s. 24.

§ 143B-168.3. Child Care Commission – powers and duties.

(a) The Child Day-Care Licensing Commission of the Department of Administration is transferred, recodified, and renamed the Child Care Commission of the Department of Health and Human Services with the power and duty to adopt rules to be followed in the licensing and operation of child care facilities as provided by Article 7 of Chapter 110 of the General Statutes.

(a1) The Child Care Commission shall adopt rules:

(1) For the issuance of licenses to any child care facility; and

(2) To adopt rules as provided by Article 7 of Chapter 110 of the General Statutes of the State of North Carolina, and to establish standards for enhanced program licenses, as authorized by G.S. 110-88(7).

(b) The Commission shall adopt rules consistent with the provisions of this Chapter. All rules not inconsistent with the provisions of this Chapter heretofore adopted by the Child Day-Care Licensing Commission shall remain in full force and effect unless and until repealed or superseded by action of the Child Care Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Health and Human Services. (1985, c. 757, s. 155(a); 1987, c. 788, ss. 25, 26; 1997-443, s. 11A.118(a); 1997-456, s. 27; 1997-506, s. 56.)

§ 143B-168.4. Child Care Commission – members; selection; quorum.

(a) The Child Care Commission of the Department of Health and Human Services shall consist of 17 members. Seven of the members shall be appointed by the Governor and 10 by the General Assembly, five upon the recommendation of the President Pro Tempore of the Senate, and five upon the recommendation of the Speaker of the House of Representatives. Four of the members appointed by the Governor, two by the General Assembly on the recommendation of the President Pro Tempore of the Senate, and two by the General Assembly on the recommendation of the Speaker of the House of Representatives, shall be members of the public who are not employed in, or providing, child care and who have no financial interest in a child care facility. Two of the foregoing public members appointed by the Governor, one of the foregoing public members recommended by the President Pro Tempore of the Senate, and one of the foregoing public members recommended by the Speaker of the House of Representatives shall be parents of children receiving child care services. Of the remaining two public members appointed by the Governor, one shall be a pediatrician currently licensed to practice in North Carolina. Three of the members appointed by the Governor shall be child care providers, one of whom shall be affiliated with a for profit child care center, one of whom shall be affiliated with a for profit family child care home, and one of whom shall be affiliated with a nonprofit facility. Two of the members appointed by the General Assembly on the recommendation of the President Pro Tempore of the Senate, and two by the General Assembly on recommendation of the Speaker of the House of Representatives, shall be child care providers, one affiliated with a for profit child care facility, and one affiliated

with a nonprofit child care facility. The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, and the General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint two early childhood education specialists. None may be employees of the State.

(b) Members shall be appointed as follows:

(1) Of the Governor's initial appointees, four shall be appointed for terms expiring June 30, 2015, and three shall be appointed for terms expiring June 30, 2016;

(2) Of the General Assembly's initial appointees appointed upon recommendation of the President Pro Tempore of the Senate, three shall be appointed for terms expiring June 30, 2015, and two shall be appointed for terms expiring June 30, 2016;

(3) Of the General Assembly's initial appointees appointed upon recommendation of the Speaker of the House of Representatives, two shall be appointed for terms expiring June 30, 2015, and three shall be appointed for terms expiring June 30, 2016.

Appointments by the General Assembly shall be made in accordance with G.S. 120-121. After the initial appointees' terms have expired, all members shall be appointed to serve two-year terms. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(c) A vacancy occurring during a term of office is filled:

(1) By the Governor, if the Governor made the initial appointment;

(2) By the General Assembly, if the General Assembly made the initial appointment in accordance with G.S. 120-122.

At its first meeting the Commission members shall elect a chairman to serve a two-year term. Chairmen shall be elected for two-year terms thereafter. The same member may serve as chairman for two consecutive terms.

Commission members may be reappointed and may succeed themselves for a maximum of four consecutive terms.

The Commission shall meet quarterly, and at other times at the call of the chairman or upon written request of at least six members.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Health and Human Services. (1985, c. 757, s. 155(a); 1987 (Reg. Sess., 1988), c. 896; 1989, c. 342; 1995, c. 490, s. 10; 1997-443, s. 11A.118(a); 1997-506, s. 57; 2011-145, s. 10.7(c); 2013-360, s. 12B.1(h); 2013-363, s. 4.2.)

§ 143B-168.5. Child Care – special unit.

There is established within the Department of Health and Human Services, Division of Child Development and Early Education, a special unit to deal primarily with violations involving child abuse and neglect in child care arrangements. The Child Care Commission shall make rules for the investigation of reports of child abuse or neglect and for

administrative action when child abuse or neglect is substantiated, pursuant to G.S. 110-88(6a), 110-105, 110-105.3, 110-105.4, 110-105.5, and 110-105.6. (1985, c. 757, s. 156(r); 1991, c. 273, s. 12; 1997-443, s. 11A.118(a); 1997-506, s. 58; 2017-102, s. 23.)

§§ 143B-168.6 through 143B-168.9. Reserved for future codification purposes.

Part 10B. Early Childhood Initiatives.

§ 143B-168.10. Early childhood initiatives; findings.

The General Assembly finds, upon consultation with the Governor, that every child can benefit from, and should have access to, high-quality early childhood education and development services. The economic future and well-being of the State depend upon it. To ensure that all children have access to high-quality early childhood education and development services, the General Assembly further finds that:

(1) Parents have the primary duty to raise, educate, and transmit values to young preschool children;

(2) The State can assist parents in their role as the primary caregivers and educators of young preschool children; and

(3) There is a need to explore innovative approaches and strategies for aiding parents and families in the education and development of young preschool children. (1993, c. 321, s. 254(a); 1998-212, s. 12.37B(a).)

§ 143B-168.10A. NC Pre-K Reports.

The Division of Child Development and Early Education shall submit an annual report no later than March 15 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Office of State Budget and Management, and the Fiscal Research Division. The report shall include the following:

(1) The number of children participating in the NC Pre-K program.

(2) The number of children participating in the NC Pre-K program who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.

(3) The expected NC Pre-K expenditures for the programs and the source of the local contributions.

(4) The results of an annual evaluation of the NC Pre-K program. (2012-142, s. 10.1(g).)

§ 143B-168.10B: Repealed by Session Laws 2018-5, s. 11B.1(a), as added by 2018-2, s. 7, effective July 1, 2018.

§ 143B-168.10C. Adjustments to NC Prekindergarten Program Funds.

When developing the base budget, as defined by G.S. 143C-1-1, the Director of the Budget shall include increased funding for the NC Prekindergarten (NC Pre-K) program

by an additional nine million three hundred fifty thousand dollars ($9,350,000) for the 2019-2020 fiscal year and by an additional eighteen million seven hundred thousand dollars ($18,700,000) for the 2020-2021 fiscal year. An appropriation under this section is a statutory appropriation as defined in G.S. 143C-1-1(d)(28). (2018-5, s. 11B.1(b).)

§ 143B-168.11. Early childhood initiatives; purpose; definitions.

(a) The purpose of this Part is to establish a framework whereby the General Assembly, upon consultation with the Governor, may support through financial and other means, the North Carolina Partnership for Children, Inc. and comparable local partnerships, which have as their missions the development of a comprehensive, long-range strategic plan for early childhood development and the provision, through public and private means, of high-quality early childhood education and development services for children and families. It is the intent of the General Assembly that communities be given the maximum flexibility and discretion practicable in developing their plans while remaining subject to the approval of the North Carolina Partnership and accountable to the North Carolina Partnership and to the General Assembly for their plans and for the programmatic and fiscal integrity of the programs and services provided to implement them.

(b) The following definitions apply in this Part:

(1) Board of Directors. – The Board of Directors of the North Carolina Partnership for Children, Inc.

(2) Department. – The Department of Health and Human Services.

(2a) Early Childhood. – Birth through five years of age.

(3) Local Partnership. – A county or regional private, nonprofit 501(c)(3) organization established to coordinate a local demonstration project, to provide ongoing analyses of their local needs that must be met to ensure that the developmental needs of children are met in order to prepare them to begin school healthy and ready to succeed, and, in consultation with the North Carolina Partnership and subject to the approval of the North Carolina Partnership, to provide programs and services to meet these needs under this Part, while remaining accountable for the programmatic and fiscal integrity of their programs and services to the North Carolina Partnership.

(4) North Carolina Partnership. – The North Carolina Partnership for Children, Inc.

(5) Secretary. – The Secretary of Health and Human Services. (1993, c. 321, s. 254(a); 1993 (Reg. Sess., 1994), c. 766, s. 1; 1997-443, s. 11A.118(a); 1998-212, s. 12.37B(a).)

§ 143B-168.12. North Carolina Partnership for Children, Inc.; conditions.

(a) In order to receive State funds, the following conditions shall be met:

(1) The North Carolina Partnership shall have a Board of Directors consisting of the following 26 members:

a. The Secretary of Health and Human Services, ex officio, or the Secretary's designee.

b. Repealed by Session Laws 1997, c. 443, s. 11A.105.

c. The Superintendent of Public Instruction, ex officio, or the Superintendent's designee.

d. The President of the Community Colleges System, ex officio, or the President's designee.

e. Three members of the public, including one child care provider, one other who is a parent, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate.

f. Three members of the public, including one who is a parent, one other who is a representative of the faith community, and one other who is a board chair or designee of the board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives.

g. Twelve members, appointed by the Governor. Three of these 12 members shall be members of the party other than the Governor's party, appointed by the Governor. Seven of these 12 members shall be appointed as follows: one who is a child care provider, one other who is a pediatrician, one other who is a health care provider, one other who is a parent, one other who is a member of the business community, one other who is a member representing a philanthropic agency, and one other who is an early childhood educator.

h. Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.

h1. The Chair of the North Carolina Partnership Board shall be appointed by the Governor.

i. Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.

j. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the Senate.

k. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the House of Representatives.

l. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the Senate.

m. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the House of Representatives.

n. The Director of the NC Pre-K Program, or the Director's designee.

All members appointed to succeed the initial members and members appointed thereafter shall be appointed for three-year terms. Members may succeed themselves.

All appointed board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the North Carolina Partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the North Carolina Partnership regarding the disbursement of funds.

All ex officio members are voting members. Each ex officio member may be represented by a designee. These designees shall be voting members. No members of the General Assembly shall serve as members.

The North Carolina Partnership may establish a nominating committee and, in making their recommendations of members to be appointed by the General Assembly or by the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Majority Leader of the Senate, the Majority Leader of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, and the Governor shall consult with and consider the recommendations of this nominating committee.

The North Carolina Partnership may establish a policy on members' attendance, which policy shall include provisions for reporting absences of at least three meetings immediately to the appropriate appointing authority.

Members who miss more than three consecutive meetings without excuse or members who vacate their membership shall be replaced by the appropriate appointing authority, and the replacing member shall serve either until the General Assembly and the Governor can appoint a successor or until the replaced member's term expires, whichever is earlier.

The North Carolina Partnership shall establish a policy on membership of the local boards. No member of the General Assembly shall serve as a member of a local board. Within these requirements for local board membership, the North Carolina Partnership shall allow local partnerships that are regional to have flexibility in the composition of their boards so that all counties in the region have adequate representation.

All appointed local board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the partnership regarding the disbursement of funds.

(2) The North Carolina Partnership and the local partnerships shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department. The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.

(3) The North Carolina Partnership shall oversee the development and implementation of the local demonstration projects as they are selected and shall approve the ongoing plans, programs, and services developed and implemented by the local partnerships and hold the local partnerships accountable for the financial and programmatic integrity of the programs and services. The North Carolina Partnership may contract at the State level to obtain services or resources when the North Carolina Partnership determines it would be more efficient to do so.

In the event that the North Carolina Partnership determines that a local partnership is not fulfilling its mandate to provide programs and services designed to meet the developmental needs of children in order to prepare them to begin school healthy and ready to succeed and is not being accountable for the programmatic and fiscal integrity of its programs and services, the North Carolina Partnership may suspend all funds to the partnership until the partnership demonstrates that these defects are corrected. Further, at its discretion, the North Carolina Partnership may assume the managerial responsibilities for the partnership's programs and services until the North Carolina Partnership determines that it is appropriate to return the programs and services to the local partnership.

(4) The North Carolina Partnership shall develop and implement a comprehensive standard fiscal accountability plan to ensure the fiscal integrity and accountability of State funds appropriated to it and to the local partnerships. The standard fiscal accountability plan shall, at a minimum, include a uniform, standardized system of accounting, internal controls, payroll, fidelity bonding, chart of accounts, and contract management and monitoring. The North Carolina Partnership may contract with outside firms to develop and implement the standard fiscal accountability plan. All local partnerships shall be required to participate in the standard fiscal accountability plan developed and adopted by the North Carolina Partnership pursuant to this subdivision.

(5) Repealed by Session Laws 2011-145, s. 10.5(b), effective July 1, 2011.

(6) The North Carolina Partnership shall develop a formula for allocating direct services funds appropriated for this purpose to local partnerships.

(7) The North Carolina Partnership may adjust its allocations by up to ten percent (10%) on the basis of local partnerships' performance assessments. In determining whether to adjust its allocations to local partnerships, the North Carolina Partnership shall consider whether the local partnerships are meeting the outcome goals and objectives of the North Carolina Partnership and the goals and objectives set forth by the local partnerships in their approved annual program plans.

The North Carolina Partnership may use additional factors to determine whether to adjust the local partnerships' allocations. These additional factors shall be developed with input from the local partnerships and shall be communicated to the local partnerships when the additional factors are selected. These additional factors may include board involvement, family and community outreach, collaboration among public and private service agencies, and family involvement.

On the basis of performance assessments, local partnerships annually shall be rated "superior", "satisfactory", or "needs improvement".

The North Carolina Partnership may contract with outside firms to conduct the performance assessments of local partnerships.

(8) The North Carolina Partnership shall establish a local partnership advisory committee comprised of 15 members. Eight of the members shall be chosen from past board chairs or duly elected officers currently serving on local partnerships' board of directors at the time of appointment and shall serve

three-year terms. Seven of the members shall be staff of local partnerships. Members shall be chosen by the Chair of the North Carolina Partnership from a pool of candidates nominated by their respective boards of directors. The local partnership advisory committee shall serve in an advisory capacity to the North Carolina Partnership and shall establish a schedule of regular meetings. Members shall be chosen from local partnerships on a rotating basis. The advisory committee shall annually elect a chair from among its members.

(9) Repealed by Session Laws 2001-424, s. 21.75(h), effective July 1, 2001.

(b) The North Carolina Partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of the North Carolina Partnership.

(c) The North Carolina Partnership shall require each local partnership to place in each of its contracts a statement that the contract is subject to monitoring by the local partnership and North Carolina Partnership, that contractors and subcontractors shall be fidelity bonded, unless the contractors or subcontractors receive less than one hundred thousand dollars ($100,000) or unless the contract is for child care subsidy services, that contractors and subcontractors are subject to audit oversight by the State Auditor, and that contractors and subcontractors shall be subject to the requirements of G.S. 143C-6-22. Organizations subject to G.S. 159-34 shall be exempt from this requirement.

(d) The North Carolina Partnership for Children, Inc., shall make a report no later than December 1 of each year to the General Assembly that shall include the following:

(1) A description of the program and significant services and initiatives.
(2) A history of Smart Start funding and the previous fiscal year's expenditures.
(3) The number of children served by type of service.
(4) The type and quantity of services provided.
(5) The results of the previous year's evaluations of the Initiatives or related programs and services.
(6) A description of significant policy and program changes.
(7) Any recommendations for legislative action.

(e) The North Carolina Partnership shall develop guidelines for local partnerships to follow in selecting capital projects to fund. The guidelines shall include assessing the community needs in relation to the quantity of child care centers, assessing the cost of purchasing or constructing new facilities as opposed to renovating existing facilities, and prioritizing capital needs such as construction, renovations, and playground equipment and other amenities.

(f) The North Carolina Partnership for Children, Inc., shall establish uniform guidelines and a reporting format for local partnerships to document the qualifying expenses occurring at the contractor level. Local partnerships shall monitor qualifying expenses to ensure they have occurred and meet the requirements prescribed in this subsection. (1993, c. 321, s. 254(a); 1993 (Reg. Sess., 1994), c. 766, s. 1; 1995, c. 324, s. 27A.1; 1996, 2nd Ex. Sess., c. 18, s. 24.29(b); 1997-443, ss. 11.55(l), 11A.105; 1998-212, s. 12.37B(a), (b); 1999-84, s. 24; 1999-237, s. 11.48(a); 2000-67, s. 11.28(a); 2001-424, ss. 21.75(h), 21.75(i); 2002-126, s. 10.55(d); 2003-284, ss. 10.38(l), 10.38(m), 10.38(n);

2004-124, s. 10.37; 2006-203, s. 104; 2006-264, s. 1(b); 2007-323, s. 10.19B(a); 2009-451, s. 20C.1(a); 2011-145, s. 10.5(b); 2015-264, s. 78; 2016-30, s. 2.)

§ 143B-168.13. Implementation of program; duties of Department and Secretary.

(a) The Department shall:

(1) Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.

(1a) Develop and conduct a statewide needs and resource assessment every third year, beginning in the 1997-98 fiscal year. This needs assessment shall be conducted in cooperation with the North Carolina Partnership and with the local partnerships. This needs assessment shall include a statewide assessment of capital needs. The data and findings of this needs assessment shall form the basis for annual program plans developed by local partnerships and approved by the North Carolina Partnership.

(2) Recodified as (a)(1a) by Session Laws 1998-212, s. 12.37B(a).

(2a) Repealed by Session Laws 1998-212, s. 12.37B(l), effective October 30, 1998.

(3) Provide technical and administrative assitance to local partnerships, particularly during the first year after they are selected under this Part to receive State funds. The Department, at any time, may authorize the North Carolina Partnership or a governmental or public entity to do the contracting for one or more local partnerships. After a local partnership's first year, the Department may allow the partnership to contract for itself.

(4) Adopt, in cooperation with the North Carolina Partnership, any rules necessary to implement this Part, including rules to ensure that State leave policy is not applied to the North Carolina Partnership and the local partnerships. In order to allow local partnerships to focus on the development of long-range plans in their initial year of funding, the Department may adopt rules that limit the categories of direct services for young children and their families for which funds are made available during the initial year.

(5) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 24.29(c).

(6) Annually update its funding formula, in collaboration with the North Carolina Partnership for Children, Inc., using the most recent data available. These amounts shall serve as the basis for determining "full funding" amounts for each local partnership.

(b) Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998. (1993 (Reg. Sess., 1994), c. 766, s. 1; 1996, 2nd Ex. Sess., c. 18, s. 24.29(c); 1997-443, s. 11.55(m); 1998-212, s. 12.37B(a), (b); 2000-67, s. 11.28(b); 2002-126, s. 10.55(e).)

§ 143B-168.14. Local partnerships; conditions.

(a) In order to receive State funds, the following conditions shall be met:

(1) Each local partnership shall develop a comprehensive, collaborative, long-range plan of services to children and families in the service-delivery area. No existing local, private, nonprofit 501(c)(3) organization, other than one established on or after July 1, 1993, and that meets the guidelines for local partnerships as established under this Part, shall be eligible to apply to serve as the local partnership for the purpose of this Part. The Board of the North Carolina Partnership may authorize exceptions to this eligibility requirement.

(2) Each local partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department. The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.

(3) Each local partnership shall adopt procedures to ensure that all personnel who provide services to young children and their families under this Part know and understand their responsibility to report suspected child abuse, neglect, or dependency, as defined in G.S. 7B-101.

(4) Each local partnership shall participate in the uniform, standard fiscal accountability plan developed and adopted by the North Carolina Partnership.

(b) Each local partnership shall be subject to audit and review by the North Carolina Partnership. The North Carolina Partnership shall contract for annual financial and compliance audits of local partnerships that are rated "needs improvement" in performance assessments authorized in G.S. 143B-168.12(a)(7). Local partnerships that are rated "superior" or "satisfactory" in performance assessments authorized in G.S. 143B-168.12(a)(7) shall undergo biennial financial and compliance audits as contracted for by the North Carolina Partnership. The North Carolina Partnership shall provide the State Auditor with a copy of each audit conducted pursuant to this subsection. (1993 (Reg. Sess., 1994), c. 766, s. 1; 1996, 2nd Ex. Sess., c. 18, s. 24.29(d)(1); 1997-506, s. 59; 1998-202, s. 13(ll); 1998-212, s. 12.37B(a); 2003-284, s. 19.1; 2007-323, s. 10.19B(b); 2009-451, s. 20C.1(b).)

§ 143B-168.15. Use of State funds.

(a) State funds allocated to local projects for services to children and families shall be used to meet assessed needs, expand coverage, and improve the quality of these services. The local plan shall address the assessed needs of all children to the extent feasible. It is the intent of the General Assembly that the needs of both young children below poverty who remain in the home, as well as the needs of young children below poverty who require services beyond those offered in child care settings, be addressed. Therefore, as local partnerships address the assessed needs of all children, they should devote an appropriate amount of their State allocations, considering these needs and other available resources, to meet the needs of children below poverty and their families.

(b) Depending on local, regional, or statewide needs, funds may be used to support activities and services that shall be made available and accessible to providers, children, and families on a voluntary basis. Of the funds allocated to local partnerships for direct services, seventy percent (70%) of the funds spent in each year shall be used in child care related activities and early childhood education programs that improve access to child care and early childhood education services, develop new child care and early childhood education services, and improve the quality of child care and early childhood education services in all settings.

(c) Long-term plans for local projects that do not receive their full allocation in the first year, other than those selected in 1993, should consider how to meet the assessed needs of low-income children and families within their neighborhoods or communities. These

plans also should reflect a process to meet these needs as additional allocations and other resources are received.

(d) State funds designated for start-up and related activities may be used for capital expenses or to support activities and services for children, families, and providers. State funds designated to support direct services for children, families, and providers shall not be used for major capital expenses unless the North Carolina Partnership approves this use of State funds based upon a finding that a local partnership has demonstrated that (i) this use is a clear priority need for the local plan, (ii) it is necessary to enable the local partnership to provide services and activities to underserved children and families, and (iii) the local partnership will not otherwise be able to meet this priority need by using State or federal funds available to that local partnership. The funds approved for capital projects in any two consecutive fiscal years may not exceed ten percent (10%) of the total funds for direct services allocated to a local partnership in those two consecutive fiscal years.

(e) State funds allocated to local partnerships shall not supplant current expenditures by counties on behalf of young children and their families, and maintenance of current efforts on behalf of these children and families shall be sustained. State funds shall not be applied without the Secretary's approval where State or federal funding sources, such as Head Start, are available or could be made available to that county.

(f) Repealed by Session Laws 2001-424, s. 21.75(g), effective July 1, 2001.

(g) Not less than thirty percent (30%) of the funds spent in each year of each local partnership's direct services allocation shall be used to expand child care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child care services as described in this section. The North Carolina Partnership may increase this percentage requirement up to a maximum of fifty percent (50%) when, based upon a significant local waiting list for subsidized child care, the North Carolina Partnership determines a higher percentage is justified. Local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars ($52,000,000) for the Temporary Assistance to Needy Families (TANF) maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement. Funds allocated under this section shall supplement and not supplant any federal or State funds allocated to Department of Defense-certified child care facilities licensed under G.S. 110-106.2.

(h) State funds allocated to local partnerships that are unexpended at the end of a fiscal year shall remain available to the North Carolina Partnership for Children, Inc., to reallocate to local partnerships. (1993 (Reg. Sess., 1994), c. 766, s. 1; 1995, c. 509, s. 97; 1996, 2nd Ex. Sess., c. 18, s. 24.29(e); 1997-443, s. 11.55(n); 1997-506, s. 60; 1998-212, s. 12.37B(a), (b); 1999-237, s. 11.48(o); 2000-67, ss. 11.28(c), 11.28(d); 2001-424, s. 21.75(g); 2008-123, s. 2; 2014-100, s. 12B.2(b); 2015-241, s. 12B.9(b).)

§ 143B-168.16. Home-centered services; consent.

No home-centered services including home visits or in-home parenting training shall be allowed under this Part unless the written, informed consent of the participating parents authorizing the home-centered services is first obtained by the local partnership, educational

institution, local school administrative unit, private school, not-for-profit organization, governmental agency, or other entity that is conducting the parenting program. The participating parents may revoke at any time their consent for the home-centered services.

The consent form shall contain a clear description of the program including (i) the activities and information to be provided by the program during the home visits, (ii) the number of expected home visits, (iii) any responsibilities of the parents, (iv) the fact, if applicable, that a record will be made and maintained on the home visits, (v) the fact that the parents may revoke at any time the consent, and (vi) any other information as may be necessary to convey to the parents a clear understanding of the program.

Parents at all times shall have access to any record maintained on home-centered services provided to their family and may place in that record a written response to any information with which they disagree that is in the record. (1993 (Reg. Sess., 1994), c. 766, s. 1.)

Part 10C. Child Care Subsidy.

§ 143B-168.25. Child care funds matching requirements.

No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving its initial allocation of child care funds unless federal law requires a match. If the Department reallocates additional funds above twenty-five thousand dollars ($25,000) to local purchasing agencies beyond their initial allocation, local purchasing agencies must provide a twenty percent (20%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of an emergency as defined in G.S. 166A-19.3(6). (2017-57, s. 11B.6.)

§ 143B-168.26. Child care revolving loan.

Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program. (2017-57, s. 11B.6.)

§ 143B-168.27. Administrative allowance for county departments of social services; use of subsidy funds for fraud detection.

(a) The Department of Health and Human Services, Division of Child Development and Early Education (Division), shall fund the allowance that county departments of social services may use for administrative costs at four percent (4%) of the county's total child care subsidy funds allocated in the Child Care and Development Fund Block Grant plan or eighty thousand dollars ($80,000), whichever is greater.

(b) Each county department of social services may use up to two percent (2%) of child care subsidy funds allocated to the county for fraud detection and investigation initiatives.

(c) The Division may adjust the allocations in the Child Care and Development Fund Block Grant according to (i) the final allocations for local departments of social services under subsection (a) of this section and (ii) the funds allocated for fraud detection

and investigation initiatives under subsection (b) of this section. The Division shall submit a report on the final adjustments to the allocations of the four percent (4%) administrative costs to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than September 30 of each year. (2017-57, s. 11B.6.)

Part 11. Council for Institutional Boards.

§§ 143B-169 through 143B-172: Repealed by Session Laws 1979, c. 504, s. 9.

Part 12. Boards of Directors of Institutions.

§§ 143B-173 through 143B-176: Repealed by Session Laws 1989, c. 533, s. 3.

Part 12A. Board of Directors of the Governor Morehead School.

§§ 143B-176.1 through 143B-176.2: Recodified as §§ 143B-164.11 and 143B-164.12 by Session Laws 1997-18, ss. 13(b) and (c).

Part 13. Council on Developmental Disabilities.

§ 143B-177. Council on Developmental Disabilities – creation, powers and duties.

There is hereby created the Council on Developmental Disabilities of the Department of Health and Human Services. The Council on Developmental Disabilities shall have the following functions and duties:

(1) To advise the Secretary of Health and Human Services regarding the development and implementation of the State plan as required by Public Law 98-527, the Developmental Disabilities Act of 1984, by:
   a. Identifying ways and means of promoting public understanding of developmental disabilities;
   b. Examining the federally assisted State programs of all State agencies which provide services for persons with developmental disabilities;
   c. Describing the quality, extent and scope of services being provided, or to be provided, to persons with developmental disabilities in North Carolina;
   d. Recommending ways and means for coordination of programs to prevent duplication and overlapping of such services;
   e. Considering the need for new State programs and laws in the field of developmental disabilities; and
   f. Conducting activities which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

(2) To advise the Secretary of Health and Human Services regarding the coordination of planning and service delivery of all State-funded programs which provide service to persons with developmental disabilities by:
   a. Gathering, analyzing and interpreting individual and aggregate needs assessment data from all State agencies that provide services to developmentally disabled;
   b. Conducting special needs assessment studies as may be necessary;

c. Specifying and supporting activities that will enhance the services delivered by individual agencies by reducing barriers between agencies;
d. Identifying service development priorities that require cooperative interagency planning and development;
e. Providing coordinative and technical assistance in interagency planning and development efforts; and
f. Coordinating interagency training efforts that will promote more effective service delivery to persons with developmental disabilities.

(3) To advise the Secretary of Health and Human Services regarding other matters relating to developmental disabilities and upon any matter the Secretary may refer to it. (1973, c. 476, s. 167; 1987, c. 780; 1997-443, s. 11A.118(a).)

§ 143B-178. Council on Developmental Disabilities – definitions.

The following definitions apply to this Chapter:

(1) The term "developmental disability" means a severe, chronic disability of a person which:
a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
b. Is manifested before the person attains age 22, unless the disability is caused by a traumatic head injury and is manifested after age 22;
c. Is likely to continue indefinitely;
d. Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and
e. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

(2) The term "services for persons with developmental disabilities," as it is used in this Article, means:
a. Alternative community living arrangement services, employment related activities, child development services, and case management services; and
b. Any other specialized services or special adaptations of generic services including diagnosis, evaluation, treatment, personal care, child care, adult care, special living arrangements, training, education, sheltered employment, recreation and socialization, counseling of the individual with such a disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, nonvocational social-developmental services, and transportation services necessary to assure delivery of services to persons with developmental disabilities, and services to promote and coordinate activities to prevent developmental disabilities. (1973, c. 476, s. 168; 1977, c. 881, ss. 1, 2; 1979, c. 752, s. 1 1987, c. 780; 1995, c. 535, s. 33; 1997-506, s. 61.)

§ 143B-179. Council on Developmental Disabilities – members; selection; quorum; compensation.

(a) The Council on Developmental Disabilities of the Department of Health and Human Services shall consist of 32 members appointed by the Governor. The composition of the Council shall be as follows:

(1) Eleven members from the General Assembly and State government agencies as follows: One person who is a member of the Senate, one person who is a member of the House of Representatives, one representative of the Department of Public Instruction, one representative of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and seven representatives of the Department of Health and Human Services to include the Secretary or his designee.

(2) Sixteen members designated as consumers of service for the developmentally disabled. A consumer of services for the developmentally disabled is a person who (i) has a developmental disability or is the parent or guardian of such a person, or (ii) is an immediate relative or guardian of a person with mentally impairing developmental disability, and (iii) is not an employee of a State agency that receives funds or provides services under the provisions of Part B, Title 1, P.L. 98-527, as amended, the Developmental Disabilities Act of 1984, is not a managing employee (as defined in Section 1126(b) of the Social Security Act) of any other entity that receives funds or provides services under such Part, and is not a person with an ownership or control interest (within the meaning of Section 1124(a)(3) of the Social Security Act) with respect to such an entity. Of these 16 members, at least one third shall be persons with developmental disabilities and at least another one third shall be the immediate relatives or guardians of persons with mentally impairing developmental disabilities, of whom at least one shall be an immediate relative or guardian of an institutionalized developmentally disabled person.

(3) Five members at large as follows: One representative of the university affiliated facility, one representative of the State protection and advocacy system, one representative of a local agency, one representative of a nongovernmental agency or nonprofit group concerned with services to persons with developmental disabilities, and one representative from the public at large.

The appointments of all members, with the exception of those from the General Assembly and State agencies shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall make appropriate provisions for the rotation of membership on the Council.

(b) The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16.

The Governor shall designate one member of the Council to serve as chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the council shall be supplied by the Secretary of Health and Human Services. (1973, c. 476, s. 169; c. 1117; 1977, c. 881, s. 3; 1979, c. 752, s. 2; 1987, c. 780; 1997-443, s. 11A.118(a); 1997-456, s. 27; 2011-145, s. 19.1(h); 2017-186, s. 2(iiiiii).)

§§ 143B-179.1 through 143B-179.4. Reserved for future codification purposes.

Part 13A. Interagency Coordinating Council for Children with Disabilities from Birth to Five Years of Age.

§ 143B-179.5. Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families; establishment, composition, organization; duties, compensation, reporting.

(a) There is established an Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families in the Department of Health and Human Services.

(b) The Interagency Coordinating Council shall have 26 members, appointed by the Governor. Effective July 1, 1994, the Governor shall designate 13 appointees to serve for two years and 13 appointees to serve for one year. Thereafter, the terms of all Council members shall be two years. The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. Members may be appointed to succeed themselves for one term and may be appointed again, after being off the Council for one term.

The composition of the Council and the designation of the Council's chair shall be as specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the federal early intervention legislation, except that two members shall be members of the Senate, appointed from recommendations of the President Pro Tempore of the Senate and two members shall be members of the House of Representatives, appointed from recommendations of the Speaker of the House of Representatives.

(c) The chair may establish those standing and ad hoc committees and task forces as may be necessary to carry out the functions of the Council and appoint Council members or other individuals to serve on these committees and task forces. The Council shall meet at least quarterly. A majority of the Council shall constitute a quorum for the transaction of business.

(d) The Council shall advise the Department of Health and Human Services and other appropriate agencies in carrying out their early intervention services, and the Department of Public Instruction, and other appropriate agencies, in their activities related to the provision of special education services for preschoolers. The Council shall specifically address in its studies and evaluations that it considers necessary to its advising:

(1) The identification of sources of fiscal and other support for the early intervention system;
(2) The development of policies related to the early intervention services;
(3) The preparation of applications for available federal funds;
(4) The resolution of interagency disputes; and

(5) The promotion of interagency agreements.

(e) Members of the Council and parents on ad hoc committees and task forces of the Council shall receive travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) The Council shall prepare and submit an annual report to the Governor and to the General Assembly on the status of the early intervention system for eligible infants and toddlers and on the status of special education services for preschoolers.

All clerical and other services required by the Council shall be supplied by the Secretary of Health and Human Services and the Superintendent of Public Instruction, as specified by the interagency agreement authorized by G.S. 122C-112(a)(13). (1989 (Reg. Sess., 1990), c. 1003, s. 1; 1993, c. 487, s. 1; 1997-443, s. 11A.106; 2006-69, s. 3(o); 2006-259, s. 34.)

§ 143B-179.5A: Repealed by Session Laws 2008-85, s. 1, effective July 11, 2008.

§ 143B-179.6. Interagency Coordinating Council for Children with Disabilities from Birth to Five Years of Age; agency cooperation.

All appropriate agencies, including the Department of Health and Human Services and the Department of Public Instruction, and other public and private service providers shall cooperate with the Council in carrying out its mandate. (1989 (Reg. Sess., 1990), c. 1003, s. 1; 1997-443, s. 11A.107; 2006-69, s. 3(p).)

Part 14. Governor's Advisory Council on Aging; Division of Aging.

§ 143B-180. Governor's Advisory Council on Aging – creation, powers and duties.

There is hereby created the Governor's Advisory Council on Aging of the Department of Health and Human Services. The Advisory Council on Aging shall have the following functions and duties:

(1) To make recommendations to the Governor and the Secretary of Health and Human Services aimed at improving human services to the elderly;

(2) To study ways and means of promoting public understanding of the problems of the aging, to consider the need for new State programs in the field of aging, and to make recommendations to and advise the Governor and the Secretary on these matters;

(3) To advise the Department of Health and Human Services in the preparation of a plan describing the quality, extent and scope of services being provided, or to be provided, to elderly persons in North Carolina;

(4) To study the programs of all State agencies which provide services for elderly persons and to advise the Governor and the Secretary of Health and Human Services on the coordination of programs to prevent duplication and overlapping of such services;

(5) To advise the Governor and the Secretary of Health and Human Services upon any matter which the Governor and the Secretary may refer to it. (1973, c. 476, s. 171; 1977, c. 242, s. 1; 1983, c. 40, s. 1; 1997-443, s. 11A.118(a).)

§ 143B-181. Governor's Advisory Council on Aging – members; selection; quorum; compensation.

The Governor's Advisory Council on Aging of the Department of Health and Human Services shall consist of 33 members, 29 members to be appointed by the Governor, two members to be appointed by the President Pro Tempore of the Senate, and two members to be appointed by the Speaker of the House of Representatives. The composition of the Council shall be as follows: one representative of the Department of Administration; one representative of the Department of Natural and Cultural Resources; one representative of the Division of Employment Security; one representative of the Teachers' and State Employees' Retirement System; one representative of the Commissioner of Labor; one representative of the Department of Public Instruction; one representative of the Department of Environmental Quality; one representative of the Department of Insurance; one representative of the Department of Public Safety; one representative of the Department of Community Colleges; one representative of the School of Public Health of The University of North Carolina; one representative of the School of Social Work of The University of North Carolina; one representative of the Agricultural Extension Service of North Carolina State University; one representative of the collective body of the Medical Society of North Carolina; and 19 members at large. The at large members shall be citizens who are knowledgeable about services supported through the Older Americans Act of 1965, as amended, and shall include persons with greatest economic or social need, minority older persons, and participants in programs under the Older Americans Act of 1965, as amended. The Governor shall appoint 15 members at large who meet these qualifications and are 60 years of age or older. The four remaining members at large, two of whom shall be appointed by the President Pro Tempore of the Senate and two of whom shall be appointed by the Speaker of the House of Representatives, shall be broadly representative of the major private agencies and organizations in the State who are experienced in or have demonstrated particular interest in the special concerns of older persons. At least one of each of the at-large appointments of the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be persons 60 years of age or older. The Council shall meet at least quarterly.

Members at large shall be appointed for four-year terms and until their successors are appointed and qualify. Ad interim appointments shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate one member of the Council as chair to serve in such capacity at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Health and Human Services. (1973, c. 476, s. 172; 1975, c. 128, ss. 1, 2; 1977, c. 242, s. 2; c. 771, s. 4; 1983, c. 40, s. 2; 1989, c. 727, s. 218(127); 1993, c. 522, s. 16; 1995, c.

490, s. 3; 1997-443, s. 11A.108; 2011-145, s. 19.1(g); 2011-401, s. 3.19; 2015-241, ss. 14.30(s), (u).)

§ 143B-181.1. Division of Aging – creation, powers and duties.

(a) There is hereby created within the office of the Secretary of the Department of Health and Human Services a Division of Aging, which shall have the following functions and duties:

(1) To maintain a continuing review of existing programs for the aging in the State of North Carolina, and periodically make recommendations to the Secretary of Health and Human Services for transmittal to the Governor and the General Assembly as appropriate for improvements in and additions to such programs;

(2) To study, collect, maintain, publish and disseminate factual data and pertinent information relative to all aspects of aging. These include the societal, economic, educational, recreational and health needs and opportunities of the aging;

(3) To stimulate, inform, educate and assist local organizations, the community at large, and older people themselves about aging, including needs, resources and opportunities for the aging, and about the role they can play in improving conditions for the aging;

(4) To serve as the agency through which various public and nonpublic organizations concerned with the aged can exchange information, coordinate programs, and be helped to engage in joint endeavors;

(5) To provide advice, information and technical assistance to North Carolina State government departments and agencies and to nongovernmental organizations which may be considering the inauguration of services, programs, or facilities for the aging, or which can be stimulated to take such action;

(6) To coordinate governmental programs with private agency programs for aging in order that such efforts be effective and that duplication and wasted effort be prevented or eliminated;

(7) To promote employment opportunities as well as proper and adequate recreational use of leisure for older people, including opportunities for uncompensated but satisfying volunteer work;

(8) To identify research needs, encourage research, and assist in obtaining funds for research and demonstration projects;

(9) To establish or help to establish demonstration programs of services to the aging;

(10) To establish a fee schedule to cover the cost of providing in-home and community-based services funded by the Division. The fees may vary on the basis of the type of service provided and the ability of the recipient to pay for the service. The fees may be imposed on the recipient of a service unless prohibited by federal law. The local agency shall retain the fee and use it to extend the availability of in-home and community-based services provided by the Division in support of functionally impaired older adults and family caregivers of functionally impaired older adults;

(11) To administer a Home and Community Care Block Grant for older adults, effective July 1, 1992. The Home and Community Care Block Grant shall be

comprised of applicable Older Americans Act funds, Social Services Block Grant funding in support of the Respite Care Program (G.S. 143B-181.10), State funds for home and community care services administered by the Division of Aging, portions of the State In-Home and Adult Day Care funds (Chapter 1048, 1981 Session Laws) administered by the Division of Social Services which support services to older adults, and other funds appropriated by the General Assembly as part of the Home and Community Care Block Grant. Funding currently administered by the Division of Social Services to be included in the block grant will be based on the expenditures for older adults at a point in time to be mutually determined by the Divisions of Social Services and Aging. The total amount of Older Americans Act funds to be included in the Home and Community Care Block Grant and the matching rates for the block grant shall be established by the Department of Health and Human Services, Division of Aging. Allocations made to counties in support of older adults shall not be less than resources made available for the period July 1, 1990, through June 30, 1991, contingent upon availability of current State and federal funding; and

(12) To organize, coordinate, and provide staff support to the North Carolina Senior Tar Heel Legislature; [and]

(13) To develop a strategic State plan for Alzheimer's disease. The plan shall address ways to improve at least all of the following with respect to Alzheimer's disease:

a. Statewide awareness and education.
b. Early detection and diagnosis.
c. Care coordination.
d. Quality of care.
e. Health care system capacity.
f. Training for health care professionals.
g. Access to treatment.
h. Home- and community-based services.
i. Long-term care.
j. Caregiver assistance.
k. Research.
l. Brain health.
m. Data collection.
n. Public safety and safety-related needs of individuals with Alzheimer's disease.
o. Legal protections for individuals living with Alzheimer's disease and their caregivers.
p. State policies to assist individuals with Alzheimer's disease and their families.

(b) The Division shall function under the authority of the Department of Health and Human Services and the Secretary of Health and Human Services as provided in the Executive Organization Act of 1973 and shall perform such other duties as are assigned by the Secretary.

(c) The Secretary of Health and Human Services shall adopt rules to implement this Part and Title 42, Chapter 35, of the United States Code, entitled Programs for Older

Americans. (1977, c. 242, s. 4; 1981, c. 614, s. 19; 1987, c. 827, s. 244; 1991, c. 52, s. 1; c. 241, s. 1; 1993, c. 503, s. 2; 1997-443, s. 11A.118(a); 2014-100, s. 12D.5.)

§ 143B-181.1A. Plan for serving older adults; inventory of existing data; cooperation by State agencies.

(a) The Division of Aging and Adult Services of the Department of Health and Human Services shall submit a regularly updated plan to the General Assembly by July 1 of every other odd-numbered year, beginning March 1, 1995. This plan shall include:

(1) A detailed analysis of the needs of older adults in North Carolina, based on existing available data, including demographic, geographic, health, social, economic, and other pertinent indicators.

(2) A clear statement of the goals of the State's long-term public policy on aging.

(3) An analysis of services currently provided and an analysis of additional services needed.

(4) Specific implementation recommendations on expansion and funding of current and additional services and service levels.

(b) The Division of Aging and Adult Services of the Department of Health and Human Services shall maintain an inventory of existing data sets regarding the elderly in North Carolina, in order to ensure that adequate demographic, geographic, health, social, economic, and other pertinent indicators are available to generate its regularly updated Plan for Serving Older Adults.

Upon request, the Division of Aging and Adult Services shall make information on these data sets available within a reasonable time.

All State agencies and entities that possess data relating to the elderly, including the Department of Administration and the Divisions of Public Health, Health Service Regulation, and Social Services of the Department of Health and Human Services, shall cooperate, upon request, with the Division of Aging and Adult Services in implementing this subsection. (1989, c. 52, s. 1; c. 695, s. 1; 1995, c. 253, s. 1; 1997-443, s. 11A.118(a); 2007-182, s. 1; 2017-57, s. 11D.2.)

§ 143B-181.1B. Division as clearinghouse for information; agencies to provide information.

(a) The Division of Aging, Department of Health and Human Services, shall be the central clearinghouse for information regarding all State education and training programs available and being provided about and for the elderly in North Carolina.

(b) The Division of Aging, Department of Health and Human Services, shall produce and distribute annually an updated calendar of conferences, training events, and educational programs about and for the elderly in North Carolina.

(c) All State agencies and entities administering State or federal funding for education and training programs about and for the elderly shall provide to the Division of Aging by September 1 of each year all information required by the Division regarding conferences, training events, and educational programs provided about and for the elderly. (1989, c. 696, ss. 1-3; 1997-443, s. 11A.118(a).)

§ 143B-181.2. Assistant Secretary for Aging – appointment and duties.

(a) The Secretary of Health and Human Services shall appoint an assistant secretary in the Department of Health and Human Services, whose title shall be the Assistant Secretary for Aging. The Assistant Secretary for Aging shall monitor all aging programs in the Department of Health and Human Services and shall have such powers and duties as are conferred on him by this Part and delegated to him by the Secretary of Health and Human Services.

(b) The Assistant Secretary for Aging, through the appropriate subunits of the Department of Health and Human Services, shall, at the request of the Secretary, identify program needs for the aging, recommend program changes, coordinate intra-departmental program efforts, represent the Secretary in aging matters before boards and commissions, the General Assembly and the public, coordinate program contacts between the Department of Health and Human Services and private, State and federal agencies, initiate special studies on aging matters, and have the responsibility of assuring that services are delivered to the elderly of the State. (1977, c. 242, s. 4; 1997-443, s. 11A.118(a).)

Part 14A. Older Adults.

§ 143B-181.3. Older adults – findings; policy.

(a) The North Carolina General Assembly finds the following:

(1) Older adults should be able to live as independently as possible, and to live free from abuse, neglect, and exploitation.

(2) Older adults should have opportunities to be involved in their communities in ways they desire.

(3) Preventive and primary health care are necessary to assure optimal health and to enable active social and civic engagement by older adults.

(4) Sufficient opportunities for training in gerontology and geriatrics should be developed and readily available for individuals serving older adults.

(5) Older adults should have access to a broad range of services, supports, and opportunities, and they should have transportation options available to allow access to these services and to meet their daily needs and interests.

(6) Services for older adults should be person-centered and coordinated so that an individual's needs can be met efficiently, effectively, and in the least restrictive environment.

(7) Information should be readily available in each county on all programs and services for older adults.

(8) Older adults should have adequate opportunities for employment.

(9) Each county should have available a variety of housing options, including retirement housing, accessible affordable rental housing, and opportunities for residential home modifications, in order to allow older adults to remain in their communities.

(10) Older adults and their caregivers should have input in the planning and evaluation of programs and services for older adults, and they should have opportunities to advocate for these programs and services.

(11) The State should assist older adults who desire to remain as independent as possible and should encourage and support families in caring for their older members.

(b) It is the policy of the State to effectively utilize its resources to support and enhance the quality of life for older adults in North Carolina. (1979, c. 983, s. 1; 2010-66, s. 1.)

§ 143B-181.4. Responsibility for policy.

Responsibility for developing policy to carry out the purpose of this Part is vested in the Secretary of the Department of Health and Human Services as provided in G.S. 143B-181.1 who may assign responsibility to the Assistant Secretary for Aging. The Assistant Secretary for Aging shall, at the request of the Secretary, be the bridge between the federal and local level and shall review policies that affect the well being of older people with the goal of providing a balance in State programs to meet the social welfare and health needs of the total population. Responsibilities may include:

(1) Serving as chief advocate for older adults;
(2) Developing the State plan which will aid in the coordination of all programs for older people;
(3) Providing information and research to identify gaps in existing services;
(4) Promoting the development and expansion of services;
(5) Evaluation of programs;
(6) Bringing together the public and private sectors to provide services for older people. (1979, c. 983, s. 1; 1997-443, s. 11A.118(a).)

Part 14B. Long-Term Services and Supports.

§ 143B-181.5. Long-term services and supports – findings.

The North Carolina General Assembly finds that the aging of the population and advanced medical technology have resulted in a growing number of persons who require long-term services and supports. The primary resources for long-term assistance continues to be family and friends. However, these traditional caregivers are increasingly employed outside the home. There is growing demand for improvement and expansion of home and community-based long-term services and supports to complement the care provided by these informal caregivers.

The North Carolina General Assembly further finds that the public interest would best be served by a broad array of long-term services and supports that enable persons who need such services to remain in the home or in the community whenever practicable and that promote individual autonomy and dignity as these individuals exercise choice and control over their lives.

The North Carolina General Assembly finds that as other long-term service and support options become more readily available, the need for institutional care will stabilize or decline relative to the growing population of older adults and people living with disabilities. The General Assembly recognizes, however, that institutional care will continue to be a critical part of the State's long-term service and support options and that such care should promote individual dignity, autonomy, and a home like environment. (1981, c. 675, s. 1; 1995 (Reg. Sess., 1996), c. 583, s. 2; 2010-66, s. 2.)

§ 143B-181.6. Purpose and intent.

The development and implementation of policies for long-term services and supports should reflect the intent of the North Carolina General Assembly as follows:

(1) Long-term services and supports administered by the Department of Health and Human Services and other State and local agencies shall include a balanced array of health, social, and supportive services that are well coordinated to promote individual choice, dignity, and the highest practicable level of independence.

(2) Home and community-based services shall be developed, expanded, or maintained in order to meet the needs of consumers in the least confusing and least restrictive manner. Services should be based on the desires of older adults, persons with disabilities, their families, and others that support them.

(3) All services shall be responsive and appropriate to individual need and shall be delivered through a uniform and seamless system that is flexible and responsive regardless of funding source. Information and services shall be available through the effective use of Community Resource Connections for Aging and Disabilities as they are developed throughout the State.

(4) Services shall be available to all persons who need them, but shall be targeted primarily to those citizens who are the most frail and those with the greatest need.

(5) State and local agencies shall maximize the use of limited resources by establishing a fee system for persons who have the ability to pay.

(6) Care provided in facilities shall be offered in such a manner and in such an environment as to promote for each resident, maintenance of health, enhancement of the quality of life, and timely discharge to a less restrictive care setting when appropriate.

(7) State health planning for institutional bed supply shall take into account increased availability of home and community-based services options.

(8) In an effort to maximize the use of limited resources, State and local agencies shall invest in supports for families and other informal caregivers of persons requiring assistance.

(9) Emphasis shall be placed on offering evidence-based activities to promote healthy aging, prevent injuries, and manage chronic diseases and conditions.

(10) Individuals and families shall be encouraged and supported in planning for and financing their own future needs for long-term services and supports. (1981, c. 675, ss. 1, 2; 1995 (Reg. Sess., 1996), c. 583, s. 2; 1997-443, s. 11A.118(a); 2010-66, s. 2.)

§§ 143B-181.7 through 143B-181.9: Repealed by Session Laws 1995 (Regular Session, 1996), c. 583, s. 2.

§ 143B-181.9A: Repealed by Session Laws 1995, c. 179, s. 1.

Part 14C. Respite Care Program.

§ 143B-181.10. Respite care program established; eligibility; services; administration; payment rates.

(a) A respite care program is established to provide needed relief to caregivers of impaired adults who cannot be left alone because of mental or physical problems.

(b) Those eligible for respite care under the program established by this section are limited to those unpaid primary caregivers who are caring for people 60 years of age or older and their spouses, or those unpaid primary caregivers 60 years of age or older who are caring for persons 18 years of age or older, who require constant supervision and who cannot be left alone either because of memory impairment, physical immobility, or other problems that renders them unsafe alone.

(c) Respite care services provided by the programs established by this section may include:

(1) Counseling and training in the caregiving role, including coping mechanisms and behavior modification techniques;

(2) Counseling and accessing available local, regional, and State services;

(3) Support group development and facilitation;

(4) Assessment and care planning for the patient of the caregiver;

(5) Attendance and companion services for the patient in order to provide release time to the caregiver;

(6) Personal care services, including meal preparation, for the patient of the caregiver;

(7) Temporarily placing the person out of his home to provide the caregiver total respite when the mental or physical stress on the caregiver necessitates this type of respite.

Program funds may provide no more than the current adult care. An out of home placement is defined as placement in a hospital, skilled or intermediate nursing facility, adult care home, adult day health center, or adult day care center. Duration of the service period may extend beyond a year.

(d) The respite care program established by this section shall be administered by the Division of Aging consistent with the policies and procedures of the Older Americans Act. The programs shall be coordinated with other appropriate Divisions in the Department of Health and Human Services, and with agencies and organizations concerned with the delivery of services to frail older adults and their unpaid caregivers. The Division shall choose respite care provider agencies in accordance with procedures outlined under the Older Americans Act and shall include the following criteria: documented capacity to provide care, adequacy of quality assurance, training, supervision, abuse prevention, complaint mechanisms, and cost. All funds allocated by the Division pursuant to this section shall be allocated on the same basis as funding under the Older Americans Act.

(e) Funding for the Division of Aging to administer this program shall not exceed the percentage allowed for administration as provided in the Older Americans Act but shall not be less than that budgeted for administration in fiscal year 1988-89.

(f) Unless prohibited by federal law, caregivers receiving respite care services through the program established by this section shall pay for some of the services on a sliding scale depending on their ability to pay. The Division of Aging, in consultation with the Councils of Governments in each region, shall specify rates of payment for the services. (1985 (Reg. Sess., 1986), c. 1014, s. 7.1; 1989, c. 500, s. 96(a); c. 770, s. 63; 1991, c. 332, s. 1; 1995, c. 535, s. 34; 1997-443, s. 11A.118(a); 1998-97, s. 1; 2000-50, s. 1.)

§§ 143B-181.11 through 143B-181.14. Reserved for future codification purposes.

Part 14D. Long-Term Care Ombudsman Program.

§ 143B-181.15. Long-Term Care Ombudsman Program/Office; policy.

The General Assembly finds that a significant number of older citizens of this State reside in long-term care facilities and are dependent on others to provide their care. It is the intent of the General Assembly to protect and improve the quality of care and life for residents through the establishment of a program to assist residents and providers in the resolution of complaints or common concerns, to promote community involvement and volunteerism in long-term care facilities, and to educate the public about the long-term care system. It is the further intent of the General Assembly that the Department of Health and Human Services, within available resources and pursuant to its duties under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., and regulations promulgated thereunder, ensure that the quality of care and life for these residents is maintained, that necessary reports are made, and that, when necessary, corrective action is taken at the Department level. (1989, c. 403, s. 1; 1995, c. 254, s. 3; 1997-443, s. 11A.118(a); 2015-220, s. 2.)

§ 143B-181.16. Long-Term Care Ombudsman Program/Office; definition.

Unless the content clearly requires otherwise, as used in this Article:

(1) "Long-term care facility" means any skilled nursing facility and intermediate care facility as defined in G.S. 131A-3(4) or any adult care home as defined in G.S. 131D-20(2).

(1a) Reserved for future codification purposes.

(1b) "Programmatic supervision" means the monitoring of the performance of the duties of the Regional Ombudsman and ensuring that the Area Agency on Aging has personnel policies and procedures consistent with the laws and policies governing the Ombudsman Program as performed by the State Ombudsman.

(1c) "Regional Ombudsman" means a person employed by an Area Agency on Aging who is certified and designated by the State Ombudsman to carry out the functions of the Regional Ombudsman Office established by this Article, 42 U.S.C. § 3001, et seq. and regulations promulgated thereunder.

(2) "Resident" means any person who is receiving treatment or care in any long-term care facility.

(3) "State Ombudsman" means the State Ombudsman as defined by the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., and regulations promulgated thereunder, who carries out the duties and functions established by this Article and 42 U.S.C. § 3001, et seq. and regulations promulgated thereunder.

(4) "Willful interference" means actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the Ombudsman or a representative of the Office from performing any of the functions, responsibilities, or duties set forth in 42 U.S.C. § 3001 et seq., and regulations promulgated thereunder. (1989, c. 403, s. 1; 1995, c. 254, s. 2; c. 535, s. 35; 2015-220, s. 2.)

§ 143B-181.17. Office of State Long-Term Care Ombudsman Program/Office; establishment.

The Secretary of Department of Health and Human Services shall establish and maintain the Office of State Long-Term Ombudsman in the Division of Aging. The Office shall carry out the functions and duties required by the Older Americans Act of 1965, as amended, and as set forth in 42 U.S.C. § 3001 et seq. and regulations promulgated thereunder. This Office shall be headed by a State Ombudsman who is a person qualified by training and with experience in geriatrics and long-term care. The Attorney General shall provide legal staff and advice to this Office. (1989, c. 403, s. 1; 1997-443, s. 11A.118(a); 2015-220, s. 2.)

§ 143B-181.18. Office of State Long-Term Care Ombudsman Program/State Ombudsman duties.

The State Ombudsman shall perform the duties provided below:

(1) Promote community involvement with long-term care providers and residents of long-term care facilities and serve as liaison between residents, residents' families, facility personnel, and facility administration.

(2) Supervise the State Long-Term Care Ombudsman Program pursuant to rules adopted by the Secretary of the Department of Health and Human Services pursuant to G.S. 143B-10.

(3) Certify regional ombudsmen. Certification requirements shall include an internship, training in the aging process, complaint resolution, long-term care issues, mediation techniques, recruitment and training of volunteers, and relevant federal, State, and local laws, policies, and standards.

(3a) Designate certified Regional Ombudsmen as representatives of the Office of the State Long-Term Care Ombudsman as well as refuse, suspend, or remove designation as a representative of the Office of the State Long-Term Care Ombudsman in accordance with the State Long-Term Care Ombudsman Program Policies and Procedures.

(3b) Designate and refuse, suspend, or remove designation of volunteer representatives of the Office of the State Long-Term Care Ombudsman, including any community advisory committee appointees, in accordance with the State Long-Term Care Ombudsman Program Policies and Procedures.

(4) Attempt to resolve complaints made by or on behalf of individuals who are residents of long-term care facilities, which complaints relate to administrative action that may adversely affect the health, safety, or welfare of residents.

(5) Provide training and technical assistance to regional ombudsmen.

(6) Establish procedures for appropriate access by regional ombudsmen to long-term care facilities and residents' files, records, and other information, including procedures to protect the confidentiality of these files, records, and other information and to ensure that the identity of any complainant or resident will not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq. and regulations promulgated thereunder.

(7) Analyze data relating to complaints and conditions in long-term care facilities to identify significant problems and recommend solutions.

(8) Prepare an annual report containing data and findings regarding the types of problems experienced and complaints reported by residents as well as recommendations for resolutions of identified long-term care issues.

(9) Prepare findings regarding public education and community involvement efforts and innovative programs being provided in long-term care facilities.

(10) Provide information to public agencies, and through the State Ombudsman, to legislators, and others regarding problems encountered by residents or providers as well as recommendations for resolution.

(11) Provide leadership for statewide systems advocacy efforts of the Office on behalf of long-term care residents, including independent determinations and positions that shall not be required to represent the position of the State agency or other agency within which the Ombudsman Program is organizationally located. Provide coordination of systems advocacy efforts with representatives of the Office as outlined in Ombudsman Policies and Procedures.

(12) To the extent required to meet the requirement of the Older Americans Act and regulations promulgated thereunder regarding allotments for Vulnerable Elder Rights Protection Activities, the State Ombudsman and representatives of the Office are excluded from any State lobbying prohibitions under requirements to conduct systems advocacy on behalf of long-term care residents.

(13) Determine the use of the fiscal resources as required by 42 U.S.C. § 3001 et seq. and regulations promulgated thereunder. (1989, c. 403, s. 1; 1995, c. 254, s. 3; 1997-443, s. 11A.118(a); 2015-220, s. 2; 2017-103, s. 1(c).)

§ 143B-181.19. Office of Regional Long-Term Care Ombudsman; Regional Ombudsman; duties.

(a) An Office of Regional Ombudsman Program shall be established in each of the Area Agencies on Aging, and shall be headed by a designated Regional Ombudsman who shall carry out the functions and duties of the Office. The State Long-Term Care Ombudsman shall designate all Regional Ombudsmen housed within the Area Agency. The Area Agencies on Aging shall provide only personnel management for each Regional Ombudsman in accordance with personnel policies and procedures of the Agency that are consistent with federal and State Ombudsman law and policy. The State Ombudsman shall ensure that the Area Agency does not have personnel policies or practices that conflict with the laws and policies governing the Ombudsman Program.

(b) Pursuant to policies and procedures established by the State Office of Long-Term Care Ombudsman, a Regional Ombudsman shall:

(1) Promote community involvement with long-term care facilities and residents of long-term care facilities and serve as a liaison between residents, residents' families, facility personnel, and facility administration;

(2) Receive and attempt to resolve complaints made by or on behalf of residents in long-term care facilities;

(3) Collect data about the number and types of complaints handled;

(4) Work with long-term care providers to resolve issues of common concern;

(5) Work with long-term care providers to promote increased community involvement;
(6) Offer assistance to long-term care providers in staff training regarding residents' rights;
(7) Report regularly to the office of State Ombudsman about the data collected and about the activities of the Regional Ombudsman;
(8) Provide training and technical assistance to the community advisory committees; and
(9) Provide information to the general public on long-term care issues and with the authorization of the Office of the State Long-Term Care Ombudsman conduct systems advocacy activities on behalf of long-term care residents. (1989, c. 403, s. 1; 2015-220, s. 2.)

§ 143B-181.20. State/Regional Long-Term Care Ombudsman; authority to enter; cooperation of government agencies; communication with residents.

(a) The State and Regional Ombudsman may enter any long-term care facility at any time during regular visiting hours or at any other time when access may be required by the circumstances to be investigated, and may have access to any resident in the pursuit of his function. The Ombudsman may communicate privately and confidentially with residents of the facility individually or in groups. The Ombudsman shall have access to the resident's files, records, and other information as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., and regulations promulgated thereunder, and under procedures established by the State Ombudsman pursuant to G.S. 143B-181.18(6). Entry shall be conducted in a manner that will not significantly disrupt the provision of nursing or other care to residents and if the long-term care facility requires registration of all visitors entering the facility, then the State or Regional Ombudsman must also register. Any State or Regional Ombudsman who discloses any information obtained from the resident's records except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., and regulations promulgated thereunder, is guilty of a Class 1 misdemeanor.

(b) The State or Regional Ombudsman shall identify himself as such to the resident, and the resident has the right to refuse to communicate with the Ombudsman.

(c) The resident has the right to participate in planning any course of action to be taken on his behalf by the State or Regional Ombudsman, and the resident has the right to approve or disapprove any proposed action to be taken on his behalf by the Ombudsman.

(d) The State or Regional Ombudsman shall meet with the facility administrator or person in charge before any action is taken to allow the facility the opportunity to respond, provide additional information, or take appropriate action to resolve the concern.

(e) The State and Regional Ombudsman may obtain from any government agency, and this agency shall provide, that cooperation, assistance, services, data, and access to files and records that will enable the Ombudsman to properly perform his duties and exercise his powers, provided this information is not privileged by law.

(f) If the subject of the complaint involves suspected abuse, neglect, or exploitation, the Regional Ombudsman shall only with the written informed consent of the resident or

authorization by the State Ombudsman notify the Adult Protection Services section of the county department of social services. Except as provided herein, the State or Regional Ombudsman is not subject to the reporting requirements of Article 6 of Chapter 108A of the General Statutes. (1989, c. 403, s. 1; 1993, c. 539, s. 1038; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 254, s. 4; 2015-220, s. 2.)

§ 143B-181.21. State/Regional Long-Term Care Ombudsman; resolution of complaints.

(a) Following receipt of a complaint, the State or Regional Ombudsman shall attempt to resolve the complaint using, whenever possible, informal techniques of mediation, conciliation, and persuasion.

(b) Complaints or conditions adversely affecting residents of long-term care facilities that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the State or Regional Ombudsman to the appropriate licensure agency pursuant to G.S. 131E-100 through 110 and Part 1 of Article 1 of Chapter 131D of the General Statutes. (1989, c. 403, s. 1; 2009-462, s. 4(n); 2015-220, s. 2.)

§ 143B-181.22. State/Regional Long-Term Care Ombudsman; confidentiality.

The identity of any complainant, resident on whose behalf a complaint is made, or any individual providing information on behalf of the resident or complainant relevant to the attempted resolution of the complaint along with the files, records, and other information produced by the process of complaint resolution is confidential and shall be disclosed only as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq. (1989, c. 403, s. 1; 1995, c. 254, s. 5; 2015-220, s. 2.)

§ 143B-181.23. State/Regional Long-Term Care Ombudsman; prohibition of retaliation.

No person shall discriminate or retaliate in any manner against any resident or relative or guardian of a resident, any employee of a long-term care facility, or any other person because of the making of a complaint or providing of information in good faith to the State Ombudsman or Regional Ombudsman. The Department shall determine instances of discrimination or retaliation and assess a monetary penalty in the amount of two thousand five hundred dollars ($2,500) per incident. The Department shall adopt rules pertaining to this determination of discrimination or retaliation. (1989, c. 403, s. 1; 2015-220, s. 2.)

§ 143B-181.24. Office of State/Regional Long-Term Care Ombudsman; immunity from liability.

No representative of the Office shall be liable for good faith performance of official duties. (1989, c. 403.)

§ 143B-181.25. Office of State/Regional Long-Term Care Ombudsman; penalty for willful interference.

Willful or unnecessary obstruction with the State or Regional Long-Term Care Ombudsman in the performance of his official duties is a Class 1 misdemeanor and subject

to a fine of two thousand five hundred dollars ($2,500). (1989, c. 403, s. 1; 1993, c. 539, s. 1039; 1994, Ex. Sess., c. 24, s. 14(c); 2015-220, s. 2.)

§§ 143B-181.26 through 143B-181.49. Reserved for future codification purposes.

Part 14E. Standards for Alzheimer's Special Care Units.

§§ 143B-181.50 through 143B-181.54. Repealed by Session Laws 1999-334, s. 3.11.

Part 14F. Senior Tar Heel Legislature.

§ 143B-181.55. Creation, membership, meetings, organization, and adoption of measures.

(a) There is created the North Carolina Senior Tar Heel Legislature. It shall:

(1) Provide information and education to senior citizens on the legislative process and matters being considered by the General Assembly;

(2) Promote citizen involvement and advocacy concerning aging issues before the General Assembly; and

(3) Assess the legislative needs of older citizens by convening a forum modeled after the General Assembly.

(b) The delegates to the Senior Tar Heel Legislature shall be age 60 or over and shall be duly selected pursuant to procedures developed by the Department of Health and Human Services, Division of Aging, and approved by the Secretary of the Department in consultation with senior citizens advocacy groups who have given written notice to the Division of Aging that they desire to be consulted. The Senior Tar Heel Legislative Session shall be organized and coordinated by the Division with Area Agencies on Aging organizing the local election procedures and other related matters. At the conclusion of each session, the Senior Tar Heel Legislature shall make a report of that session's proceedings and recommendations to the General Assembly. Delegates to the Senior Tar Heel Legislature shall be from each county.

(c) The Senior Tar Heel Legislature is authorized to meet one day in March of every year beginning in 1994 but shall hold its first session no later than August 1993. The sessions shall be held in the State Capitol or in a building to be selected by the Governor or the Governor's designee. The Senior Tar Heel Legislature is authorized to adopt bylaws to govern its internal procedures and is authorized to adopt such recommendations as it deems appropriate to present to the General Assembly for consideration.

(d) A report of the proceedings of each session of the Senior Tar Heel Legislature shall be presented to the next Regular Session of the North Carolina General Assembly. (1993, c. 503, s. 1; 1997-443, s. 11A.118(a).)

Part 15. Mental Health Advisory Council.

§§ 143B-182 through 143B-183: Repealed by Session Laws 1981, c. 51, s. 13.

Part 16. Governor's Council on Employment of the Handicapped [Transferred.]

Part 16A. North Carolina Arthritis Program Committee.

§§ 143B-184 through 143B-185: Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1028, s. 28.

Part 17. Governor's Advocacy Council on Children and Youth.

§§ 143B-186 through 143B-187: Transferred to §§ 143B-414, 143B-415 by Session Laws 1977, c. 872, s. 6.

Part 18. Council on Sickle Cell Syndrome.

§§ 143B-188 through 143B-190: Recodified as §§ 130A-131 through 130A-131.2 by Session Laws 1989, c. 727, s. 179.

§§ 143B-191 through 143B-196: Repealed by Session Laws 1987, c. 822, s. 1.

Part 19. Commission for Human Skills and Resource Development.

§§ 143B-197 through 143B-201. Repealed by Session Laws 1979, c. 504, s. 10.

§§ 143B-202 through 143B-203: Repealed by Session Laws 1989, c. 727, s. 181.

Part 20. Commission of Anatomy.

§§ 143B-204 through 143B-206: Recodified as §§ 130A-33.30 through 130A-33.32 by Session Laws 1989, c. 727, s. 182(a).

Part 21. Youth Services Advisory Committee.

§§ 143B-207 through 143B-208: Repealed by Session Laws 1981, c. 50, s. 7.

Part 22. Human Tissue Advisory Council.

§ 143B-209. Repealed by Session Laws 1983, c. 891, s. 10, effective January 1, 1984.

Part 23. North Carolina Drug Commission.

§§ 143B-210 through 143B-212. Repealed by Session Laws 1981, c. 51, s. 7, effective July 1, 1981.

Part 24. North Carolina Council for the Hearing Impaired.

§§ 143B-213 through 143B-216.5B: Repealed by Session Laws 1989, c. 533, s. 1.

Part 25. Nutrition Advisory Committee.

§§ 143B-216.6 through 143B-216.7: Repealed by Session Laws 1979, c. 504, s. 13.

Part 26. Governor's Council on Physical Fitness and Health.

§§ 143B-216.8 through 143B-216.9: Recodified as §§ 130A-33.40, 130A-33.41 by Session Laws 1989, c. 727, s. 186.

Part 27. Governor's Waste Management Board.

§§ 143B-216.10 through 143B-216.15: Recodified as §§ 143B-285.10 through 143B-285.15 by Session Laws 1989, c. 727, s. 189.

§§ 143B-216.16 through 143B-216.19. Reserved for future codification purposes.

Part 28. North Carolina Council on the Holocaust.

§ 143B-216.20: Recodified as G.S. 143A-48.1(a) by Session Laws 2002-126, s. 10.10D(a), effective October 1, 2002.

§ 143B-216.21: Recodified as G.S. 143A-48.1(b) by Session Laws 2002-126, s. 10.10D(a), effective October 1, 2002.

§ 143B-216.22: Recodified as G.S. 143A-48.1(c) by Session Laws 2002-126, s. 10.10D(a), effective October 1, 2002.

§ 143B-216.23: Recodified as G.S. 143A-48.1(d) by Session Laws 2002-126, s. 10.10D(a), effective October 1, 2002.

§§ 143B-216.24 through 143B-216.29. Reserved for future codification purposes.

Part 29. Council for the Deaf and the Hard of Hearing; Division of Services for the Deaf and the Hard of Hearing.

§ 143B-216.30. Definitions.

The following definitions shall apply throughout this Part unless otherwise specified:

(1) "Council" means the Council for the Deaf and the Hard of Hearing of the Department of Health and Human Services.

(2) "Deaf" means the inability to hear and/or understand oral communication, with or without assistance of amplification devices.

(3) "Division" means the Division of Services for the Deaf and the Hard of Hearing of the Department of Health and Human Services.

(4) "Hard of hearing" means permanent hearing loss which is severe enough to necessitate the use of amplification devices to hear oral communication.

(5) "Ring signaling device" means a mechanism such as a flashing light which visually indicates that a communication is being received through a telephone line. This phrase also means mechanisms such as adjustable volume ringers and buzzers which audibly and loudly indicate an incoming telephone communication.

(6) "Speech impaired" means permanent loss of oral communication ability.

(7) "Telecommunications device" or "TDD" means a keyboard mechanism attached to or in place of a standard telephone by some coupling device, used to transmit or receive signals through telephone lines.

(8) "Volume control handset" means a telephone handset or other telephone listening device which has an adjustable control for increasing the volume of the sound being produced by the telephone receiving unit. (1989, c. 533, s. 2; 1997-443, s. 11A.118(a).)

§ 143B-216.31. Council for the Deaf and the Hard of Hearing – creation and duties.

There is hereby created the Council for the Deaf and the Hard of Hearing of the Department of Health and Human Services. The Council shall have duties including the following:

(1) To make recommendations to the Secretary of the Department of Health and Human Services for cost-effective provision, coordination, and improvement of services;

(2) To create public awareness of the specific needs and abilities of people who are deaf, hard of hearing, or deaf-blind and to consider the need for new State programs concerning the deaf, hard of hearing, and deaf-blind;

(3) To advise the Secretary of the Department of Health and Human Services during planning and implementation of services being provided to North Carolina citizens who are deaf, hard of hearing, or deaf-blind with respect to the quality, extent, and scope of those services;

(4) To advise the Secretary of the Department of Health and Human Services and the Superintendent of the Department of Public Instruction regarding planning, implementation, and cost-effective coordination of State programs providing educational services for persons who are deaf, hard of hearing, or deaf-blind; and

(5) To respond to the request of the Secretary of the Department of Health and Human Services for advice or recommendations pertaining to any matter affecting deaf, hard of hearing, or deaf-blind citizens of North Carolina. (1989, c. 533, s. 2; 1997-443, s. 11A.118(a); 2003-343, s. 1.)

§ 143B-216.32. Council for the Deaf and the Hard of Hearing – membership; quorum; compensation.

(a) The Council for the Deaf and the Hard of Hearing shall consist of 28 members. Twenty members shall be members appointed by the Governor. Three members appointed by the Governor shall be persons who are deaf and three members shall be persons who are hard of hearing. One appointment shall be an educator who trains deaf education teachers and one appointment shall be an audiologist licensed under Article 22 of Chapter 90 of the General Statutes. Three appointments shall be parents of deaf or hard of hearing children including one parent of a student in a residential school; one parent of a student in a preschool program; and one parent of a student in a mainstream education program, with at least one parent coming from each region of the North Carolina schools for the deaf regions. One member appointed by the Governor shall be recommended by the President of the North Carolina Association of the Deaf; one member shall be recommended by the President of the North Carolina Deaf-Blind Associates; one member shall be recommended by the North Carolina Chapter of Self Help for the Hard of Hearing (SHHH); one member shall be recommended by the North Carolina Black Deaf Advocates (NCBDA); one member shall be a representative from a facility that performs cochlear implants; one member shall be recommended by the President of the North Carolina Pediatric Society; one member shall be recommended by the President of the North Carolina Registry of Interpreters for the Deaf; one member shall be recommended by a local education agency; and one member shall be recommended by the Superintendent of Public Instruction. Two members shall be appointed from the House of Representatives by the Speaker of the House of Representatives and two members shall be appointed from the Senate by the President Pro Tempore of the Senate. The Secretary of Health and Human Services shall appoint four members as follows: one from the Division of Vocational Rehabilitation, one from the Division of Aging, one from the Division of Mental Health,

Developmental Disabilities, and Substance Abuse Services, and one from the Division of Social Services.

(b) The terms of the initial members of the Council shall commence July 1, 1989. In his initial appointments, the Governor shall designate four members who shall serve terms of five years, four who shall serve terms of four years, four who shall serve terms of three years, and three who shall serve terms of two years. After the initial appointees' terms have expired, all members shall be appointed for a term of four years. No member shall serve more than two successive terms unless the member is an employee of the Department of Health and Human Services or the Department of Public Instruction representing his or her agency as a specialist in the field of service.

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(c) The chairman of the Council shall be designated by the Secretary of the Department of Health and Human Services from the Council members. The chairman shall hold this office for not more than four years.

(d) The Council shall meet quarterly and at other times at the call of the chairman. A majority of the Council shall constitute a quorum.

(e) Council members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5.

(f) The Secretary of the Department of Health and Human Services shall provide clerical and other assistance as needed. (1989, c. 533, s. 2; 1993, c. 551, s. 1; 1997-443, s. 11A.118(a); 2001-424, s. 21.81(d); 2001-486, s. 2.14; 2003-343, s. 2.)

§ 143B-216.33. Division of Services for the Deaf and the Hard of Hearing – creation, powers and duties.

(a) There is hereby created within the Department of Health and Human Services, the Division of Services for the Deaf and the Hard of Hearing. The Division shall have the powers and duties including the following:

(1) To review existing programs for persons who are deaf or hard of hearing in the State, and make recommendations to the Secretary of the Department of Health and Human Services and to the Superintendent of the Department of Public Instruction for improvements to such programs;

(2) Repealed by Session Laws 1999-237, s. 11.4(b).

(3) To provide a network of resource centers for local access to services such as interpreters, information and referral, telephone relay, and advocacy for persons who are deaf or hard of hearing;

(4) To collect, study, maintain, publish and disseminate information relative to all aspects of deafness;

(5) To promote public awareness of the needs of, resources and opportunities available to persons who are deaf or hard of hearing;

(6) To provide technical assistance to agencies and organizations in the development of services to persons who are deaf or hard of hearing;

(7) To administer the Telecommunications Program for the Deaf pursuant to G.S. 143B-216.34; and

(8) To provide training and skill development programming to enhance the competence of individuals who aspire to be licensed or who are currently

licensed as interpreters or transliterators under Chapter 90D of the General Statutes.

(b) The Division shall function under the authority of the Department of Health and Human Services and the Secretary of the Department of Health and Human Services as provided in the Executive Organization Act of 1973 and shall perform such other duties as are assigned by the Secretary.

(c) The Department of Health and Human Services may receive monies from any source, including federal funds, gifts, grants and devises which shall be expended for the purposes designated in this Part. Gifts and devises received shall be deposited in a trust fund with the State Treasurer who shall hold them in trust in a separate account in the name of the Division. The cash balance of this account may be pooled for investment purposes, but investment earnings shall be credited pro rata to this participating account. Monies deposited with the State Treasurer in the trust fund account pursuant to this subsection, and investment earnings thereon, are available for expenditure without further authorization from the General Assembly. Such funds shall be administered by the Division under the direction of the director and fiscal officer of the Division and will be subject to audits normally conducted with the agency.

(d) The Secretary of the Department of Health and Human Services shall adopt rules to implement this Part. (1989, c. 533, s. 2; 1997-443, s. 11A.118(a); 1999-237, s. 11.4(b); 2002-182, s. 5; 2003-56, s. 3; 2011-284, s. 100.)

§ 143B-216.34. Division of Services for the Deaf and the Hard of Hearing – temporary loan program established.

(a) There is established an assistive equipment loan program for the deaf, hard of hearing, and speech impaired to be developed, administered, and implemented by the Division of Services for the Deaf and the Hard of Hearing. The assistive equipment loan program supplements the telecommunications equipment distribution program established pursuant to G.S. 62-157.

(b) The Division shall develop rules for the distribution of the communications and alerting equipment and shall determine performance standards. The Division shall select equipment for distribution to qualifying recipients. The equipment discussed in this section shall be leased at no cost to qualifying recipients for a period of time up to and not exceeding two years. Nothing herein shall be construed to prevent the renewal of any lease previously executed with a qualified recipient. In addition, the Division shall provide consultative services and training to those individuals and organizations utilizing communications and alerting equipment pursuant to this section.

(c) The central communications office of each county sheriff's department shall purchase and continually operate at least one telecommunications device that is functionally equivalent in providing equal access to services for individuals who are deaf, hard of hearing, deaf-blind, and speech impaired.

The central communications office of each police department and firefighting agency in municipalities with a population of 25,000 to 250,000 shall purchase and continually operate at least one such device.

The central communications office of each police department and firefighting agency in municipalities with a population exceeding 250,000 persons shall purchase and continually operate at least two such devices.

(d) Each public safety office, health care facility (including hospitals and urgent care facilities), and the 911 emergency number system is required to obtain a telecommunications device that is functionally equivalent in providing equal access to services for individuals who are deaf, hard of hearing, and speech impaired pursuant to this section and shall continually operate and staff the equipment during hours of operation, including up to 24 hours. (1989, c. 533, s. 2; 2007-149, s. 1.)

§§ 143B-216.35 through 143B-216.39. Reserved for future codification purposes.

Part 30. State Schools for Hearing-impaired Children.

§§ 143B-216.40 through 143B-216.44: Repealed by Session Laws 2013-247, s. 1(c), effective July 3, 2013.

§§ 143B-216.45 through 143B-216.49. Reserved for future codification purposes.

Part 31. Office of the Internal Auditor.

§ 143B-216.50. Department of Health and Human Services; office of the Internal Auditor.

(a) The office of Internal Auditor is established in the Department of Health and Human Services. The office of the Internal Auditor shall provide independent reviews and analyses of various functions and programs within the Department that will provide management information to promote accountability, integrity, and efficiency within the Department.

(b) It shall be the duty and responsibility of the Internal Auditor to:

(1) Advise in the development of performance measure, standards, and procedures for the evaluation of the Department;

(2) Assess the reliability and validity of performance measures and the information provided by the Department on performance measures and standards and make recommendations for improvement, if necessary;

(3) Review the actions taken by the Department of Health and Human Services to improve program performance and meet program standards and make recommendations for improvement, if necessary;

(4) Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to programs and operations of the Department;

(5) Conduct independent analysis of programs carried out or financed by the Department of Health and Human Services for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting waste, management, misconduct, fraud and abuse in its programs and operations;

(6) Keep the Secretary of the Department of Health and Human Services informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the Department of Health and Human Services, recommend corrective action concerning fraud, abuses, and deficiencies, and report on the progress made in implementing corrective action;

(7) Ensure effective coordination and cooperation between the State Auditor, federal auditors, and other governmental bodies with a view toward avoiding duplication; and

(8) Ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities.

(c) The Internal Auditor shall be appointed by the Secretary. The Internal Auditor shall be appointed without regard to political affiliation.

(d) The Internal Auditor shall report to an official designated by the Secretary.

(e) The Internal Auditor shall have access to any records, data, or other information of the Department the Internal Auditor believes necessary to carry out the Internal Auditor's duties. (1997-443, s. 12.21(c).)

§ 143B-216.51. Department of Health and Human Services office of the Internal Auditor; Department audits.

(a) To ensure that Department audits are performed in accordance with applicable auditing standards, the Internal Auditor shall possess the following qualifications:

(1) A bachelors degree from an accredited college or university with a major in accounting, or with a major in business which includes five courses in accounting, and five years' experience as an internal auditor or independent postauditor, electronic data processing auditor, accountant, or any combination thereof. The experience shall, at a minimum, consist of audits of units of government or private business enterprises operating for profit or not for profit;

(2) A masters degree in accounting, business administration, or public administration from an accredited college or university and four years of experience as required in subdivision (1) of this subsection; or

(3) A certified public accountant license issued pursuant to law or a certified internal audit certificate issued by the Institute of Internal Auditors or earned by examination, and four years' experience as required in subdivision (1) of this subsection.

The Internal Auditor shall, to the extent both necessary and practicable, include on the Internal Auditor's staff individuals with electronic data processing auditing experience.

(b) In carrying out the auditing duties and responsibilities of this Part, the Internal Auditor shall review and evaluate internal controls necessary to ensure the fiscal accountability of the Department. The Internal Auditor shall conduct financial, compliance, electronic data processing, and performance audits of the Department and prepare audit reports of findings. The scope and assignment of the audits shall be determined by the Internal Auditor; however, the Secretary may at any time direct the Internal Auditor to perform an audit of a special program, function, or organizational unit. The performance of the audit shall be under the direction of the Internal Audit.

(c) Audits undertaken pursuant to this Part shall be conducted in accordance with auditing standards prescribed by the State Auditor. All audit reports issued by internal audit staff shall include a statement that the audit was conducted pursuant to these standards.

(d) The Internal Auditor shall maintain, for 10 years, a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the Internal Auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of his office shall be retained according to an agreement between the Internal Auditor and State Archives. To promote cooperation and avoid unnecessary duplication of audit effort, audit work papers related to issued audit reports shall be, unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal governments in connection with some matter officially before them. Except as otherwise provided

in this subsection, or upon subpoena issued by a duly authorized court or court official, audit work papers shall be kept confidential. Audit reports shall be public records to the extent that they do not include information which, under State laws, is confidential and exempt from Chapter 132 of the General Statutes or would compromise the security systems of the Department.

(e) The Internal Auditor shall submit the final report to the Secretary.

(f) The State Auditor shall review a sample of the Department's internal audit reports and related work papers when determined by the State Auditor that, when conducting audits, it would be efficient to consider the work of the Internal Auditor. If the State Auditor finds deficiencies in the work of the Internal Auditor, the State Auditor shall include a statement of these findings in the audit report of the Department. The office of the Internal Auditor will cause to be made an external quality control review at least once every three years by a qualified organization not affiliated with the office of the Internal Auditor. The external quality review should determine whether the Department's internal quality control system is in place and operating effectively to provide reasonable assurance that established policies and procedures and applicable audit standards are being followed.

(g) The Internal Auditor shall monitor the implementation of the Department's response to any audit of the Department conducted by the State Auditor pursuant to law. No later than six months after the State Auditor publishes a report of the audit of the Department, the Internal Auditor shall report to the Secretary on the status of corrective actions taken. A copy of the report shall be filed with the Joint Legislative Commission on Governmental Operations.

(h) The Internal Auditor shall develop long-term and annual audit plans based on the findings of periodic risk assessments. The plan, where appropriate, should include postaudit samplings of payments and accounts. The plan shall show the individual audits to be conducted during each year and related resources to be devoted to the respective audits. The State Controller may utilize audits performed by the Internal Auditor. The plan shall be submitted to the Secretary for approval. A copy of the approved plan shall be submitted to the State Auditor. (1997-443, s. 12.21(c).)

§§ 143B-216.52 through 143B-216.59. Reserved for future codification purposes.

Part 31A. Office of Program Evaluation Reporting and Accountability.

§ 143B-216.54. Department of Health and Human Services; Office of Program Evaluation Reporting and Accountability.

The Office of Program Evaluation Reporting and Accountability (OPERA) is hereby established within the Department of Health and Human Services. Employees of the OPERA shall be subject to the North Carolina Human Resources Act only as provided in G.S. 126-5(c1)(31). (2015-241, s. 12A.3(a).)

§ 143B-216.55. Appointment, qualifications, and removal of OPERA Director.

(a) The Secretary of Health and Human Services shall appoint a Director of OPERA, who shall perform the duties of the position independently. The Director shall report directly to the Secretary and shall not report to any other deputy, division director, or staff member of the Department.

(b) The Director must have experience in program evaluation equivalent to the duties of the office, including at least three years of experience at the management level that demonstrates increasing levels of responsibility within the field of program evaluation.

(c) The Director may only be removed by the Secretary of Health and Human Services effective 30 days after written notification to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the State Auditor, and the Director of the Fiscal Research Division of the Legislative Services Office. The notification must itemize the causes and particulars justifying the Director's removal. (2015-241, s. 12A.3(a); 2016-94, s. 12A.9.)

§ 143B-216.56. Duties of the Office of Program Evaluation Reporting and Accountability.

The Office of Program Evaluation Reporting and Accountability has the following duties:

(1) To assess the evidentiary basis of all Department programs as recommended by Evidence-Based Policymaking: A Guide for Effective Government, a project of the Results First Initiative of the Pew Charitable Trusts and the John D. and Katherine T. MacArthur Foundation.

(2) To identify and evaluate any Department program when directed by the General Assembly, the Secretary, or as deemed necessary by the Director.

(3) To develop an Internet Web site containing an inventory of departmental programs consisting of the program name and a link to a program profile. For each program, the profile must contain, at a minimum, all of the following:

a. Legal authority for the program.

b. Program performance for the past five fiscal years and year to date for the current fiscal year:

1. Outcome. – The verifiable quantitative effects or results attributable to the program compared to a performance standard.

2. Output. – The verifiable number of units of services or activities compared to a standard.

3. Efficiency. – The verifiable total direct and indirect cost per output and per outcome compared to a standard.

4. Performance standard. – A quantitative indicator based upon best practices, generally recognized standards, or comparisons with relevant programs in other states or regions for gauging achievement of efficiency, output, and outcomes.

5. Benchmarks. – A broad societal indicator used for gauging ultimate outcomes of the program, such as U.S. Census data.

c. Funding by source for the current and previous five fiscal years.

d. Listing of filled and vacant employee positions as specified by the Office of State Budget and Management.

e. Listing of contracts during the previous fiscal year and of the current fiscal year to date with individuals and firms and the actual and authorized cost, funding source, and purposes of those contracts.

f. Categorization by evidence of effectiveness as determined by the Office.
g. Potential return on investment of each program.
h. Findings and recommendations from internal and external State or federal audits, Office program assessments, and program evaluations.

(4) To assure that the Office Internet Web site allows users to list all of the following:
a. Programs that exceeded, met, or did not meet performance standards for efficiency, outputs, and outcomes for the immediate preceding fiscal year.
b. Programs by category of evidence of effectiveness.
c. Programs by potential return on investment.
d. Programs listed in a manner determined useful by the Office.

(5) To cooperate with and respond promptly to requests for program-level data and information from the Office of State Budget and Management, the Fiscal Research and Program Evaluation Divisions of the Legislative Services Office, and the State Auditor. (2015-241, s. 12A.3(a).)

§ 143B-216.57. Powers of the Office of Program Evaluation Reporting and Accountability.

The Office of Program Evaluation Reporting and Accountability is authorized, primarily for the purpose of assessing accurate return on investment, to do all of the following:

(1) Have unfettered access to any data or record maintained by the Department and to assure its confidentiality when required by State or federal law.
(2) Interview any Department employee or independent contractor without others present.
(3) Conduct announced or unannounced inspections of departmental-owned or departmental-leased facilities. (2015-241, s. 12A.3(a).)

Part 32. Heart Disease and Stroke Prevention Task Force.

§ 143B-216.60. The Justus-Warren Heart Disease and Stroke Prevention Task Force.

(a) The Justus-Warren Heart Disease and Stroke Prevention Task Force is created in the Department of Health and Human Services.

(b) The Task Force shall have 27 members. The Governor shall appoint the Chair, and the Vice-Chair shall be elected by the Task Force. The Director of the Department of Health and Human Services, the Director of the Division of Medical Assistance in the Department of Health and Human Services, and the Director of the Division of Aging in the Department of Health and Human Services, or their designees, shall be members of the Task Force. Appointments to the Task Force shall be made as follows:

(1) By the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as follows:
a. Three members of the Senate;
b. A heart attack survivor;
c. A local health director;

d. A certified health educator;
e. A hospital administrator; and
f. A representative of the North Carolina Association of Area Agencies on Aging.

(2) By the General Assembly upon the recommendation of the Speaker of the House of Representatives, as follows:
a. Three members of the House of Representatives;
b. A stroke survivor;
c. A county commissioner;
d. A licensed dietitian/nutritionist;
e. A pharmacist; and
f. A registered nurse.

(3) By the Governor, as follows:
a. A practicing family physician, pediatrician, or internist;
b. A president or chief executive officer of a business upon recommendation of a North Carolina wellness council which is a member of the Wellness Councils of America;
c. A news director of a newspaper or television or radio station;
d. A volunteer of the North Carolina Affiliate of the American Heart Association;
e. A representative from the North Carolina Cooperative Extension Service;
f. A representative of the Governor's Council on Physical Fitness and Health; and
g. Two members at large.

(c) Each appointing authority shall assure insofar as possible that its appointees to the Task Force reflect the composition of the North Carolina population with regard to ethnic, racial, age, gender, and religious composition.

(d) The General Assembly and the Governor shall make their appointments to the Task Force not later than 30 days after the adjournment of the 1995 General Assembly, Regular Session 1995. A vacancy on the Task Force shall be filled by the original appointing authority, using the criteria set out in this section for the original appointment.

(e) The Task Force shall meet not more than twice annually at the call of the Chair.

(f) Repealed by Session Laws 2013-360, s. 12A.13, effective July 1, 2013.

(g) Members of the Task Force shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 120-3.1, 138-5 and 138-6, as applicable.

(h) A majority of the Task Force shall constitute a quorum for the transaction of its business.

(i) The Task Force may use funds allocated to it to establish two positions and for other expenditures needed to assist the Task Force in carrying out its duties.

(j) The Task Force has the following duties:

(1) To undertake a statistical and qualitative examination of the incidence of and causes of heart disease and stroke deaths and risks, including identification of subpopulations at highest risk for developing heart disease and stroke, and establish a profile of the heart disease and stroke burden in North Carolina.

(2) To publicize the profile of the heart disease and stroke burden and its preventability in North Carolina.

(3) To identify priority strategies which are effective in preventing and controlling risks for heart disease and stroke.

(4) To identify, examine limitations of, and recommend to the Governor and the General Assembly changes to existing laws, regulations, programs, services, and policies to enhance heart disease and stroke prevention by and for the people of North Carolina.

(5) To determine and recommend to the Governor and the General Assembly the funding and strategies needed to enact new or to modify existing laws, regulations, programs, services, and policies to enhance heart disease and stroke prevention by and for the people of North Carolina.

(6) To adopt and promote a statewide comprehensive Heart Disease and Stroke Prevention Plan to the general public, State and local elected officials, various public and private organizations and associations, businesses and industries, agencies, potential funders, and other community resources.

(7) To identify and facilitate specific commitments to help implement the Plan from the entities listed in subdivision (6) above.

(8) To facilitate coordination of and communication among State and local agencies and organizations regarding current or future involvement in achieving the aims of the Heart Disease and Stroke Prevention Plan.

(9) To receive and consider reports and testimony from individuals, local health departments, community-based organizations, voluntary health organizations, and other public and private organizations statewide, to learn more about their contributions to heart disease and stroke prevention, and their ideas for improving heart disease and stroke prevention in North Carolina.

(10) Establish and maintain a Stroke Advisory Council, which shall advise the Task Force regarding the development of a statewide system of stroke care that shall include, among other items, a system for identifying and disseminating information about the location of primary stroke centers.

(k) Notwithstanding Section 11.57 of S.L. 1999-237, the Task Force shall submit a final report to the Governor and the General Assembly by June 30, 2003, and a report to each subsequent regular legislative session within one week of its convening. (1995-507, s. 26.9; 1997-443, ss. 11A-122, 11A-123; 2001-424, s. 21.95; 2002-126, s. 10.45; 2003-284, s. 10.33B; 2006-197, s. 1; 2013-360, s. 12A.13.)

§§ 143B-216.61 through 143B-216.64: Reserved for future codification purposes.

Part 33. North Carolina Brain Injury Advisory Council.

§ 143B-216.65. North Carolina Brain Injury Advisory Council – creation and duties.

There is established the North Carolina Brain Injury Advisory Council in the Department of Health and Human Services to review traumatic and other acquired brain injuries in North Carolina. The Council shall have duties including the following:

(1) Review how the term "traumatic brain injury" is defined by State and federal regulations and to determine whether changes should be made to the State definition to include "acquired brain injury" or other appropriate conditions.

(2) Promote interagency coordination among State agencies responsible for services and support of individuals that have traumatic brain injury.
(3) Study the needs of individuals with traumatic brain injury and their families.
(4) Make recommendations to the Governor, the General Assembly, and the Secretary of Health and Human Services regarding the planning, development, funding, and implementation of a comprehensive statewide service delivery system.
(5) Promote and implement injury prevention strategies across the State. (2003-114, s. 1; 2009-361, s. 3.)

§ 143B-216.66. North Carolina Brain Injury Advisory Council – membership; quorum; compensation.

(a) The Council shall consist of 23 voting and 10 ex officio nonvoting members, appointed as follows:

(1) Three members by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, as follows:
  a. A representative of the North Carolina Medical Society or other organization with interest in brain injury prevention or treatment.
  b. A nurse with expertise in trauma, neurosurgery, neuropsychology, physical medicine and rehabilitation, or emergency medicine.
  c. One at-large member who shall be a veteran or family member of a veteran who has suffered a brain injury.
(2) Three members by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, as follows:
  a. One at-large member who may have experience as a school nurse or rehabilitation specialist.
  b. A representative of the North Carolina Hospital Association or other organization interested in brain injury prevention or treatment.
  c. A physician with expertise in trauma, neurosurgery, neuropsychology, physical medicine and rehabilitation, or emergency medicine.
(3) Fourteen members by the Governor, as follows:
  a. Three survivors of brain injury, one each representing the eastern, central, and western regions of the State.
  b. Four family members of persons with brain injury with consideration for geographic representation.
  c. A brain injury service provider in the private sector.
  d. The director of a local management entity of mental health, developmental disabilities, and substance abuse services.
  e. The Executive Director, or designee thereof, of North Carolina Advocates for Justice.
  f. The Executive Director, or designee thereof, of the Brain Injury Association of North Carolina.
  g. The Chair of the Board, or designee thereof, of the Brain Injury Association of North Carolina.
  h. The Executive Director, or designee thereof, of the North Carolina Protection and Advocacy System.

i. One stroke survivor, as recommended by the American Heart Association.

(4) Nine ex officio members by the Secretary of Health and Human Services, as follows:

a. One member from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

b. One member from the Division of Vocational Rehabilitation.

c. One member from the Council on Developmental Disabilities.

d. One member from the Division of Medical Assistance.

e. Two members from the Division of Health Service Regulation.

f. One member from the Division of Social Services.

g. One member from the Office of Emergency Medical Services.

h. One member from the Division of Public Health.

(5) Two members by the Superintendent of Public Instruction, one of whom is ex officio, nonvoting, and employed with the Division of Exceptional Children.

(6) One member by the Commissioner of Insurance, or the Commissioner's designee.

(7) One member by the Secretary of Administration representing veterans affairs.

(b) The terms of the initial members of the Council shall commence October 1, 2003. In his initial appointments, the Governor shall designate four members who shall serve terms of four years, four members who shall serve terms of three years, and three members who shall serve terms of two years. After the initial appointees' terms have expired, all members shall be appointed for a term of four years. No member appointed by the Governor shall serve more than two successive terms.

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. Terms for ex officio, nonvoting members do not expire.

(c) The initial chair of the Council shall be designated by the Secretary of the Department of Health and Human Services from the Council members. The chair shall hold this office for not more than four years. Subsequent chairs will be elected by the Council.

(d) The Council shall meet quarterly and at other times at the call of the chair. A majority of voting members of the Council shall constitute a quorum.

(e) Council members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5 and G.S. 138-6, as applicable.

(f) The Secretary of the Department of Health and Human Services shall provide clerical and other assistance as needed. (2003-114, s. 1; 2007-182, s. 1; 2009-361, s. 3.)

§ 143B-216.67: Reserved for future codification purposes.

§ 143B-216.68: Reserved for future codification purposes.

§ 143B-216.69: Reserved for future codification purposes.

Part 34. Office of Policy and Planning.

§ 143B-216.70. Office of Policy and Planning.

(a) To promote coordinated policy development and strategic planning for the State's health and human services systems, the Secretary of Health and Human Services shall establish an Office of Policy and Planning from existing resources across the Department. The Director of the Office of Policy and Planning shall report directly to the Secretary and shall have the following responsibilities:

(1) Coordinate the development of departmental policies, plans, and rules, in consultation with the Divisions of the Department.
(2) Development of a departmental process for the development and implementation of new policies, plans, and rules.
(3) Development of a departmental process for the review of existing policies, plans, and rules to ensure that departmental policies, plans, and rules are relevant.
(4) Coordination and review of all departmental policies before dissemination to ensure that all policies are well-coordinated within and across all programs.
(5) Implementation of ongoing strategic planning that integrates budget, personnel, and resources with the mission and operational goals of the Department.
(6) Review, disseminate, monitor, and evaluate best practice models.

(b) Under the direction of the Secretary of Health and Human Services, the Director of the Office of Policy and Planning shall have the authority to direct Divisions, offices, and programs within the Department to conduct periodic reviews of policies, plans, and rules and shall advise the Secretary when it is determined to be appropriate or necessary to modify, amend, and repeal departmental policies, plans, and rules. All policy and management positions within the Office of Policy and Planning are exempt positions as that term is defined in G.S. 126-5. (2005-276, s. 10.2.)

§ 143B-216.71: Reserved for future codification purposes.

§ 143B-216.72: Reserved for future codification purposes.

Part 34A. North Carolina Energy Assistance Act for Low-Income Persons.

§ 143B-216.72A: Recodified as G.S. 143B-472.121 through 143B-472.123 by Session Laws 2009-446, s. 2(a).

§ 143B-216.72B: Recodified as G.S. 143B-472.121 through 143B-472.123 by Session Laws 2009-446, s. 2(a).

§ 143B-216.72C: Recodified as G.S. 143B-472.121 through 143B-472.123 by Session Laws 2009-446, s. 2(a).

§ 143B-216.73: Reserved for future codification purposes.

§ 143B-216.74: Reserved for future codification purposes.

Part 35. Governor's Commission on Early Childhood Vision Care.

§ 143B-216.75: Repealed by Session Laws 2011-266, s. 1.40, effective July 1, 2011.

Part 36. Division of Health Benefits.

§ 143B-216.80. Division of Health Benefits – creation and organization.

(a) There is hereby established the Division of Health Benefits of the Department of Health and Human Services. The Director shall be the head of the Division of Health Benefits. Upon the elimination of the Division of Medical Assistance, the Division of Health Benefits shall be vested with all functions, powers, duties, obligations, and services previously vested in the Division of Medical Assistance. The Department of Health and Human Services shall have the powers and duties described in G.S. 108A-54(e) in addition to the powers and duties already vested in the Department.

(b) Although generally subject to the laws of this State, the following exemptions, limitations, and modifications apply to the Division of Health Benefits of the Department of Health and Human Services, notwithstanding any other provision of law:

(1) Employees of the Division of Health Benefits shall not be subject to the North Carolina Human Resources Act, except as provided in G.S. 126-5(c1)(33).

(2) The Secretary 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 Division of Health Benefits' employment contracts offered pursuant to G.S. 108A-54(e)(2) are not subject to review and approval by the Office of State Human Resources.

(4) If the Secretary establishes alternative procedures for the review and approval of contracts, then the Division of Health Benefits is exempt from State contract review and approval requirements but still may choose to utilize the State contract review and approval procedures for particular contracts. (2015-245, s. 12(a); 2016-121, s. 2(g); 2017-57, s. 11H.17(b).)

§ 143B-216.85. (Effective January 1, 2021) Appointment; term of office; and removal of the Director of the Division of Health Benefits.

(a) Term. – The Director of the Division of Health Benefits shall be appointed by the Governor for a term of four years subject to confirmation by the General Assembly by joint resolution. The initial term of office for the Director of the Division of Health Benefits shall begin upon confirmation by the General Assembly and shall expire June 30, 2025. Thereafter, the term of office for the Director of the Division of Health Benefits shall be four years and shall commence on July 1 of the year in which the term for which the appointment is made.

(b) Appointment. – The Governor shall submit the name of the person to be appointed Director of the Division of Health Benefits to the General Assembly for confirmation by the General Assembly on or before May 1 of the year in which the term of the office for which the appointment is to be made expires. If the Governor fails to submit a name by May 1, the President Pro Tempore of the Senate and the Speaker of the House of Representatives jointly shall submit a name of an appointee to the General Assembly on or before May 15 of the same year. The appointment shall then be made by enactment of a bill. The bill shall state the name of the person being appointed, the office to which the appointment is being made, the effective date of the appointment, the date of

expiration of the term, the residence of the appointee, and that the appointment is made upon the joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Nothing precludes any member of the General Assembly from proposing an amendment to any bill making such an appointment. If there is no vacancy in the office of the Director, and a bill that would confirm the appointment of the person as Director fails a reading in either chamber of the General Assembly, then the Governor shall submit a new name within 30 days.

(c) Vacancy. – If a vacancy in the office of the Director occurs for any reason prior to the expiration of the Director's term of office, the Governor shall submit the name of the Director's successor to the General Assembly not later than 60 days after the vacancy occurs. If a vacancy occurs when the General Assembly is not in session, the Governor shall appoint an acting Director to serve the remainder of the unexpired term pending confirmation by the General Assembly. However, in no event shall an acting Director serve (i) for more than 12 months without General Assembly confirmation or (ii) after a bill that would confirm the appointment of the person as Director fails a reading in either chamber of the General Assembly. The successor appointed to fill the vacancy shall serve until the end of the unexpired term.

(d) Removal. – The Director of the Division of Health Benefits may be removed from office only by the Governor and solely for the grounds set forth in G.S. 143B-13(b), (c), and (d). (2015-245, s. 12(b).)

Article 4.

Department of Revenue.

Part 1. General Provisions.

§ 143B-217. Department of Revenue – creation.

There is hereby recreated and reestablished a department to be known as the "Department of Revenue" with the organization, duties, functions, and powers defined in the Executive Organization Act of 1973. (1973, c. 476, s. 184.)

§ 143B-218. Department of Revenue – duties.

It shall be the duty of the Department to collect and account for the State's tax funds, to insure uniformity of administration of the tax laws and regulations, to conduct research on revenue matters, and to exercise general and specific supervision over the valuation and taxation of property throughout the State. (1973, c. 476, s. 185; 1981, c. 859, s. 81; c. 1127, s. 53.)

§ 143B-218.1: Recodified as § 105-256(a)(6) by Session Laws 2001-414, s. 25.

§ 143B-219. Department of Revenue – functions.

(a) The functions of the Department of Revenue shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all executive functions of the State in relation to revenue collection, tax research, tax

settlement, and property tax supervision including those prescribed powers, duties and functions enumerated in Article 16 of Chapter 143A of the General Statutes of this State.

(b) All functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 16 of Chapter 143A of the General Statutes are hereby transferred to and vested in the Department of Revenue, except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:

(1) The Commissioner and Department of Revenue,
(2) The Department of Tax Research, and
(3) The State Board of Assessment. (1973, c. 476, s. 186; 1981, c. 859, s. 82; c. 1127, s. 53.)

§ 143B-220. Department of Revenue – head.

The Secretary of Revenue shall be the head of the Department. (1973, c. 476, s. 187.)

§ 143B-221: Repealed by Session Laws 2001-414, s. 47.

Part 2. Property Tax Commission.

§§ 143B-222 through 143B-225: Repealed by Session Laws 1991, c. 110, s. 3.

§§ 143B-226 through 143B-245. Reserved for future codification purposes.

Article 5.

Department of Military and Veterans Affairs.

Part 1. General Provisions.

§§ 143B-246 through 143B-251. Repealed by Session Laws 1977, c. 70, s. 33.

Part 2. Veterans Affairs Commission.

§§ 143B-252 through 143B-253. Transferred to §§ 143B-399, 143B-400 by Session Laws 1977, c. 70, ss. 24, 25.

Part 3. Energy Division.

§§ 143B-254 through 143B-255. Repealed by Session Laws 1977, c. 23, s. 3.

§§ 143B-256 through 143B-259. Reserved for future codification purposes.

Article 6.

Department of Corrections.

Part 1. General Provisions.

§§ 143B-260 through 143B-264: Recodified and renumbered as Subpart A of Part 2 of Article 13, G.S. 143B-700 through 143B-711.

Part 2. Board of Correction.

§ 143B-265: Recodified and renumbered as Subpart B of Part 2 of Article 13, G.S. 143B-715.

Part 3. Parole Commission.

§§ 143B-266, 143B-267: Recodified and renumbered as Subpart C of Part 2 of Article 13, G.S. 143B-720, 143B-721.

§ 143B-268. Reserved for future codification purposes.

Part 4. Black Mountain Advancement Center for Women.

§ 143B-269: Repealed by Session Laws 2007-252, s. 1, effective July 1, 2007.

Part 5. Substance Abuse Advisory Council.

§ 143B-270: Repealed by Session Laws 2011-266, s. 1.17(a), effective July 1, 2011.

§ 143B-271: Repealed by Session Laws 2011-266, s. 1.17(a), effective July 1, 2011.

§ 143B-272: Reserved for future codification purposes.

Article 6A.

North Carolina State-County Criminal Justice Partnership Act.

§ 143B-273: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.1: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.2: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.3: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.4: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.5: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.6: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.7: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.8: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.9: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.10: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.11: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.12: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.13: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.14: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.15: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.15A: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.16: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.17: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.18: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-273.19: Repealed by Session Laws 2011-192, s. 6(a), effective July 1, 2011.

§ 143B-274. Reserved for future codification purposes.

Article 7.

Department of Environment and Natural Resources.

Part 1. General Provisions.

§§ 143B-275 through 143B-279: Repealed by Session Laws 1989, c. 727, s. 2.

Article 7.

Department of Environmental Quality.

Part 1. General Provisions.

§§ 143B-275 through 143B-279: Repealed by Session Laws 1989, c. 727, s. 2.

§ 143B-279.1. Department of Environmental Quality – creation.

(a) There is hereby created and constituted a department to be known as the Department of Environmental Quality, with the organization, powers, and duties defined in this Article and other applicable provisions of law.

(b) The provisions of Article 1 of this Chapter not inconsistent with this Article shall apply to the Department of Environmental Quality. (1989, c. 727, s. 3; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

§ 143B-279.2. Department of Environmental Quality – duties.

It shall be the duty of the Department:

(1) To provide for the protection of the environment;

(1a) To administer the State Outer Continental Shelf (OCS) Task Force and coordinate State participation activities in the federal outer continental shelf resource recovery programs as provided under the OCS Lands Act Amendments of 1978 (43 USC §§ 1801 et seq.) and the OCS Lands Act Amendments of 1986 (43 USC §§ 1331 et seq.).

(1b) To provide for the protection of the environment and public health through the regulation of solid waste and hazardous waste management and the administration of environmental health programs.

(2) Repealed by Session Laws 1997-443, s. 11A.5, effective August 28, 1997.

(2a) Repealed by Session Laws 2015-241, s. 14.30(kkk), effective July 1, 2015.

(3) To provide for the management of the State's natural resources.

(4) Repealed by Session Laws 2011-145, s. 13.11, effective July 1, 2011. (1989, c. 727, s. 3; 1993, c. 321, s. 28(c); c. 561, s. 116(e); 1997-443, s. 11A.5; 2009-451, s. 13.1A; 2011-145, s. 13.11; 2015-241, ss. 14.30(u), (kkk).)

§ 143B-279.3. Department of Environmental Quality – structure.

(a) All functions, powers, duties, and obligations previously vested in the following subunits of the following departments are transferred to and vested in the Department of Environmental Quality by a Type I transfer, as defined in G.S. 143A-6:

(1) Radiation Protection Section, Division of Health Service Regulation, Department of Health and Human Services.

(2), (3) Repealed by Session Laws 1997-443, s. 11A.6.

(4) Coastal Management Division, Department of Natural Resources and Community Development.

(5) Environmental Management Division, Department of Natural Resources and Community Development.

(6) Repealed by Session Laws 2011-145, s. 13.25(b), effective July 1, 2011.

(7) Land Resources Division, Department of Natural Resources and Community Development.

(8) Marine Fisheries Division, Department of Natural Resources and Community Development.

(9) Repealed by Session Laws 2015-241, s. 14.30(lll), effective July 1, 2015.

(10) Repealed by Session Laws 2011-145, s. 13.22A(c), effective July 1, 2011.

(11) Water Resources Division, Department of Natural Resources and Community Development.

(12) Repealed by Session Laws 2015-241, s. 14.30(lll), effective July 1, 2015.

(13) Albemarle-Pamlico Study.

(14) Office of Marine Affairs, Department of Administration.

(15) Environmental Health Section, Division of Health Services, Department of Health and Human Services.

(b) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, and committees of the following departments are transferred to and vested in the Department of Environmental Quality by a Type II transfer, as defined in G.S. 143A-6:

(1) Repealed by Session Laws 1993, c. 501, s. 27.
(2) Radiation Protection Commission, Department of Health and Human Services.
(3) Repealed by Session Laws 1997-443, s. 11A.6.
(4) Water Treatment Facility Operators Board of Certification, Department of Health and Human Services.
(5) to (8) Repealed by Session Laws 1997-443, s. 11A.6.
(9) Coastal Resources Commission, Department of Natural Resources and Community Development.
(10) Environmental Management Commission, Department of Natural Resources and Community Development.
(11) Air Quality Council, Department of Natural Resources and Community Development.
(12) Wastewater Treatment Plant Operators Certification Commission, Department of Natural Resources and Community Development.
(13) Repealed by Session Laws 2011-145, s. 13.25(e), effective July 1, 2011.
(14) North Carolina Mining Commission, Department of Natural Resources and Community Development.
(15) Advisory Committee on Land Records, Department of Natural Resources and Community Development.
(16) Marine Fisheries Commission, Department of Natural Resources and Community Development.
(17) Repealed by Session Laws 2015-241, s. 14.30(lll), effective July 1, 2015.
(18) Repealed by Session Laws 2013-360, s. 14.3(j), effective August 1, 2013.
(19) Repealed by Session Laws 2015-241, s. 14.30(lll), effective July 1, 2015.
(20) Sedimentation Control Commission, Department of Natural Resources and Community Development.
(21) Repealed by Session Laws 2011-145, s. 13.22A(d), effective July 1, 2011.
(22) Repealed by Session Laws 2015-241, s. 14.30(lll), effective July 1, 2015.
(23) Repealed by Session Laws 1997-286, s. 6.

(c) (1) Repealed by Session Laws 2002, ch. 70, s. 1, effective July 1, 2002.
(2) There is created a division within the environmental area of the Department of Environmental Quality to be named the Division of Waste Management. All functions, powers, duties, and obligations of the Solid Waste Management Section of the Division of Health Services of the Department of Health and Human Services are transferred in their entirety to the Division of Waste Management of the Department of Environmental Quality.
(3) Repealed by Session Laws 2011-145, s. 13.3(i), effective July 1, 2011.

(d) The Department of Environmental Quality is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State. (1989, c. 727, s. 3; 1989 (Reg. Sess., 1990), c. 1004, s. 31; 1991, c. 342, ss. 16(a), (b);

1993, c. 321, ss. 28(a), (b); c. 501, s. 27; 1995 (Reg. Sess., 1996), c. 743, s. 20; 1997-286, s. 6; 1997-443, ss. 11A.6, 11A.123; 2002-70, s. 1; 2007-182, s. 1; 2011-145, ss. 13.3(i), 13.25(b), (e), 13.22A(c), (d); 2012-143, s. 1(d); 2013-360, s. 14.3(j); 2014-4, s. 5(c); 2015-241, ss. 14.30(u), (lll).)

§ 143B-279.4. The Department of Environmental Quality – Secretary; Deputy Secretaries.

(a) The Secretary of Environmental Quality shall be the head of the Department.

(b) The Secretary may appoint two Deputy Secretaries. (1989, c. 727, s. 3; 1989 (Reg. Sess., 1990), c. 1004, s. 19(a); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(u), (v).)

§ 143B-279.5: Repealed by Session Laws 2017-10, s. 4.6, effective May 4, 2017.

§ 143B-279.6: Repealed by Session Laws 1997-443, s. 11A.2.

§ 143B-279.7. Fish kill response protocols; report.

(a) The Department of Environmental Quality shall coordinate an intradepartmental effort to develop scientific protocols to respond to significant fish kill events utilizing staff from the Division of Water Resources, Division of Marine Fisheries, Department of Health and Human Services, Wildlife Resources Commission, the scientific community, and other agencies, as necessary. In developing these protocols, the Department of Environmental Quality shall address the unpredictable nature of fish kills caused by both natural and man-made factors. The protocols shall contain written procedures to respond to significant fish kill events including:

(1) Developing a plan of action to evaluate the impact of fish kills on public health and the environment.
(2) Responding to fish kills within 24 hours.
(3) Investigating and collecting data relating to fish kill events.
(4) Summarizing and distributing fish kill information to participating agencies, scientists and other interested parties.

(b) The Secretary of Environmental Quality shall take all necessary and appropriate steps to effectively carry out the purposes of this Part including:

(1) Providing adequate training for fish kill investigators.
(2) Taking immediate action to protect public health and the environment.
(3) Cooperating with agencies, scientists, and other interested parties, to help determine the cause of the fish kill.

(c) Repealed by Session Laws 2017-10, s. 4.7, effective May 4, 2017. (1995 (Reg. Sess., 1996), c. 633, s. 4; 1997-443, s. 11A.108A; 2001-452, s. 2.8; 2001-474, ss. 30, 31; 2013-413, s. 57(p); 2014-115, s. 17; 2015-241, ss. 14.30(u), (v); 2017–10, s. 4.7.)

§ 143B-279.8. Coastal Habitat Protection Plans.

(a) The Department shall coordinate the preparation of draft Coastal Habitat Protection Plans for critical fisheries habitats. The goal of the Plans shall be the long-term enhancement of coastal fisheries associated with each coastal habitat identified in

subdivision (1) of this subsection. The Department shall use the staff of those divisions within the Department that have jurisdiction over marine fisheries, water quality, and coastal area management in the preparation of the Coastal Habitat Protection Plans and shall request assistance from other federal and State agencies as necessary. The plans shall:

(1) Describe and classify biological systems in the habitats, including wetlands, fish spawning grounds, estuarine or aquatic endangered or threatened species, primary or secondary nursery areas, shellfish beds, submerged aquatic vegetation (SAV) beds, and habitats in outstanding resource waters.

(2) Evaluate the function, value to coastal fisheries, status, and trends of the habitats.

(3) Identify existing and potential threats to the habitats and the impact on coastal fishing.

(4) Recommend actions to protect and restore the habitats.

(b) Once a draft Coastal Habitat Protection Plan has been prepared, the chairs of the Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall each appoint two members of the commission he or she chairs to a six-member review committee. The six-member review committee, in consultation with the Department, shall review the draft Plan and may revise the draft Plan on a consensus basis. The draft Plan, as revised by the six-member review committee, shall then be submitted to the Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission, each of which shall independently consider the Plan for adoption. If any of the three commissions is unable to agree to any aspect of a Plan, the chair of each commission shall refer that aspect of the Plan to a six-member conference committee to facilitate the resolution of any differences. The six-member conference committee shall be appointed in the same manner as a six-member review committee and may include members of the six-member review committee that reviewed the Plan. Each final Coastal Habitat Protection Plan shall consist of those provisions adopted by all three commissions. The three commissions shall review and revise each Coastal Habitat Protection Plan at least once every five years.

(c) In carrying out their powers and duties, the Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall ensure, to the maximum extent practicable, that their actions are consistent with the Coastal Habitat Protection Plans as adopted by the three commissions. The obligation to act in a manner consistent with a Coastal Habitat Protection Plan is prospective only and does not oblige any commission to modify any rule adopted, permit decision made, or other action taken prior to the adoption or revision of the Coastal Habitat Protection Plan by the three commissions. The Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall adopt rules to implement Coastal Habitat Protection Plans in accordance with Chapter 150B of the General Statutes.

(d) If any of the three commissions concludes that another commission has taken an action that is inconsistent with a Coastal Habitat Protection Plan, that commission may request a written explanation of the action from the other commission. A commission shall provide a written explanation: (i) upon the written request of one of the other two

commissions, or (ii) upon its own motion if the commission determines that it must take an action that is inconsistent with a Coastal Habitat Protection Plan.

(e) The Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on progress in developing and implementing the Coastal Habitat Protection Plans, including the extent to which the actions of the three commissions are consistent with the Plans, on or before September 1 of each year in which any significant revisions to the Plans are made.

(f) Repealed by Session Laws 2017-10, s. 4.11(b), effective May 4, 2017. (1997-400, s. 3.1; 1997-443, s. 11A.119(b); 2011-291, ss. 2.52, 2.53; 2012-201, s. 6; 2015-241, s. 14.30(v); 2017-10, ss. 4.11(a), (b); 2017-57, s. 14.1(m).)

§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at contaminated sites.

(a) In order to reduce or eliminate the danger to public health or the environment posed by the presence of contamination at a site, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site where the contamination is located if the restrictions meet the requirements of this section. The restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards that the Secretary determines to be applicable to the site. Except as provided in subsection (b) of this section, if the remedial action is risk-based or will not require that the site meet unrestricted use standards, the remedial action plan must include an agreement by the owner, operator, or other responsible party to record approved land-use restrictions that meet the requirements of this section as provided in G.S. 143B-279.10 or G.S. 143B-279.11, whichever applies. Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any owner of the land, operator of the facility, or other party responsible for the contaminated site. Any land-use restriction may also be enforced by the Department through the remedies provided by any provision of law that is implemented or enforced by the Department or by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be enforced by any unit of local government having jurisdiction over any part of the site. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this Part shall abide by the land-use restriction.

(b) The definitions set out in G.S. 143-215.94A apply to this subsection. A remedial action plan for the cleanup of environmental damage resulting from a discharge or release

of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes, other petroleum sources, or from an aboveground storage tank pursuant to Part 7 of Article 21A of Chapter 143 of the General Statutes must include an agreement by the owner, operator, or other party responsible for the discharge or release of petroleum to record a notice of any applicable land-use restrictions that meet the requirements of this subsection as provided in G.S. 143B-279.11. All of the provisions of this section shall apply except as specifically modified by this subsection and G.S. 143B-279.11. Any restriction on the current or future use of real property pursuant to this subsection shall be enforceable only with respect to: (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. No restriction on the current or future use of real property shall apply to any portion of any parcel or tract of land on which contamination is not located. This subsection shall not be construed to require any person to record any notice of restriction on the current or future use of real property other than the real property described in this subsection. For purposes of this subsection and G.S. 143B-279.11, the Secretary may restrict current or future use of real property only as set out in any one or more of the following subdivisions:

(1) Where soil contamination will remain in excess of unrestricted use standards, the property may be used for a primary or secondary residence, school, daycare center, nursing home, playground, park, recreation area, or other similar use only with the approval of the Department.

(2) Where soil contamination will remain in excess of unrestricted use standards and the property is used for a primary or secondary residence that was constructed before the release of petroleum that resulted in the contamination is discovered or reported, the Secretary may approve alternative restrictions that are sufficient to reduce the risk of exposure to contaminated soils to an acceptable level while allowing the real property to continue to be used for a residence.

(3) Where groundwater contamination will remain in excess of unrestricted use standards, installation or operation of any well usable as a source of water shall be prohibited.

(4) Any restriction on the current or future use of the real property that is agreed upon by both the owner of the real property and the Department.

With respect to sites contaminated by the discharge or release of petroleum from an aboveground storage tank, or another petroleum source, from which contamination has migrated to off-site properties, as that term is defined under G.S. 130A-310.65(3a), the imposition of restrictions on the current or future use of real property on such a site shall only be allowed if the Department has determined that the requirements of G.S. 143-215.104AA or G.S. 130A-310.73A, as applicable, have been satisfied for the site.

(c) This section does not alter any right, duty, obligation, or liability of any owner, operator, or other responsible party under any other provision of law.

(d) As used in this section:

(1) "Unrestricted use standards" means generally applicable standards, guidance, or established methods governing contaminants that are established by statute or adopted, published, or implemented by the Environmental Management Commission, the Commission for Public Health, or the Department. Cleanup or remediation of real property to unrestricted use standards means that the property is restored to a condition such that the property and any use that is made of the property does not pose a danger or risk to public health, the environment, or users of the property that is significantly greater than that posed by use of the property prior to its having been contaminated.

(2) "Risk-based", when used in connection with cleanup, remediation, or similar terms, means cleanup or remediation of contamination of real property to a level that, although not in compliance with unrestricted use standards, does not pose a significant danger or risk to public health, the environment, or users of the real property so long as the property remains in the condition and is used in a manner that is consistent with the assumptions as to the condition and use of the property on which the determination that the level of risk is acceptable is based. (1999-198, s. 1; 2000-51, s. 1; 2001-384, ss. 1, 12; 2002-90, s. 1; 2007-182, s. 2; 2017-209, s. 3(a); 2018-114, s. 18(a).)

§ 143B-279.10. Recordation of contaminated sites.

(a) The owner of the real property on which a site is located that is subject to current or future use restrictions approved as provided in G.S. 143B-279.9(a) shall submit to the Department a survey plat as required by this section within 180 days after the owner is notified to do so. The survey plat shall identify areas designated by the Department, shall be prepared and certified by a professional land surveyor, and shall be entitled "NOTICE OF CONTAMINATED SITE". Where a contaminated site is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

(1) The location and dimensions of any disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location, and quantity of contamination known to the owner of the site to exist on the site.

(3) Any restriction approved by the Department on the current or future use of the site.

(b) The Department shall review the proposed Notice to determine whether the Notice meets the requirements of this section and rules adopted to implement this section, and shall provide the owner of the site with a notarized copy of the approved Notice. After the Department approves the Notice, the owner of the site shall file a notarized copy of the approved Notice in the register of deeds office in the county or counties in which the land is located within 15 days of the date on which the owner receives approval of the Notice from the Department.

(c) Repealed by Session Laws 2012-18, s. 1.22, effective July 1, 2012.

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(e) When a contaminated site that is subject to current or future land-use restrictions is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property is a contaminated site and a reference by book and page to the recordation of the Notice.

(f) A Notice of Contaminated Site filed pursuant to this section shall, at the request of the owner of the land, be cancelled by the Secretary after the contamination has been eliminated or remediated to unrestricted use standards. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the contamination has been eliminated, or that the contamination has been remediated to unrestricted use standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded.

(g) This section does not apply to the cleanup pursuant to a remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes.

(h) The definitions set out in G.S. 143B-279.9 apply to this section.

(i) If a site subject to the requirements of this section is remediated pursuant to the requirements of Part 8 of Article 9 of Chapter 130A of the General Statutes, a Notice of Residual Contamination may be prepared and filed in accordance with G.S. 130A-310.71(a)(9), in lieu of a Notice prepared and filed pursuant to this section. (1999-198, s. 1; 2000-51, s. 2; 2001-384, s. 2; 2002-90, s. 2; 2012-18, s. 1.22; 2015-286, s. 4.7(e).)

§ 143B-279.11. Recordation of residual petroleum from underground or aboveground storage tanks or other sources.

(a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this section. This section applies only to a cleanup pursuant to a remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes or from an aboveground storage tank or other petroleum source pursuant to Part 7 of Article 21A of Chapter 143 of the General Statutes.

(b) The owner, operator, or other person responsible for a discharge or release of petroleum from an underground storage tank, aboveground storage tank, or other petroleum source shall prepare and submit to the Department a proposed Notice that meets the

requirements of this section. The proposed Notice shall be submitted to the Department (i) before the property is conveyed, or (ii) when the owner, operator, or other person responsible for the discharge or release requests that the Department issue a determination that no further action is required under the remedial action plan, whichever first occurs. The Notice shall be entitled "NOTICE OF RESIDUAL PETROLEUM". The Notice shall include a description that would be sufficient as a description in an instrument of conveyance of the (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank, aboveground storage tank, or other petroleum source, or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. The Notice shall identify the location of any residual petroleum known to exist on the real property at the time the Notice is prepared. The Notice shall also identify the location of any residual petroleum known, at the time the Notice is prepared, to exist on other real property that is a result of the discharge or release. The Notice shall set out any restrictions on the current or future use of the real property that are imposed by the Secretary pursuant to G.S. 143B-279.9(b) to protect public health, the environment, or users of the property.

(c) If the contamination is located on more than one parcel or tract of land, the Department may require that the owner, operator, or other person responsible for the discharge or release prepare a composite map or plat that shows all parcels or tracts. If the contamination is located on one parcel or tract of land, the owner, operator, or other person responsible for the discharge or release may prepare a map or plat that shows the parcel but is not required to do so. A map or plat shall be prepared and certified by a professional land surveyor, shall meet the requirements of G.S. 47-30, and shall be submitted to the Department for approval. When the Department has approved a map or plat, it shall be recorded in the office of the register of deeds and shall be incorporated into the Notice by reference.

(d) The Department shall review the proposed Notice to determine whether the Notice meets the requirements of this section and rules adopted to implement this section and shall provide the owner, operator, or other person responsible for the discharge or release of petroleum from an underground storage tank, aboveground storage tank, or other petroleum source with a notarized copy of the approved Notice. After the Department approves the Notice, the owner, operator, or other person responsible for the discharge or release of petroleum from an underground storage tank, aboveground storage tank, or other petroleum source shall file a notarized copy of the approved Notice in the register of deeds office in the county or counties in which the real property is located (i) before the property is conveyed or (ii) within 30 days after the owner, operator, or other person responsible for the discharge or release receives notice from the Department that no further action is required under the remedial action plan, whichever first occurs. If the owner, operator, or other person responsible for the discharge or release fails to file the Notice as required by this section, any determination by the Department that no further action is required is void. The owner, operator, or other person responsible for the discharge or release, may record

the Notice required by this section without the agreement of the owner of the real property. The owner, operator, or other person responsible for the discharge or release shall submit a certified copy of the Notice as filed in the register of deeds office to the Department.

(e) Repealed by Session Laws 2012-18, s. 1.23, effective July 1, 2012.

(f) In the event that the owner, operator, or other person responsible for the discharge or release fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of the real property who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(g) A Notice filed pursuant to this section shall, at the request of the owner of the real property, be cancelled by the Secretary after the residual petroleum has been eliminated or remediated to unrestricted use standards. If requested in writing by the owner of the land, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the residual petroleum has been eliminated, or that the residual petroleum has been remediated to unrestricted use standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded.

(h) With respect to sites contaminated by the discharge or release of petroleum from an aboveground storage tank, or another petroleum source, from which contamination has migrated to off-site properties, as that term is defined under G.S. 130A-310.65(3a), the provisions of this section shall only apply if the Department has determined that the requirements of G.S. 143-215.104AA or G.S. 130A-310.73A, as applicable, have been satisfied for the site. (2001-384, s. 3; 2002-90, ss. 3-5; 2012-18, s. 1.23; 2017-209, s. 3(b); 2018-114, s. 18(b).)

§ 143B-279.12. One-stop permits for certain environmental permits.

(a) The Department of Environmental Quality shall establish a one-stop environmental permit application assistance and tracking system program for all its regional offices. The Department shall provide to each person who submits an application for any environmental permit subject to this section to any regional office a time frame within which that applicant may expect a final decision regarding the issuance or denial of the permit. The Department shall identify the environmental permits that are subject to this section. The procedure regulating the time frame estimates and sanction for failing to honor the time frame shall be as set out in subsections (b) and (c) of this section.

(b) Upon receipt of a complete application for an environmental permit, the Department of Environmental Quality shall provide to the applicant a good faith estimate of the date by which the Department expects to make the final decision of whether to issue or deny the permit.

(c) Unless otherwise provided by law, when an applicant has provided to the Department of Environmental Quality the information and documentation required and requested by the Department and the Department fails to issue or deny the permit within

60 days of the date projected by the Department for the final decision of whether to issue or deny the permit, the permit shall be automatically granted to the applicant. This subsection does not apply when an applicant submits a substantial amendment to its application after the Department has provided the applicant the projected time frame as required by this section. This subsection does not apply when an applicant agrees to receive a final decision from the Department more than 60 days from the date projected by the Department under subsection (b) of this section.

(d) The Department of Environmental Quality shall track the time required to process each complete environmental permit application that is subject to this section. The Department shall compare the time in which the permit was issued or denied with the projected time frame provided to the applicant by the Department as required by this section. The Department shall identify each permit that was issued or denied more than 90 days after receipt of a complete application by the Department and shall document the reasons for the delayed action.

(e) Repealed by Session Laws 2008-198, s. 10.1, effective August 8, 2008.

(f) The Department may adopt temporary rules to implement this section. (2004-124, s. 12.12(a); 2006-79, s. 14; 2008-198, s. 10.1; 2015-241, s. 14.30(u).)

§ 143B-279.13. Express permit and certification reviews.

(a) The Department of Environmental Quality shall develop an express review program to provide express permit and certification reviews in all of its regional offices. Participation in the express review program is voluntary, and the program is to become supported by the fees determined pursuant to subsection (b) of this section. The Department of Environmental Quality shall determine the project applications to review under the express review program from those who request to participate in the program. The express review program may be applied to any one or all of the permits, approvals, or certifications in the following programs: the erosion and sedimentation control program, the coastal management program, and the water quality programs, including water quality certifications and stormwater management. The express review program shall focus on the following permits or certifications:

(1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the General Statutes.
(2) Stream origination certifications under Article 21 of Chapter 143 of the General Statutes.
(3) Water quality certification under Article 21 of Chapter 143 of the General Statutes.
(4) Erosion and sedimentation control permits under Article 4 of Chapter 113A of the General Statutes.
(5) Permits under the Coastal Area Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of the General Statutes.

(b) The Department of Environmental Quality may determine the fees for express application review under the express review program. Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged under subsection (a) of this section for the express review of a project application requiring all of the permits under subdivisions

(1) through (5) of subsection (a) of this section shall not exceed five thousand five hundred dollars ($5,500). Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged for the express review of a project application requiring all of the permits under subdivisions (1) through (4) of subsection (a) of this section shall not exceed four thousand five hundred dollars ($4,500). Notwithstanding G.S. 143-215.3D, the maximum permit application fee charged for the express review of a project application for any other combination of permits under subdivisions (1) through (5) of subsection (a) of this section shall not exceed four thousand dollars ($4,000). Express review of a project application involving additional permits or certifications issued by the Department of Environmental Quality other than those under subdivisions (1) through (5) of subsection (a) of this section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or any other statute or rule that sets a permit fee, the maximum permit application fee charged for the express review of a project application shall not exceed four thousand dollars ($4,000), plus one hundred fifty percent (150%) of the fee that would otherwise apply by statute or rule for that particular permit or certification. Additional fees, not to exceed fifty percent (50%) of the original permit application fee under this section, may be charged for subsequent reviews due to the insufficiency of the permit applications. The Department of Environmental Quality may establish the procedure by which the amount of the fees under this subsection is determined, and the fees and procedures are not rules under G.S. 150B-2(8a) for the express review program under this section.

(c) Repealed by Session Laws 2008-198, s. 10.2, effective August 8, 2008. (2005-276, s. 12.2(a); 2008-198, s. 10.2; 2015-241, s. 14.30(u).)

§ 143B-279.14. Express Review Fund.

The Express Review Fund is created as a special nonreverting fund. All fees collected under G.S. 143B-279.13 shall be credited to the Express Review Fund. The Express Review Fund shall be used for the costs of implementing the express review program under G.S. 143B-279.13 and the costs of administering the program, including the salaries and support of the program's staff. If the express review program is abolished, the funds in the Express Review Fund shall be credited to the General Fund. (2005-276, s. 12.2(a).)

§ 143B-279.15: Repealed by Session Laws 2015-286, s. 4.12(c), effective October 22, 2015.

§ 143B-279.16. Civil penalty assessments.

(a) The purpose of this section is to provide to the person receiving a notice of violation of an environmental statute or an environmental rule a greater opportunity to understand what corrective action is needed, receive technical assistance from the Department of Environmental Quality, and to take the needed corrective action. It is also the purpose of this section to provide to the person receiving the notice of violation a greater opportunity for informally resolving matters involving any such violation.

(b) In order to fulfill the purpose set forth in subsection (a) of this section, the Department of Environmental Quality shall, effective July 1, 2011, extend the period of

time by 10 days between the time the violator is sent a notice of violation of an environmental statute or an environmental rule and the subsequent date the violator is sent an assessment of the civil penalty for the violation. (2011-145, s. 13.6; 2015-241, s. 14.30(u).)

§ 143B-279.17. Tracking and report on permit processing times.

The Department of Environmental Quality shall track the time required to process all permit applications in the One-Stop for Certain Environmental Permits Programs established by G.S. 143B-279.12 and the Express Permit and Certification Reviews established by G.S. 143B-279.13 that are received by the Department. The processing time tracked shall include (i) the total processing time from when an initial permit application is received to issuance or denial of the permit and (ii) the processing time from when a complete permit application is received to issuance or denial of the permit. No later than January 1 of each odd-numbered year, the Department shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division of the General Assembly, and the Environmental Review Commission on the permit processing times required to be tracked pursuant to this section. The Department shall submit this report with the report required by G.S. 143-215.3A(c) as a single report. (2012-187, s. 13(a); 2015-241, s. 14.30(u); 2017-10, s. 4.12(b); 2017-57, s. 14.1(n).)

Part 2. Board of Natural Resources and Community Development.

§ 143B-280: Repealed by Session Laws 1989, c. 727, s. 2.

Part 3. Wildlife Resources Commission.

§ 143B-281: Repealed by Session Laws 1989, c. 727, s. 2.

§ 143B-281.1. Wildlife Resources Commission – transfer; independence preserved; appointment of Executive Director and employees.

The Wildlife Resources Commission, as established by Chapters 75A, 113, and 143 of the General Statutes and other applicable laws of this State, is hereby transferred to the Department of Environmental Quality by a Type II transfer as defined in G.S. 143A-6. The Wildlife Resources Commission shall exercise all its prescribed statutory powers independently of the Secretary of Environmental Quality and, other provisions of this Chapter notwithstanding, shall be subject to the direction and supervision of the Secretary only with respect to the management functions of coordinating and reporting. Any other provisions of this Chapter to the contrary notwithstanding, the Executive Director of the Wildlife Resources Commission shall be appointed by the Commission and the employees of the Commission shall be employed as now provided in G.S. 143-246. (1989, c. 727, s. 4; 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(u), (v).)

Part 4. Environmental Management Commission.

§ 143B-282. Environmental Management Commission – creation; powers and duties.

(a) There is hereby created the Environmental Management Commission of the Department of Environmental Quality with the power and duty to promulgate rules to be followed in the protection, preservation, and enhancement of the water and air resources of the State.

(1) Within the limitations of G.S. 143-215.9 concerning industrial health and safety, the Environmental Management Commission shall have all of the following powers and duties:

a. To grant a permit or temporary permit, to modify or revoke a permit, and to refuse to grant permits pursuant to G.S. 143-215.1 and G.S. 143-215.108 with regard to controlling sources of air and water pollution.

b. To issue a special order pursuant to G.S. 143-215.2(b) and G.S. 143-215.110 to any person whom the Commission finds responsible for causing or contributing to any pollution of water within such watershed or pollution of the air within the area for which standards have been established.

c. To conduct and direct that investigations be conducted pursuant to G.S. 143-215.3 and G.S. 143-215.108(c)(5).

d. To conduct public hearings, institute actions in superior court, and agree upon or enter into settlements, all pursuant to G.S. 143-215.3.

e. To direct the investigation of any killing of fish and wildlife pursuant to G.S. 143-215.3.

f. To consult with any person proposing to construct, install, or acquire an air or water pollution source pursuant to G.S. 143-215.3 and G.S. 143-215.111.

g. To encourage local government units to handle air pollution problems and to provide technical and consultative assistance pursuant to G.S. 143-215.3 and G.S. 143-215.112.

h. To review and have general oversight and supervision over local air pollution control programs pursuant to G.S. 143-215.3 and G.S. 143-215.112.

i. To declare an emergency when it finds a generalized dangerous condition of water or air pollution pursuant to G.S. 143-215.3.

j. To render advice and assistance to local government regarding floodways pursuant to G.S. 143-215.56.

k. To declare and delineate and modify capacity use areas pursuant to G.S. 143-215.13.

l. To grant permits for water use within capacity use areas pursuant to G.S. 143-215.15.

m. To direct that investigations be conducted when necessary to carry out duties regarding capacity use areas pursuant to G.S. 143-215.19.

n. To approve, disapprove and approve subject to conditions all applications for dam construction pursuant to G.S. 143-215.28; to require construction progress reports pursuant to G.S. 143-215.29.

o. To halt dam construction pursuant to G.S. 143-215.29.

p. To grant final approval of dam construction work pursuant to G.S. 143-215.30.

q. To have jurisdiction and supervision over the maintenance and operation of dams pursuant to G.S. 143-215.31.

r. To direct the inspection of dams pursuant to G.S. 143-215.32.

s. To modify or revoke any final action previously taken by the Commission pursuant to G.S. 143-214.1 and G.S. 143-215.107.

t. To have jurisdiction and supervision over oil pollution and dry-cleaning solvent use, contamination, and remediation pursuant to Article 21A of Chapter 143 of the General Statutes.

u. To administer the State's authority under 33 U.S.C. § 1341 of the federal Clean Water Act.

v. To approve Coastal Habitat Protection Plans as provided in G.S. 143B-279.8.

w. To identify, review, and assess reports prepared by the Department of Environmental Quality that are required by an act of the General Assembly and that the Commission finds would have a significant public interest and to include that assessment in its report to the Environmental Review Commission under subsection (b) of this section.

(2) The Environmental Management Commission shall adopt rules:

a. For air quality standards, emission control standards and classifications for air contaminant sources pursuant to G.S. 143-215.107.

b. For water quality standards and classifications pursuant to G.S. 143-214.1 and G.S. 143-215.

c. To implement water and air quality reporting pursuant to Part 7 of Article 21 of Chapter 143 of the General Statutes.

d. To be applied in capacity use areas pursuant to G.S. 143-215.14.

e. To implement the issuance of permits for water use within capacity use areas pursuant to G.S. 143-215.15 and G.S. 143-215.16.

f. Repealed by Session Laws 1983, c. 222, s. 3.

g. For the protection of the land and the waters over which this State has jurisdiction from pollution by oil, oil products and oil by-products pursuant to Article 21A of Chapter 143.

h. Governing underground tanks used for the storage of oil or hazardous substances pursuant to Articles 21, 21A, or 21B of Chapter 143 of the General Statutes, including inspection and testing of these tanks and certification of persons who inspect and test tanks.

i. To implement the provisions of Part 2A of Article 21 of Chapter 143 of the General Statutes.

j. To implement the provisions of Part 6 of Article 21A of Chapter 143 of the General Statutes.

k. To implement basinwide water quality management plans developed pursuant to G.S. 143-215.8B.

l. For matters within its jurisdiction that allow for and regulate horizontal drilling and hydraulic fracturing for the purpose of oil and gas exploration and development.

(3) The Commission is authorized to make such rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for water and air resources purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(4) The Commission shall make rules consistent with the provisions of this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environmental Quality.

(5) The Environmental Management Commission shall have the power to adopt rules with respect to any State laws administered under its jurisdiction so as to accept evidence of compliance with corresponding federal law or regulation in lieu of a State permit, or otherwise modify a requirement for a State permit, upon findings by the Commission, and after public hearings, that there are:

a. Similar and corresponding or more restrictive federal laws or regulations which also require an applicant to obtain a federal permit based upon the same general standards or more restrictive standards as the State laws and rules require; and

b. That the enforcement of the State laws and rules would require the applicant to also obtain a State permit in addition to the required federal permit; and

c. That the enforcement of the State laws and rules would be a duplication of effort on the part of the applicant; and

d. Such duplication of State and federal permit requirements would result in an unreasonable burden not only on the applicant, but also on the citizens and resources of the State.

(6) The Commission may establish a procedure for evaluating renewable energy technologies that are, or are proposed to be, employed as part of a renewable energy facility, as defined in G.S. 62-133.8; establish standards to ensure that renewable energy technologies do not harm the environment, natural resources, cultural resources, or public health, safety, or welfare of the State; and, to the extent that there is not an environmental regulatory program, establish an environmental regulatory program to implement these protective standards.

(b) The Environmental Management Commission shall submit written reports as to its operation, activities, programs, and progress to the Environmental Review Commission by January 1 of each year. The Environmental Management Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission.

(c) The Environmental Management Commission shall implement the provisions of subsections (d) and (e) of 33 U.S.C. § 1313 by identifying and prioritizing impaired waters and by developing appropriate total maximum daily loads of pollutants for those impaired waters. The Commission shall incorporate those total maximum daily loads approved by the United States Environmental Protection Agency into its continuing basinwide water quality planning process.

(d) The Environmental Management Commission may adopt rules setting out strategies necessary for assuring that water quality standards are met by any point or nonpoint source or by any category of point or nonpoint sources that is determined by the Commission to be contributing to the water quality impairment. These strategies may include, but are not limited to, additional monitoring, effluent limitations, supplemental standards or classifications, best management practices, protective buffers, schedules of compliance, and the establishment of and delegations to intergovernmental basinwide groups.

(e) In appointing the members of the Commission, the appointing authorities shall make every effort to ensure fair geographic representation of the Commission. (1973, c. 1262, s. 19; 1975, c. 512; 1977, c. 771, s. 4; 1983, c. 222, s. 3; 1985, c. 551, s. 1; 1989, c. 652, s. 2; c. 727, s. 218(128); 1989 (Reg. Sess., 1990), c. 1036, s. 1; 1991 (Reg. Sess., 1992), c. 990, s. 1; 1993, c. 348, s. 3; 1996, 2nd Ex. Sess., c. 18, s. 27.4(b); 1997-392, s. 2(a), (b); 1997-400, s. 3.2; 1997-443, s. 11A.119(a); 1997-458, ss. 8.4, 8.5; 1997-496, s. 16; 1998-212, s. 14.9H(f); 1999-328, s. 4.13; 2001-424, s. 19.13(a); 2002-165, s. 1.9; 2007-397, s. 2(c); 2012-143, s. 2(h); 2015-241, s. 14.30(u); 2017-10, s. 4.13(a); 2017-211, s. 3.)

§ 143B-282.1. Environmental Management Commission – quasi-judicial powers; procedures.

(a) With respect to those matters within its jurisdiction, the Environmental Management Commission shall exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes. This section and any rules adopted by the Environmental Management Commission shall govern such proceedings:

(1) Exceptions to recommended decisions in contested cases shall be filed with the Secretary within 30 days of the receipt by the Secretary of the official record from the Office of Administrative Hearings, unless additional time is allowed by the chairman of the Commission.

(2) Oral arguments by the parties may be allowed by the chairman of the Commission upon request of the parties.

(3) Deliberations of the Commission shall be conducted in its public meeting unless the Commission determines that consultation with its counsel should be held in a closed session pursuant to G.S. 143-318.11.

(b) The final agency decision in contested cases that arise from civil penalty assessments shall be made by the Commission. In the evaluation of each violation, the Commission shall recognize that harm to the natural resources of the State arising from the violation of standards or limitations established to protect those resources may be immediately observed through damaged resources or may be incremental or cumulative with no damage that can be immediately observed or documented. Penalties up to the maximum authorized may be based on any one or combination of the following factors:

(1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;

(2) The duration and gravity of the violation;

(3) The effect on ground or surface water quantity or quality or on air quality;

(4) The cost of rectifying the damage;
(5) The amount of money saved by noncompliance;
(6) Whether the violation was committed willfully or intentionally;
(7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
(8) The cost to the State of the enforcement procedures.

(c) The chairman shall appoint a Committee on Civil Penalty Remissions from the members of the Commission. No member of the Committee on Civil Penalty Remissions may hear or vote on any matter in which he has an economic interest. The Committee on Civil Penalty Remissions shall make the final agency decision on remission requests. In determining whether a remission request will be approved, the Committee shall consider the recommendation of the Secretary and the following factors:

(1) Whether one or more of the civil penalty assessment factors in subsection (b) of this section were wrongly applied to the detriment of the petitioner;
(2) Whether the violator promptly abated continuing environmental damage resulting from the violation;
(3) Whether the violation was inadvertent or a result of an accident;
(4) Whether the violator had been assessed civil penalties for any previous violations;
(5) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(d) The Committee on Civil Penalty Remissions may remit the entire amount of the penalty only when the violator has not been assessed civil penalties for previous violations, and when payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(e) If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary of Environmental Quality shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment.

(f) As used in this section, "Secretary" means the Secretary of Environmental Quality. (1989 (Reg. Sess., 1990), c. 1036, s. 2; 1993 (Reg. Sess., 1994), c. 570, s. 5; 1995 (Reg. Sess., 1996), c. 743, s. 21; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(v).)

§ 143B-283. Environmental Management Commission – members; selection; removal; compensation; quorum; services.

(a) Repealed by Session Laws 2013-360, s. 14.23(a), effective July 1, 2013.

(a1) The Environmental Management Commission shall consist of 15 members as follows:

(1) One appointed by the Governor who shall be a licensed physician.
(2) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in hydrology, water pollution control, or the effects of water pollution.

(3) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in hydrology, water pollution control, or the effects of water pollution.

(4) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in air pollution control or the effects of air pollution.

(5) One appointed by the Governor who shall at the time of appointment be actively connected with or have had experience in agriculture.

(6) One appointed by the Governor who shall at the time of appointment have special training and scientific expertise in freshwater, estuarine, marine biological, or ecological sciences or be actively connected with or have had experience in the fish and wildlife conservation activities of the State.

(7) One appointed by the Governor who shall at the time of appointment be actively employed by, or recently retired from, an industrial manufacturing facility and shall be knowledgeable in the field of industrial pollution control.

(8) One appointed by the Governor who shall at the time of appointment be a licensed engineer with specialized training and experience in water supply or water or air pollution control.

(9) One appointed by the Governor who shall serve at large.

(10) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(11) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(12) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.

(13) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(14) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(15) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(b) Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Governor may reappoint a member of the Commission to an additional term if, at the time of the reappointment, the member qualifies for membership on the Commission under subdivisions (1) through (9) of subsection (a1) of this section. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122.

(b1) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(b2) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(b3) A majority of the Commission shall constitute a quorum for the transaction of business.

(b4) All clerical and other services required by the Commission shall be supplied by the Secretary of Environmental Quality.

(c) Repealed by Session Laws 2015-9, s. 1.2, effective April 27, 2015.

(c1) All members of the Commission are covered persons for the purposes of Subchapter II of Chapter 163A of the General Statutes, the Elections and Ethics Enforcement Act. As covered persons, members of the Commission shall comply with the applicable requirements of the Elections and Ethics Enforcement Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the Elections and Ethics Enforcement Act to avoid conflicts of interest. The Governor may require additional disclosure of potential conflicts of interest by members. The Governor may promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this subsection, giving due regard to the requirements of federal legislation, and, for this purpose, may promulgate rules, regulations, or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law.

(d) Repealed by Session Laws 2013-360, s. 14.23(a), effective July 1, 2013.

(e) Members of the Commission shall serve terms of four years. (1973, c. 1262, s. 20; 1977, c. 771, s. 4; 1979, 2nd Sess., c. 1158, ss. 5, 6; 1981 (Reg. Sess., 1982), c. 1191, s. 19; 1989, c. 315; c. 727, s. 218(129); 1995, c. 490, s. 18; 1997-381, s. 1; 1997-443, s. 11A.119(a); 1998-217, s. 17; 2000-172, ss. 4.1, 4.2; 2001-486, s. 2.16; 2007-182, s. 2; 2013-360, s. 14.23(a); 2015-9, s. 1.2; 2015-241, s. 14.30(v); 2017-6, s. 3.)

§ 143B-284. Environmental Management Commission – officers.

The Environmental Management Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term whichever comes first. (1973, c. 1262, s. 21.)

§ 143B-285. Environmental Management Commission – meetings.

The Environmental Management Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members. (1973, c. 1262, s. 22.)

§§ 143B-285.1 through 143B-285.9. Reserved for future codification purposes.

Part 4A. Governor's Waste Management Board.

§§ 143B-285.10 through 143B-285.15: Repealed by Session Laws 1993, c. 501, s. 1.

§§ 143B-285.16 through 143B-285.19. Reserved for future codification purposes.

Part 4B. Office of Environmental Education and Public Affairs.

§ 143B-285.20. Short title.

This Part shall be known and cited as the Environmental Education Act of 1993. (1993, c. 501, s. 28.)

§ 143B-285.21. Declaration of purpose.

The purpose of this Part shall be to encourage, promote, and support the development of programs, facilities, and materials for the purpose of environmental education in North Carolina. (1993, c. 501, s. 28.)

§ 143B-285.22. Creation.

There is hereby created the Office of Environmental Education and Public Affairs (hereinafter referred to as "Office") within the Department of Environmental Quality. (1993, c. 501, s. 28; 1997-443, s. 11A.119(a); 2010-31, s. 13.1A(c); 2015-241, s. 14.30(u).)

§ 143B-285.23. Powers and duties of the Secretary of Environmental Quality.

The Secretary of Environmental Quality shall:

(1) Establish an Office of Environmental Education and Public Affairs to:
   a. Serve as a clearinghouse of environmental information for the State.
   b. Plan for the Department's future needs for environmental education materials and programs.
   c. Maintain a computerized database of existing education materials and programs within the Department.
   d. Maintain a speaker's bureau of environmental specialists to address environmental concerns and issues in communities across the State.
   e. Evaluate opportunities for establishing regional environmental education centers.
   f. Administer the Project Tomorrow Award Program to encourage school children to discover and explore ways to protect the environment.
   g. Assist the Department of Public Instruction in integrating environmental education into course curricula.
   h. Develop and implement a grants and award program for environmental education projects in schools and communities.

(2) Coordinate, through technical assistance and staff support and with participation of the Department of Public Instruction and other relevant agencies, institutions, and citizens, the planning and implementation of a statewide program of environmental education.

(3) Be responsible for such matters as the purchase of educational equipment, materials, and supplies; the construction or modification of facilities; and the employment of consultants and other personnel necessary to carry out the provisions of this Part.

(4) Encourage coordination between the various State and federal agencies, citizens groups, and the business and industrial community, in the dissemination of environmental information and education.

(5) Utilize existing programs, educational materials, or facilities, both public and private, wherever feasible. (1993, c. 501, s. 28; 1997-443, s. 11A.119(a); 2010-31, s. 13.1A(d); 2015-241, s. 14.30(v).)

§ 143B-285.24. Grants and awards.

The objective of grants and awards made under the provisions of this Part shall be to promote the further development of local and regional environmental education and information dissemination to aid especially, but not be limited to, school-age children. The Office shall recommend each year to the Governor recipients for the Project Tomorrow Award, which the Governor shall award for outstanding environmental projects by elementary schools in North Carolina. (1993, c. 501, s. 28.)

§ 143B-285.25. Liaison between the Office of Environmental Education and Public Affairs and the Department of Public Instruction.

The Superintendent of the Department of Public Instruction shall identify an environmental education liaison within the Office of Instructional Services of the Department of Public Instruction to:

(1) Coordinate environmental education within the State curriculum and among the Department and other State agencies.

(2) Conduct teacher training in environmental education topics in conjunction with Department and other State agencies.

(3) Coordinate and integrate topics within the various curriculum areas of the standard course of study.

(4) Promote awareness of environmental issues to the public and to the school communities, including students, teachers, and administrators.

(5) Establish a repository of environmental education instructional materials and disseminate information on the availability of these materials to schools.

(6) Promote and facilitate the sharing of information through electronic networks to all schools. (1993, c. 501, s. 28; 2010-31, s. 13.1A(e).)

Part 5. Marine Fisheries Commission.

§§ 143B-286 through 143B-289: Repealed by Session Laws 1987, c. 641, s. 1.

Part 5A. Marine Fisheries Commission.

§§ 143B-289.1 through 143B-289.12: Repealed by Session Laws 1997-400, s. 6.3.

§§ 143B-289.13 through 143B-289.18: Reserved for future codification purposes.

Part 5B. Office of Marine Affairs.

§§ 143B-289.19 through 143B-289.23: Recodified as §§ 143B-289.40 through 143B-289.44 by Session Laws 1997-400, ss. 6, 6.3(b).

§§ 143B-289.24 through 143B-289.39: Reserved for future codification purposes.

Part 5C. Division of North Carolina Aquariums.

§ 143B-289.40: Recodified as G.S. 143B-135.180 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.41: Recodified as G.S. 143B-135.182 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.42: Recodified as G.S. 143B-135.184 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.43: Recodified as G.S. 143B-135.186 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.44: Recodified as G.S. 143B-135.188 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.45: Recodified as G.S. 143B-135.190 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.46. Reserved for future codification purposes.

§ 143B-289.47. Reserved for future codification purposes.

§ 143B-289.48. Reserved for future codification purposes.

§ 143B-289.49. Reserved for future codification purposes.

Part 5D. Marine Fisheries Commission.

§ 143B-289.50. Definitions.

(a) As used in this part:

(1) "Commission" means the Marine Fisheries Commission.

(2) "Department" means the Department of Environmental Quality.

(3) "Fisheries Director" means the Director of the Division of Marine Fisheries of the Department of Environmental Quality.

(4) "Secretary" means the Secretary of Environmental Quality.

(b) The definitions set out in G.S. 113-129 and G.S. 113-130 shall apply throughout this Part. (1997-400, s. 2.1; 1997-443, s. 11A.123; 2015-241, ss. 14.30(u), (v).)

§ 143B-289.51. Marine Fisheries Commission – creation; purposes.

(a) There is hereby created the Marine Fisheries Commission in the Department of Environmental Quality.

(b) The functions, purposes, and duties of the Marine Fisheries Commission are to:

(1) Manage, restore, develop, cultivate, conserve, protect, and regulate the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132.

(2) Implement the laws relating to coastal fisheries, coastal fishing, shellfish, crustaceans, and other marine and estuarine resources enacted by the General Assembly by the adoption of rules and policies, to provide a sound, constructive, comprehensive, continuing, and economical coastal fisheries program directed by citizens who are knowledgeable in the protection, restoration, proper use, and management of marine and estuarine resources.

(3) Implement management measures regarding ocean and marine fisheries in the Atlantic Ocean consistent with the authority conferred on the State by the United States.

(4) Advise the State regarding ocean and marine fisheries within the jurisdiction of the Atlantic States Marine Fisheries Compact, the South Atlantic Fishery Management Council, the Mid-Atlantic Fishery Management Council, and other similar organizations established to manage or regulate fishing in the Atlantic Ocean. (1997-400, s. 2.1; 1997-443, s. 11A.119(b); 2015-241, s. 14.30(u).)

§ 143B-289.52. Marine Fisheries Commission – powers and duties.

(a) The Marine Fisheries Commission shall adopt rules to be followed in the management, protection, preservation, and enhancement of the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries resources. The Marine Fisheries Commission shall have the power and duty:

(1) To authorize, license, regulate, prohibit, prescribe, or restrict all forms of marine and estuarine resources in coastal fishing waters with respect to:

a. Time, place, character, or dimensions of any methods or equipment that may be employed in taking fish.

b. Seasons for taking fish.

c. Size limits on and maximum quantities of fish that may be taken, possessed, bailed to another, transported, bought, sold, or given away.

(2) To provide fair regulation of commercial and recreational fishing groups in the interest of the public.

(3) To adopt rules and take all steps necessary to develop and improve mariculture, including the cultivation, harvesting, and marketing of shellfish and other marine resources in the State, involving the use of public grounds and private beds as provided in G.S. 113-201.

(4) To close areas of public bottoms under coastal fishing waters for such time as may be necessary in any program of propagation of shellfish as provided in G.S. 113-204.

(5) In the interest of conservation of the marine and estuarine resources of the State, to institute an action in the superior court to contest the claim of title or claimed right of fishery in any navigable waters of the State registered with the Department as provided in G.S. 113-206(d).

(6) To make reciprocal agreements with other jurisdictions respecting any of the matters governed in this Subchapter as provided by G.S. 113-223.

(7) To adopt relevant provisions of federal laws and regulations as State rules pursuant to G.S. 113-228.

(8) To delegate to the Fisheries Director the authority by proclamation to suspend or implement, in whole or in part, a particular rule of the Commission that may be affected by variable conditions as provided in G.S. 113-221.1.

(9) To comment on and otherwise participate in the determination of permit applications received by State agencies that may have an effect on the marine and estuarine resources of the State.

(10) To adopt Fishery Management Plans as provided in G.S. 113-182.1, to establish a Priority List to determine the order in which Fishery Management Plans are developed, to establish a Schedule for the development and adoption of each Fishery Management Plan, and to establish guidance criteria as to the contents of Fishery Management Plans.

(11) To approve Coastal Habitat Protection Plans as provided in G.S. 143B-279.8.

(12) Except as may otherwise be provided, to make the final agency decision in all contested cases involving matters within the jurisdiction of the Commission.

(13) To adopt rules to define fishing gear as either recreational gear or commercial gear.

(b) The Marine Fisheries Commission shall have the power and duty to establish standards and adopt rules:

(1) To implement the provisions of Subchapter IV of Chapter 113 as provided in G.S. 113-134.

(2) To manage the disposition of confiscated property as set forth in G.S. 113-137.

(3) To govern all license requirements prescribed in Article 14A of Chapter 113 of the General Statutes.

(4) To regulate the importation and exportation of fish, and equipment that may be used in taking or processing fish, as necessary to enhance the conservation of marine and estuarine resources of the State as provided in G.S. 113-170.

(5) To regulate the possession, transportation, and disposition of seafood, as provided in G.S. 113-170.4.

(6) To regulate the disposition of the young of edible fish, as provided by G.S. 113-185.

(7) To manage the leasing of public grounds for mariculture, including oysters and clam production, as provided in G.S. 113-202.

(8) To govern the utilization of private fisheries, as provided in G.S. 113-205.

(9) To impose further restrictions upon the throwing of fish offal in any coastal fishing waters, as provided in G.S. 113-265.

(10) To regulate the location and utilization of artificial reefs in coastal waters.

(11) To regulate the placement of nets and other sports or commercial fishing apparatus in coastal fishing waters with regard to navigational or recreational safety as well as from a conservation standpoint.

(c) The Commission is authorized to authorize, license, prohibit, prescribe, or restrict:

(1) The opening and closing of coastal fishing waters, except as to inland game fish, whether entirely or only as to the taking of particular classes of fish, use of particular equipment, or as to other activities.

(2) The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all marine and estuarine resources and all related equipment, implements, vessels, and conveyances as necessary to carry out its duties.

(d) The Commission may adopt rules required by the federal government for grants-in-aid for coastal resource purposes that may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from federal grants-in-aid.

(d1) The Commission may regulate participation in a fishery that is subject to a federal fishery management plan if that plan imposes a quota on the State for the harvest or landing of fish in the fishery. The Commission may use any additional criteria aside from holding a Standard Commercial Fishing License to develop limited-entry fisheries. The Commission may establish a fee for each license established pursuant to this subsection in an amount that does not exceed five hundred dollars ($500.00).

(d2) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid.

(e) The Commission may adopt rules to implement or comply with a fishery management plan adopted by the Atlantic States Marine Fisheries Commission or adopted by the United States Secretary of Commerce pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six months of the adoption or amendment of a fishery management plan or the notification of a change in management measures needed to remain in compliance with a fishery management plan.

(e1) A supermajority of the Commission shall be six members. A supermajority shall be necessary to override recommendations from the Division of Marine Fisheries regarding measures needed to end overfishing or to rebuild overfished stocks.

(f) The Commission shall adopt rules as provided in this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environmental Quality.

(g) As a quasi-judicial agency, the Commission, in accordance with Article IV, Section 3 of the Constitution of North Carolina, has those judicial powers reasonably necessary to accomplish the purposes for which it was created.

(h) Social security numbers and identifying information obtained by the Commission or the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this subsection, "identifying information" also includes a person's mailing address, residence address, e-mail address, Commission-issued customer identification number, date of birth, and telephone number.

(i) The Commission may adopt rules to exempt individuals who participate in organized fishing events held in coastal or joint fishing waters from recreational fishing license requirements for the specified time and place of the event when the purpose of the event is consistent with the conservation objectives of the Commission. (1997-400, ss. 2.1, 2.2; 1997-443, s. 11A.123; 1998-217, s. 18(a); 1998-225, ss. 1.3, 1.4, 1.5; 2001-474, s. 32; 2003-154, s. 3; 2004-187, ss. 7, 8; 2006-255, ss. 11.2, 12; 2012-190, s. 5; 2012-200, s. 17; 2013-360, ss. 14.8(v), 14.8(w); 2015-241, s. 14.30(u); 2017-10, s. 2.1(b).)

§ 143B-289.53. Marine Fisheries Commission – quasi-judicial powers; procedures.

(a) With respect to those matters within its jurisdiction, the Marine Fisheries Commission shall exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes. This section and any rules adopted by the Marine Fisheries Commission shall govern the following proceedings:

(1) Exceptions to recommended decisions in contested cases shall be filed with the Secretary within 30 days of the receipt by the Secretary of the official record from the Office of Administrative Hearings, unless additional time is allowed by the Chair of the Commission.

(2) Oral arguments by the parties may be allowed by the Chair of the Commission upon request of the parties.

(3) Deliberations of the Commission shall be conducted in its public meeting unless the Commission determines that consultation with its counsel should be held in a closed session pursuant to G.S. 143-318.11.

(b) The final agency decision in contested cases that arise from civil penalty assessments shall be made by the Commission. In the evaluation of each violation, the Commission shall recognize that harm to the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132, arising from the violation of a statute or rule enacted or adopted to protect those resources may be immediately observed through damaged resources or may be incremental or cumulative with no damage that can be immediately observed or documented. Penalties up to the maximum authorized may be based on any one or combination of the following factors:

(1) The degree and extent of harm to the marine and estuarine resources within the jurisdiction of the Commission, as described in G.S. 113-132; to the public health; or to private property resulting from the violation.

(2) The frequency and gravity of the violation.

(3) The cost of rectifying the damage.

(4) Whether the violation was committed willfully or intentionally.

(5) The prior record of the violator in complying or failing to comply with programs over which the Marine Fisheries Commission has regulatory authority.

(6) The cost to the State of the enforcement procedures.

(c) The Chair shall appoint a Committee on Civil Penalty Remissions from the members of the Commission. No member of the Committee on Civil Penalty Remissions may hear or vote on any matter in which the member has an economic interest. The Committee on Civil Penalty Remissions shall make the final agency decision on remission requests. In determining whether a remission request will be approved, the Committee shall consider the recommendation of the Secretary and the following factors:

(1) Whether one or more of the civil penalty assessment factors in subsection (b) of this section were wrongly applied to the detriment of the petitioner.
(2) Whether the violator promptly abated continuing environmental damage resulting from the violation.
(3) Whether the violation was inadvertent.
(4) Whether the violator had been assessed civil penalties for any previous violations.
(5) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(d) The Committee on Civil Penalty Remissions may remit the entire amount of the penalty only when the violator has not been assessed civil penalties for previous violations and when payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(e) If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary of Environmental Quality shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment.

(f) The Secretary may delegate his powers and duties under this section to the Fisheries Director. (1997-400, s. 2.1; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(v).)

§ 143B-289.54. Marine Fisheries Commission – members; appointment; term; oath; ethical standards; removal; compensation; staff.

(a) Members, Selection. – The Marine Fisheries Commission shall consist of nine members appointed by the Governor as follows:

(1) One person actively engaged in, or recently retired from, commercial fishing as demonstrated by currently or recently deriving at least fifty percent (50%) of annual earned income from taking and selling fishery resources in coastal fishing waters of the State. The spouse of a commercial fisherman who meets the criteria of this subdivision may be appointed under this subdivision.
(2) One person actively engaged in, or recently retired from, commercial fishing as demonstrated by currently or recently deriving at least fifty percent (50%) of annual earned income from taking and selling fishery resources in coastal fishing waters of the State. The spouse of a commercial fisherman who meets the criteria of this subdivision may be appointed under this subdivision.
(3) One person actively connected with, and experienced as, a licensed fish dealer or in seafood processing or distribution as demonstrated by deriving at least fifty percent (50%) of annual earned income from activities involving the buying, selling, processing, or distribution of seafood landed in this State. The

spouse of a person qualified under this subdivision may be appointed provided that the spouse is actively involved in the qualifying business.

(4) One person actively engaged in recreational sports fishing in coastal waters in this State. An appointee under this subdivision may not derive more than ten percent (10%) of annual earned income from sports fishing activities.

(5) One person actively engaged in recreational sports fishing in coastal waters in this State. An appointee under this subdivision may not derive more than ten percent (10%) of annual earned income from sports fishing activities.

(6) One person actively engaged in the sports fishing industry as demonstrated by deriving at least fifty percent (50%) of annual earned income from selling goods or services in this State. The spouse of a person qualified under this subdivision may be appointed provided that the spouse is actively involved in the qualifying business.

(7) One person having general knowledge of and experience related to subjects and persons regulated by the Commission.

(8) One person having general knowledge of and experience related to subjects and persons regulated by the Commission.

(9) One person who is a fisheries scientist having special training and expertise in marine and estuarine fisheries biology, ecology, population dynamics, water quality, habitat protection, or similar knowledge. A person appointed under this subdivision may not receive more than ten percent (10%) of annual earned income from either the commercial or sports fishing industries, including the processing and distribution of seafood.

(b) Residential Qualifications. – For purposes of providing regional representation on the Commission, the following three coastal regions of the State are designated: (i) Northeast Coastal Region comprised of Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, (ii) Central Coastal Region comprised of Beaufort, Carteret, Craven, Hyde, Jones, and Pamlico Counties; and (iii) Southeast Coastal Region comprised of Bladen, Brunswick, Columbus, New Hanover, Onslow, and Pender Counties. Persons appointed under subdivisions (1), (2), (3), (4), and (8) of subsection (a) of this section shall be residents of one of the coastal regions of the State. The membership of the Commission shall include at least one person who is a resident of each of the three coastal regions of the State.

(c) Additional Considerations. – In making appointments to the Commission, the Governor shall provide for appropriate representation of women and minorities on the Commission.

(d) Terms. – The term of office of members of the Commission is three years. A member may be reappointed to any number of successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The term of members appointed under subdivisions (1), (4), and (7) of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The term of members appointed under subdivisions (2), (5), and (8) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. The term of members appointed

under subdivisions (3), (6), and (9) of subsection (a) of this section shall expire on 30 June of years that follow by one year those years that are evenly divisible by three.

(e) Vacancies. – An appointment to fill a vacancy shall be for the unexpired balance of the term.

(f) Oath of Office. – Each member of the Commission, before assuming the duties of office, shall take an oath of office as provided in Chapter 11 of the General Statutes.

(g) Ethical Standards. –

(1) Disclosure statements. – Any person under consideration for appointment to the Commission shall provide both a financial disclosure statement and a potential bias disclosure statement to the Governor. A financial disclosure statement shall include statements of the nominee's financial interests in and related to State fishery resources use, licenses issued by the Division of Marine Fisheries held by the nominee or any business in which the nominee has a financial interest, and uses made by the nominee or by any business in which the nominee has a financial interest of the regulated resources. A potential bias disclosure statement shall include a statement of the nominee's membership or other affiliation with, including offices held, in societies, organizations, or advocacy groups pertaining to the management and use of the State's coastal fishery resources. Disclosure statements shall be treated as public records under Chapter 132 of the General Statutes and shall be updated on an annual basis.

(2) Voting/conflict of interest. – A member of the Commission shall not vote on any issue before the Commission that would have a "significant and predictable effect" on the member's financial interest. For purposes of this subdivision, "significant and predictable effect" means there is or may be a close causal link between the decision of the Commission and an expected disproportionate financial benefit to the member that is shared only by a minority of persons within the same industry sector or gear group. A member of the Commission shall also abstain from voting on any petition submitted by an advocacy group of which the member is an officer or sits as a member of the advocacy group's board of directors. A member of the Commission shall not use the member's official position as a member of the Commission to secure any special privilege or exemption of substantial value for any person. No member of the Commission shall, by the member's conduct, create an appearance that any person could improperly influence the member in the performance of the member's official duties.

(3) Regular attendance. – It shall be the duty of each member of the Commission to regularly attend meetings of the Commission.

(h) Removal. – The Governor may remove, as provided in G.S. 143B-13, any member of the Commission for misfeasance, malfeasance, or nonfeasance.

(i) Office May Be Held Concurrently With Others. – The office of member of the Marine Fisheries Commission may be held concurrently with any other elected or appointed office, as authorized by Article VI, Section 9, of the Constitution of North Carolina.

(j) Compensation. – Members of the Commission who are State officers or employees shall receive no per diem compensation for serving on the Commission, but

shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Commission who are full-time salaried public officers or employees other than State officers or employees shall receive no per diem compensation for serving on the Commission, but shall be reimbursed for their expenses in accordance with G.S. 138-6 in the same manner as State officers or employees. All other Commission members shall receive per diem compensation and reimbursement in accordance with the compensation rate established in G.S. 93B-5.

(k) Staff. – All clerical and other services required by the Commission shall be supplied by the Fisheries Director and the Department.

(*l*) Legal Services. – The Attorney General shall: (i) act as attorney for the Commission; (ii) at the request of the Commission, initiate actions in the name of the Commission; and (iii) represent the Commission in any appeal or other review of any order of the Commission.

(m) Transparency. – The Commission shall establish official e-mail accounts for all Commission members. These e-mail accounts shall be used for all electronic communications related to the work of the Commission and those communications shall be considered public records under Chapter 132 of the General Statutes. Other than routine communication sent from Division staff to all Commission members, electronic communications among a majority of the Commission shall be an "official meeting" as defined in Article 33C of Chapter 143 of the General Statutes. Failure to comply with this subsection shall be subject to investigation by the Bipartisan State Board of Elections and Ethics Enforcement as unethical conduct and removal under subsection (h) of this section as misfeasance. Nothing in this subsection is intended to limit or eliminate any privilege existing at common law or under statute. (1997-400, s. 2.1; 1998-225, ss. 1.6, 1.7; 2001-213, s. 5; 2013-360, s. 14.7(b); 2017-6, s. 3; 2017-190, s. 3.)

§ 143B-289.55. Marine Fisheries Commission – officers; organization; seal.

(a) The Governor shall appoint a member of the Commission to serve as Chair. The Chair shall serve at the pleasure of the Governor. The Commission shall elect one of its members to serve as Vice-Chair. The Vice-Chair shall serve a one-year term beginning 1 July and ending 30 June of the following year. The Vice-Chair may serve any number of consecutive terms.

(b) The Chair shall guide and coordinate the activities of the Commission in fulfilling its duties as set out in this Article. The Chair shall report to and advise the Governor and the Secretary on the activities of the Commission, on marine and estuarine conservation matters, and on all marine fisheries matters.

(c) The Commission shall determine its organization and procedure in accordance with the provisions of this Article. The provisions of the most recent edition of Robert's Rules of Order shall govern any procedural matter for which no other provision has been made.

(d) The Commission may adopt a common seal and may alter it as necessary. (1997-400, s. 2.1.)

§ 143B-289.56. Marine Fisheries Commission – meetings; quorum.

(a) The Commission shall meet at least once each calendar quarter and may hold additional meetings at any time and place within the State at the call of the Chair or upon the written request of at least four members. At least three of the four quarterly meetings of the Commission shall be held in one of the coastal regions designated in G.S. 143B-289.54.

(b) (1) Six members of the Commission shall constitute a quorum for the transaction of business.

(2) A quorum of the Commission may transact business only if one member, other than the Chair, appointed pursuant to subdivision (1), (2), or (3) of G.S. 143B-289.54(a) and one member, other than the Chair, appointed pursuant to subdivision (4), (5), or (6) of G.S. 143B-289.54(a) are present.

(c) If the Commission is unable to transact business because the requirements of subdivision (2) of subsection (b) of this section are not met, the Chair shall call another meeting of the Commission within 30 days and shall place on the agenda for that meeting every matter with respect to which the Commission was unable to transact business. Five members of the Commission shall constitute a quorum for the transaction of business at a meeting called under this subsection. The requirements of subdivision (2) of subsection (b) of this section shall not apply to a meeting called under this subsection. (1997-400, s. 2.1; 1998-225, s. 1.8.)

§ 143B-289.57. Marine Fisheries Commission Advisory Committees established; members; selection; duties.

(a) The Commission shall be assisted in the performance of its duties by four standing advisory committees and four regional advisory committees. Each standing and regional advisory committee shall consist of no more than 11 members. The Chair of the Commission shall designate one member of each advisory committee to serve as Chair of the committee. Members shall serve staggered three-year terms as determined by the Commission. The Commission shall establish other policies and procedures for standing and regional advisory committees that are consistent with those governing the Commission as set out in this Part.

(b) The Chair of the Commission shall appoint the following standing advisory committees:

(1) The Finfish Committee, which shall consider matters concerning finfish.

(2), (3) Repealed by Session Laws 2012-190, s. 4(a), and Session Laws 2012-200, s. 16(a), effective July 1, 2012.

(3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and crabs.

(4) The Habitat and Water Quality Committee, which shall consider matters concerning habitat and water quality that may affect coastal fisheries resources.

(c) Each standing advisory committee shall be composed of commercial and recreational fishermen, scientists, and other persons who have expertise in the matters to be considered by the advisory committee to which they are appointed. In making

appointments to advisory committees, the Chair of the Commission shall ensure that both commercial and recreational fishing interests are fairly represented and shall consider for appointment persons who are recommended by groups representing commercial fishing interests, recreational fishing interests, environmental protection and conservation interests, and other groups interested in coastal fisheries management.

(d) Each standing advisory committee shall review all matters referred to the committee by the Commission and shall make findings and recommendations on these matters. A standing advisory committee may, on its own motion, make findings and recommendations as to any matter related to its subject area. The Commission, in the performance of its duties, shall consider all findings and recommendations submitted by standing advisory committees.

(e) The Chair of the Commission shall appoint a Northern Regional Advisory Committee, encompassing areas from the Virginia line south through Hyde and Pamlico Counties and any counties to the west, and a Southern Regional Advisory Committee, encompassing areas from Carteret County south to the South Carolina line and any counties to the west. In making appointments to regional advisory committees, the Chair of the Commission shall ensure that both commercial and recreational fishing interests are fairly represented. (1997-400, s. 2.1; 2012-190, s. 4(a); 2012-200, s. 16(a).)

§ 143B-289.58: Repealed by Session Laws 2013-360, s. 14.10, effective July 1, 2013.

§ 143B-289.59. Conservation Fund; Commission may accept gifts.

(a) The Marine Fisheries Commission may accept gifts, donations, or contributions from any sources. These funds shall be held in a separate account and used solely for the purposes of marine and estuarine conservation and management. These funds shall be administered by the Marine Fisheries Commission and shall be used for marine and estuarine resources management, including education about the importance of conservation, in a manner consistent with marine and estuarine conservation management principles.

(b) The Marine Fisheries Commission is hereby authorized to issue and sell appropriate emblems by which to identify recipients thereof as contributors to a special marine and estuarine resources Conservation Fund that shall be made available to the Marine Fisheries Commission for conservation, protection, enhancement, preservation, and perpetuation of marine and estuarine species that may be endangered or threatened with extinction and for education about these issues. The special Conservation Fund is subject to oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes, except that interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d). Emblems of different sizes, shapes, types, or designs may be used to recognize contributions in different amounts, but no emblem shall be issued for a contribution amounting in value to less than five dollars ($5.00). (1997-400, s. 2.1; 2014-100, s. 14.21(a).)

§ 143B-289.60. Article subject to Chapter 113.

Nothing in this Article shall be construed to affect the jurisdictional division between the Marine Fisheries Commission and the Wildlife Resources Commission contained in Subchapter IV of Chapter 113 of the General Statutes or in any way to alter or abridge the powers and duties of the two agencies conferred in that Subchapter. (1997-400, s. 2.1.)

§ 143B-289.61. Jurisdictional questions.

In the event of any question arising between the Wildlife Resources Commission and the Marine Fisheries Commission or between the Department of Environmental Quality and the Marine Fisheries Commission as to any duty, responsibility, or authority imposed upon any of these bodies by law or with respect to conflict involving rules or administrative practices, the question or conflict shall be resolved by the Governor, whose decision shall be binding. (1997-400, s. 2.1; 1997-443, s. 11A.123; 1997-443, s. 11A.123; 2015-241, s. 14.30(u).)

§§ 143B-289.62 through 143B-289.65. Reserved for future codification purposes.

Part 6. North Carolina Mining Commission.

§ 143B-290. North Carolina Mining Commission – creation; powers and duties.

There is hereby created the North Carolina Mining Commission of the Department of Environmental Quality with the power and duty to promulgate rules for the enhancement of the mining resources of the State.

(1) The North Carolina Mining Commission shall have the following powers and duties:
   a. To act as the advisory body to the Governor pursuant to Article V(a) of the Interstate Mining Compact, as set out in G.S. 74-37.
   b. Repealed by Session Laws 2002-165, s. 1.10, effective October 23, 2002.
   c. To hear permit appeals, conduct a full and complete hearing on such controversies and affirm, modify, or overrule permit decisions made by the Department pursuant to G.S. 74-61.
   d. To promulgate rules necessary to administer the Mining Act of 1971, pursuant to G.S. 74-63.
   e. To promulgate rules necessary to administer the Control of Exploration for Uranium in North Carolina Act of 1983, pursuant to G.S. 74-86.

(2) The Commission is authorized to make such rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mining resource purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(3) The Commission shall make such rules consistent with the provisions of this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environmental Quality.

(4) Recodified as § 74-54.1 by c. 1039, s. 16, effective July 24, 1992. (1973, c. 1262, s. 29; 1977, c. 771, s. 4; 1983, c. 279, s. 2; 1989, c. 727, s. 193;

1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1997-443-11A.119(a); 2002-165, s. 1.10; repealed by 2012-143, s. (1)(a), effective August 1, 2012; reenacted by 2014-4, s. 5(a); 2015-241, s. 14.30(u).)

§ 143B-291. North Carolina Mining Commission – members; selection; removal; compensation; quorum; services.

(a) Repealed by Session Laws 2014-4, s. 5(a), effective July 31, 2015.

(a1) Members, Selection. – The North Carolina Mining Commission shall consist of eight members appointed as follows:

(1) One member who is the chair of the North Carolina State University Minerals Research Laboratory Advisory Committee, ex officio and nonvoting.

(2) The State Geologist, ex officio and nonvoting.

(3) One member appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who is a representative of the mining industry.

(4) One member appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who is a representative of the mining industry.

(5) One member appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who is a representative of the mining industry.

(6) One member appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who is a representative of the mining industry.

(7) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in conformance with G.S. 120-121, who is a representative of a nongovernmental conservation interest.

(8) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in conformance with G.S. 120-121, who is a representative of a nongovernmental conservation interest.

(a2) Process for Appointments by the Governor. – The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, within four weeks of the convening of the session of the General Assembly in the year for which the terms in question are to expire, the names of the persons to be appointed by the Governor and submitted to the General Assembly for confirmation by joint resolution. If an appointment is required pursuant to this subsection when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly. For the purpose of this subsection, the General Assembly is not in session only (i) prior to convening of the regular session, (ii) during any adjournment of the regular session for more than 10 days, or (iii) after sine die adjournment of the regular session.

(b) Terms. – The term of office of a member of the Commission is four years, beginning effective January 1 of the year of appointment and terminating on December 31 of the year of expiration. At the expiration of each member's term, the appointing authority

shall replace the member with a new member of like qualifications for a term of four years. In order to establish regularly overlapping terms, initial appointments shall be made effective June 1, 2016, or as soon as feasible thereafter, and expire as follows:

(1) The initial appointments made by the Governor:

a. Pursuant to subdivision (a1)(3) of this section shall expire December 31, 2020.

b. Pursuant to subdivision (a1)(4) of this section shall expire December 31, 2020.

c. Pursuant to subdivision (a1)(5) of this section shall expire December 31, 2019.

d. Pursuant to subdivision (a1)(6) of this section shall expire December 31, 2019.

(2) The initial appointment made by the General Assembly upon recommendation of the Speaker of the House of Representatives pursuant to subdivision (a1)(7) of this section shall expire December 31, 2018.

(3) The initial appointment made by the General Assembly upon recommendation of the President Pro Tempore of the Senate pursuant to subdivision (a1)(8) of this section shall expire December 31, 2018.

(c) Vacancies. – In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the Governor, prior to the expiration of the member's term of office, the name of the successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the General Assembly, vacancies in those appointments shall be filled in accordance with G.S. 120-122. If a vacancy arises or exists when the General Assembly is not in session, and the appointment is deemed urgent by the Governor, the member may be appointed by the Governor and serve on an interim basis pending confirmation or appointment by the General Assembly, as applicable. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(d) Removal. – The Governor may remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13, or for good cause.

(e) Compensation. – The members of the Commission shall receive per diem and necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) Quorum. – A majority of the Commission shall constitute a quorum for the transaction of business.

(g) Staff. – All clerical and other services required by the Commission shall be supplied by the Secretary of Environmental Quality. The Commission staff shall be housed in the Department of Environmental Quality and supervised by the Secretary of Environmental Quality. (1973, c. 1262, s. 29; 1977, c. 771, s. 4; 1983, c. 279, s. 2; 1989, c. 727, s. 193; 1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1997-443-11A.119(a); 2002-165, s. 1.10; repealed by 2012-143, s. (1)(a), effective August 1, 2012; reenacted by 2014-4, s. 5(a); 2015-241, s. 14.30(v); 2016-95, s. 6(a).)

§ 143B-292. North Carolina Mining Commission – officers.

The North Carolina Mining Commission shall have a chair and a vice-chair. The chair shall be designated by the Governor from among the members of the Commission to serve as chair at the pleasure of the Governor. The vice-chair shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of the vice-chair's regularly appointed term. (1973, c. 1262, s. 29; 1977, c. 771, s. 4; 1983, c. 279, s. 2; 1989, c. 727, s. 193; 1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1997-443-11A.119(a); 2002-165, s. 1.10; repealed by 2012-143, s. (1)(a), effective August 1, 2012; reenacted by 2014-4, s. 5(a).)

§ 143B-293. North Carolina Mining Commission – meetings.

The North Carolina Mining Commission shall meet at least semiannually and may hold special meetings at any time and place within the State at the call of the chair or upon the written request of at least four members. (1973, c. 1262, s. 29; 1977, c. 771, s. 4; 1983, c. 279, s. 2; 1989, c. 727, s. 193; 1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1997-443-11A.119(a); 2002-165, s. 1.10; repealed by 2012-143, s. (1)(a), effective August 1, 2012; reenacted by 2014-4, s. 5(a).)

Part 6A. North Carolina Oil and Gas Commission.

§ 143B-293.1. North Carolina Oil and Gas Commission – creation; powers and duties.

(a) There is hereby created the North Carolina Oil and Gas Commission of the Department of Environmental Quality with the power and duty to adopt rules necessary to administer the Oil and Gas Conservation Act pursuant to G.S. 113-391 and for the development of the oil and gas resources of the State. The Commission shall make such rules consistent with the provisions of this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environmental Quality.

(b) The Commission shall have the authority to make determinations and issue orders pursuant to the Oil and Gas Conservation Act to (i) regulate the spacing of wells and to establish drilling units as provided in G.S. 113-393; (ii) limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as provided in G.S. 113-394; (iii) classify wells for taxing purposes; and (iv) require integration of interests as provided in G.S. 113-393.

(c) The Commission shall submit annual written reports as to its operation, activities, programs, and progress to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission. The Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Joint Legislative Commission on Energy Policy and the Environmental Review Commission. The Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due. (1973, c. 1262, s. 29; 1977, c. 771, s. 4; 1983, c. 279, s. 2; 1989, c. 727, s. 193; 1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1997-443, s. 11A.119(a); 2002-165, s. 1.10; 2012-143, s. 1(b); 2014-4, ss. 4(a), 7(b); 2015-241, s. 14.30(u).)

§ 143B-293.2. North Carolina Oil and Gas Commission – members; selection; removal; compensation; quorum; services.

(a) Repealed by Session Laws 2014-4, s. 4(a), effective July 31, 2015.

(a1) Members Selection. – The North Carolina Oil and Gas Commission shall consist of nine members appointed as follows:

(1) One appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who, at the time of initial appointment, is an elected official of a municipal government located in a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if the person is no longer serving as an elected official of a municipal government but may not be reappointed to a subsequent term.

(2) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in conformance with G.S. 120-121, who shall be a geologist with experience in oil and gas exploration and development.

(3) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in conformance with G.S. 120-121, who is a member of a nongovernmental conservation interest.

(4) One appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who, at the time of initial appointment, is a member of a county board of commissioners of a county located in a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if the person is no longer serving as county commissioner but may not be reappointed to a subsequent term.

(5) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in conformance with G.S. 120-121, who is a member of a nongovernmental conservation interest.

(6) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in conformance with G.S. 120-121, who shall be an engineer with experience in oil and gas exploration and development.

(7) One appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a representative of a publicly traded natural gas company.

(8) One appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a licensed attorney with experience in legal matters associated with oil and gas exploration and development.

(9) One appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, with experience in matters related to public health.

(a2) Process for Appointments by the Governor. – The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, within four weeks of the convening of the session of the General Assembly in the year for which the terms in question are to expire, the names of the persons to be appointed by the Governor and

submitted to the General Assembly for confirmation by joint resolution. If an appointment is required pursuant to this subsection when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly. For the purpose of this subsection, the General Assembly is not in session only (i) prior to convening of the regular session, (ii) during any adjournment of the regular session for more than 10 days, or (iii) after sine die adjournment of the regular session.

(b) Terms. – The term of office of members of the Commission is four years, beginning effective January 1 of the year of appointment and terminating on December 31 of the year of expiration. A member may be reappointed to no more than two consecutive four-year terms. The term of a member who no longer meets the qualifications of their respective appointment, as set forth in subsection (a1) of this section, shall terminate but the member may continue to serve until a new member who meets the qualifications is appointed. In order to establish regularly overlapping terms, initial appointments shall be made effective June 1, 2016, or as soon as feasible thereafter, and expire as follows:

(1) The initial appointments made by the Governor:
  a. Pursuant to subdivision (a1)(1) of this section shall expire December 31, 2020.
  b. Pursuant to subdivision (a1)(4) of this section shall expire December 31, 2020.
  c. Pursuant to subdivision (a1)(7) of this section shall expire December 31, 2020.
  d. Pursuant to subdivision (a1)(8) of this section shall expire December 31, 2019.
  e. Pursuant to subdivision (a1)(9) of this section shall expire December 31, 2019.

(2) The initial appointments made by the General Assembly upon recommendation of the Speaker of the House of Representatives:
  a. Pursuant to subdivision (a1)(2) of this section shall expire December 31, 2018.
  b. Pursuant to subdivision (a1)(3) of this section shall expire December 31, 2019.

(3) The initial appointments made by the General Assembly upon recommendation of the President Pro Tempore of the Senate:
  a. Pursuant to subdivision (a1)(5) of this section shall expire December 31, 2018.
  b. Pursuant to subdivision (a1)(6) of this section shall expire December 31, 2019.

(c) Vacancies. – In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the Governor, prior to the expiration of the member's term of office, the name of the successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the General Assembly, vacancies in those appointments shall be filled in conformance with G.S. 120-122. If a vacancy arises or exists

when the General Assembly is not in session and the appointment is deemed urgent by the Governor, the member may be appointed by the Governor and serve on an interim basis pending confirmation or appointment by the General Assembly, as applicable. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(c1) Removal. – The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973, or for good cause.

(d) Compensation. – The members of the Commission shall receive per diem and necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.

(e) Quorum. – A majority of the Commission shall constitute a quorum for the transaction of business.

(f) Staff. – All staff support required by the Commission shall be supplied by the Division of Energy, Mineral, and Land Resources and the North Carolina Geological Survey, and supervised by the Secretary of Environmental Quality.

(g) Committees. – In addition to the Committee on Civil Penalty Remissions required to be established under G.S. 143B-293.6, the chair may establish other committees from members of the Commission to address specific issues as appropriate. No member of a committee may hear or vote on any matter in which the member has an economic interest. A majority of a committee shall constitute a quorum for the transaction of business.

(h) Office May Be Held Concurrently With Others. – Membership on the Oil and Gas Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1. (1973, c. 1262, s. 30; 1997-496, s. 8; 2006-79, ss. 3, 4; 2012-143, s. 1(b); 2012-187, s. 1.1; 2013-365, s. 3(a); 2014-4, s. 4(a); 2016-95, s. 7(a); 2017-212, s. 4.8(a).)

§ 143B-293.3: Reserved for future codification purposes.

§ 143B-293.4. North Carolina Oil and Gas Commission – officers.

The Oil and Gas Commission shall have a chair and a vice-chair. The Commission shall elect one of its members to serve as chair and one of its members to serve as vice-chair. The chair and vice-chair shall serve one-year terms beginning August 1 and ending July 31 of the following year. The chair and vice-chair may serve any number of terms, but not more than two terms consecutively. (1973, c. 1262, s. 31; 2006-79, s. 5; 2012-143, s. 1(b); 2014-4, s. 4(a).)

§ 143B-293.5. North Carolina Oil and Gas Commission – meetings.

The Oil and Gas Commission shall meet at least quarterly and may hold special meetings at any time and place within the State at the call of the chair or upon the written request of at least five members. (1973, c. 1262, s. 32; 2006-79, s. 6; 2012-143, s. 1(b); 2014-4, s. 4(a).)

§ 143B-293.6. North Carolina Oil and Gas Commission – quasi-judicial powers; procedures.

(a) With respect to those matters within its jurisdiction, the Oil and Gas Commission shall exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes.

(b) The chair shall appoint a Committee on Civil Penalty Remissions from the members of the Commission. No member of the Committee on Civil Penalty Remissions may hear or vote on any matter in which the member has an economic interest. In determining whether a remission request will be approved, the Committee shall consider the recommendation of the Secretary or the Secretary's designee and all of the following factors:

(1) Whether one or more of the civil penalty assessment factors in subsection (b) of this section were wrongly applied to the detriment of the petitioner.
(2) Whether the violator promptly abated continuing environmental damage resulting from the violation.
(3) Whether the violation was inadvertent or a result of an accident.
(4) Whether the violator had been assessed civil penalties for any previous violations.
(5) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(c) The Committee on Civil Penalty Remissions may remit the entire amount of the penalty only when the violator has not been assessed civil penalties for previous violations and when payment of the civil penalty will prevent payment for the remaining necessary remedial actions. (2012-143, s. 1(b); 2014-4, s. 4(a).)

Part 7. Soil and Water Conservation Commission.

§§ 143B-294 through 143B-297.1: Recodified as Article 71 of Chapter 106, G.S. 106-840 through G.S. 106-844, by Session Laws 2011-145, s. 13.22A(e), effective July 1, 2011.

Part 8. Sedimentation Control Commission.

§ 143B-298. Sedimentation Control Commission – creation; powers and duties.

There is hereby created the Sedimentation Control Commission of the Department of Environmental Quality with the power and duty to develop and administer a sedimentation control program as herein provided.

The Sedimentation Control Commission has the following powers and duties:

(1) In cooperation with the Secretary of the Department of Transportation and Highway Safety and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.
(2) Develop and adopt on or before July 1, 1974, rules and regulations for the control of erosion and sedimentation pursuant to G.S. 113A-54.
(3) Conduct public hearings pursuant to G.S. 113A-54.

(4) Assist local governments in developing erosion and sedimentation control programs pursuant to G.S. 113A-60.
(5) Assist and encourage other State agencies in developing erosion and sedimentation control programs pursuant to G.S. 113A-56.
(6) Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques pursuant to G.S. 113A-54. (1973, c. 1262, s. 39; 1977, c. 771, s. 4; 1989, c. 727, s. 218(137); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

§ 143B-299. Sedimentation Control Commission – members; selection; compensation; meetings.

(a) Creation; Membership. – There is hereby created in the Department of Environmental Quality the North Carolina Sedimentation Control Commission, which is charged with the duty of developing and administering the sedimentation control program provided for in this Article. The Commission shall consist of the following members:

(1) A person to be nominated jointly by the boards of the North Carolina League of Municipalities and the North Carolina Association of County Commissioners.
(2) A person to be nominated by the Board of the North Carolina Home Builders Association.
(3) A person to be nominated by the Carolinas Branch, Associated General Contractors of America.
(4) A representative of a North Carolina public utility company.
(5) The Director of the North Carolina Water Resources Research Institute.
(6) A member of the North Carolina Mining Commission who shall be a representative of nongovernmental conservation interests, as required by G.S. 74-38(b).
(7) A member of the State Soil and Water Conservation Commission.
(8) A member of the Environmental Management Commission.
(9) A soil scientist from the faculty of North Carolina State University.
(10) Two persons who shall be representatives of nongovernmental conservation interests.
(11) A professional engineer registered under the provisions of Chapter 89C of the General Statutes nominated by the Professional Engineers of North Carolina, Inc.

(b) Appointment. – The Commission members shall be appointed by the Governor. All Commission members, except the person appointed under subdivision (5) of subsection (a) of this section, shall serve staggered terms of three years and until their successors are appointed and duly qualified. The person appointed under subdivision (5) of subsection (a) of this section shall serve as a member of the Commission, subject to removal by the Governor as hereinafter specified in this section, so long as the person continues as Director of the Water Resources Research Institute. The terms of members appointed under subdivisions (2), (4), (7), and (8) of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The terms of members appointed under subdivisions (1),

(3), and (10) of subsection (a) of this section shall expire on 30 June of years that follow by one year those years that are evenly divisible by three. The terms of members appointed under subdivisions (6), (9), and (11) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. Except for the person appointed under subdivision (5) of subsection (a) of this section, no member of the Commission shall serve more than two complete consecutive three-year terms. Any member appointed by the Governor to fill a vacancy occurring in any of the appointments shall be appointed for the remainder of the term of the member causing the vacancy. The Governor may at any time remove any member of the Commission for inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, or because they no longer possess the required qualifications for membership. The office of the North Carolina Sedimentation Control Commission is declared to be an office that may be held concurrently with any other elective or appointive office, under the authority of Article VI, Sec. 9, of the North Carolina Constitution.

(b1) Chair. – The Governor shall designate a member of the Commission to serve as chair.

(c) Compensation. – The members of the Commission shall receive the usual and customary per diem allowed for the other members of boards and commissions of the State and as fixed in the Biennial Appropriation Act, and, in addition, the members of the Commission shall receive subsistence and travel expenses according to the prevailing State practice and as allowed and fixed by statute for such purposes, which said travel expenses shall also be allowed while going to or from any place of meeting or when on official business for the Commission. The per diem payments made to each member of the Commission shall include necessary time spent in traveling to and from their places of residence within the State to any place of meeting or while traveling on official business for the Commission.

(d) Meetings of Commission. – The Commission shall meet at the call of the chair and shall hold special meetings at the call of a majority of the members. (1973, c. 1262, s. 40; 1977, c. 771, s. 4; 1981, c. 248, ss. 1, 2; 1989, c. 727, s. 218(138); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1991, c. 551, s. 1; 1997-443, s. 11A.119(a); 2006-79, s. 9; 2010-180, s. 10; 2012-143, s. 1(d); 2014-4, s. 5(c); 2015-241, s. 14.30(u).)

Part 9. Water Pollution Control System Operators Certification Commission.

§ 143B-300. Water Pollution Control System Operators Certification Commission – creation; powers and duties.

(a) There is hereby created the Water Pollution Control System Operators Certification Commission to be located in the Department of Environmental Quality. The Commission shall adopt rules with respect to the certification of water pollution control system operators as provided by Article 3 of Chapter 90A of the General Statutes.

(b) The Commission shall adopt such rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for programs concerned with the certification of water pollution control system operators which may be

made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(c) The Commission may by rule delegate any of its powers, other than the power to adopt rules, to the Secretary of Environmental Quality or the Secretary's designee. (1973, c. 1262, s. 42; 1977, c. 771, s. 4; 1989, c. 727, s. 195; 1991, c. 623, s. 15; 1997-443, s. 11A.119(a); 2006-79, s. 10; 2015-241, ss. 14.30(u), (v).)

§ 143B-301. Water Pollution Control System Operators Certification Commission – members; selection; removal; compensation; quorum; services.

(a) The Water Pollution Control System Operators Certification Commission shall consist of 11 members. Two members shall be from the animal agriculture industry and shall be appointed by the Commissioner of Agriculture. Nine members shall be appointed by the Secretary of Environmental Quality with the approval of the Environmental Management Commission with the following qualifications:

(1) Two members shall be currently employed as water pollution control facility operators, water pollution control system superintendents or directors, water and sewer superintendents or directors, or equivalent positions with a North Carolina municipality;

(2) One member shall be manager of a North Carolina municipality having a population of more than 10,000 as of the most recent federal census;

(3) One member shall be manager of a North Carolina municipality having a population of less than 10,000 as of the most recent federal census;

(4) One member shall be employed by a private industry and shall be responsible for supervising the treatment or pretreatment of industrial wastewater;

(5) One member who is a faculty member of a four-year college or university and whose major field is related to wastewater treatment;

(6) One member who is employed by the Department of Environmental Quality and works in the field of water pollution control, who shall serve as Chairman of the Commission;

(7) One member who is employed by a commercial water pollution control system operating firm; and

(8) One member shall be currently employed as a water pollution control system collection operator, superintendent, director, or equivalent position with a North Carolina municipality.

(b) Appointments to the Commission shall be for a term of three years. Terms shall be staggered so that three terms shall expire on 30 June of each year, except that members of the Commission shall serve until their successors are appointed and duly qualified as provided by G.S. 128-7.

(c) The Commission shall elect a Vice-Chairman from among its members. The Vice-Chairman shall serve from the time of his election until 30 June of the following year, or until his successor is elected.

(d) Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(e) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13.

(f) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15.

(g) A majority of the Commission shall constitute a quorum for the transaction of business.

(h) All clerical and other services required by the Commission shall be supplied by the Secretary of Environmental Quality. (1973, c. 1262, s. 43; 1977, c. 771, s. 4; 1989, c. 372, s. 10; c. 727, s. 196, 197; 1989 (Reg. Sess., 1990), c. 850, s. 1; c. 1004, s. 19(b); 1991, c. 623, ss. 1, 16; 1995 (Reg. Sess., 1996), c. 626, s. 5; 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(u), (v).)

§ 143B-301.1. Definitions.

The definitions set out in G.S. 90A-46 shall apply throughout this Part. (1991, c. 623, s. 17; 1991 (Reg. Sess., 1992), c. 890, s. 21.)

§§ 143B-301.2 through 143B-301.9. Reserved for future codification purposes.

Part 9A. Well Contractors Certification Commission.

§ 143B-301.10. Definitions.

The definitions in G.S. 87-85 and G.S. 87-98.2 apply in this Part. (1997-358, s. 1.)

§ 143B-301.11. Creation, powers, and duties of the Commission.

(a) Creation and Duties. – The Well Contractors Certification Commission is created within the Department. The Commission shall:

(1) Adopt rules with respect to the certification of well contractors as provided by Article 7A of Chapter 87 of the General Statutes.

(2) Exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes. The Commission shall make the final agency decision on any matter involving the certification of well contractors pursuant to Article 7A of Chapter 87 of the General Statutes and on civil penalties assessed for violations of that Article or rules adopted pursuant to that Article.

(3) Adopt rules as may be required to secure a federal grant-in-aid for a program concerned with the certification of well contractors. This subdivision is to be liberally construed in order that the State and its citizens may benefit from federal grants-in-aid.

(b) Delegation. – The Commission may, by rule, delegate to the Secretary any of its powers, other than the power to adopt rules. (1997-358, s. 1.)

§ 143B-301.12. Membership of Commission.

(a) Appointments. – The Commission shall consist of seven members appointed as follows:

(1) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is (i) engaged in well contractor activities, (ii) certified as a well contractor under Article 7A of Chapter 87 of the General Statutes, (iii) engaged primarily in the construction, installation, repair, alteration, or abandonment of domestic water supply wells, and (iv) a resident of a county that is located east of or is traversed by Interstate 95.

(2) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is (i) engaged in well contractor activities, (ii) certified as a well contractor under Article 7A of Chapter 87 of the General Statutes, (iii) engaged primarily in the construction, installation, repair, alteration, or abandonment of domestic water supply wells, and (iv) a resident of a county that is located wholly west of Interstate 95.

(3) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is (i) engaged in well contractor activities, (ii) certified as a well contractor under Article 7A of Chapter 87 of the General Statutes, and (iii) engaged primarily in the construction, installation, repair, alteration, or abandonment of industrial, municipal, or other large capacity water supply wells.

(4) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is (i) engaged in well contractor activities, (ii) certified as a well contractor under Article 7A of Chapter 87 of the General Statutes, and (iii) engaged primarily in the construction, installation, repair, alteration, or abandonment of nonwater supply wells, such as monitoring or recovery wells.

(5) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is (i) employed by a local county health department and (ii) actively engaged in well inspection and permitting.

(6) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is (i) employed by a local county health department and (ii) actively engaged in well inspection and permitting.

(7) One member appointed by the Governor who is (i) appointed from the public at large, (ii) not engaged in well contractor activities, and (iii) not an employee of a firm or corporation engaged in well contractor activities or a State or county governmental agency.

(b) Additional Qualifications. – Appointment of members to fill positions (1), (2), (3), and (4) shall be made from among all those persons who are recommended for appointment to the Commission by any person who is engaged in well contractor activities and who is certified as a well contractor under Article 7A of Chapter 87 of the General Statutes. No person shall be appointed to the Commission who is a resident of, or has a principal place of business in, the same county as another member of the Commission.

(c) Terms. – Appointments to the Commission shall be for terms of three years. The terms of members appointed to fill positions (1), (2), and (7) shall expire on 30 June of

years evenly divisible by three. The terms of members appointed to fill positions (3) and (4) shall expire on 30 June of years that follow by one year those years that are evenly divisible by three. The terms of members appointed to fill positions (5) and (6) shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. Members shall serve until their successors are appointed and qualified. No member shall serve more than two consecutive terms.

(d) Officers. – The Commission shall elect a Chair and a Vice-Chair from among its members. These officers shall serve from the time of their election until 30 June of the following year, or until a successor is elected.

(e) Vacancies. – An appointment to fill a vacancy on the Commission created by the resignation, dismissal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.

(f) Removal. – The Governor may remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance, as provided in G.S. 143B-13.

(g) Compensation. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(h) Quorum. – A majority of the membership of the Commission constitutes a quorum for the transaction of business.

(i) Services. – All clerical and other services required by the Commission shall be supplied by the Secretary. (1997-358, s. 1; 2002-165, s. 1.11.)

Part 10. Earth Resources Council.

§§ 143B-302 through 143B-304: Repealed by Session Laws 1983, c. 667, s. 1.

Part 11. Community Development Council.

§§ 143B-305 through 143B-307: Recodified as §§ 143B-437.1 through 143B-437.3 by Session Laws 1989, c. 727, s. 199.

Part 12. Forestry Council.

§§ 143B-308 through 143B-310: Recodified as G.S. 143A-66.1 through 143A-66.3, in Article 7 of Chapter 143A, by Session Laws 2011-145, s. 13.25(f), effective July 1, 2011.

Part 13. Parks and Recreation Council.

§§ 143B-311 through 143B-313: Repealed by Session Laws 1995, c. 456, s. 4.

Part 13A. North Carolina Parks and Recreation Authority.

§ 143B-313.1: Recodified as G.S. 143B-135.200 by Session Laws 2015-241, s. 14.30(h), effective July 1, 2015.

§ 143B-313.2: Recodified as G.S. 143B-135.202 by Session Laws 2015-241, s. 14.30(h), effective July 1, 2015.

Part 14. North Carolina Water Safety Council.

§§ 143B-314 through 143B-316: Repealed by Session Laws 1983 (Regular Session 1984), c. 995, s. 12.

Part 15. Small Business Environmental Advisory Panel.

§ 143B-317: Repealed by Session Laws 2011-266, ss. 1.35(a) and 3.3(a), effective July 1, 2011.

§ 143B-318: Repealed by Session Laws 2011-266, ss. 1.35(a) and 3.3(a), effective July 1, 2011.

§ 143B-319: Repealed by Session Laws 2011-266, ss. 1.35(a) and 3.3(a), effective July 1, 2011.

Part 16. Water Quality Council.

§§ 143B-320 through 143B-321: Repealed by Session Laws 1983 (Regular Session 1984), c. 995, s. 14.

Part 17. North Carolina National Park, Parkway and Forests Development Council.

§§ 143B-322 through 143B-324: Recodified as §§ 143B-446 through 143B-447.1 by Session Laws 1977, c. 198, s. 26.

Part 17A. Western North Carolina Public Lands Council.

§ 143B-324.1. Western North Carolina Public Lands Council creation; powers; duties.

The Western North Carolina Public Lands Council is created within the Department of Environmental Quality. The North Carolina National Park, Parkway and Forests Development [Western North Carolina Public Lands Council] Council shall:

(1) Endeavor to promote the development of that part of the Smoky Mountains National Park lying in North Carolina, the completion and development of the Blue Ridge Parkway in North Carolina, the development of the Nantahala and Pisgah national forests, and the development of other recreational areas in that part of North Carolina immediately affected by the Great Smoky Mountains National Park, the Blue Ridge Parkway or the Pisgah or Nantahala national forests.

(2) Study the development of these areas and to recommend a policy that will promote the development of the entire area generally designated as the mountain section of North Carolina, with particular emphasis upon the development of the scenic and recreational resources of the region, and the

encouragement of the location of tourist facilities along lines designed to develop to the fullest these resources in the mountain section.

(3) Confer with the various departments, agencies, commissioners and officials of the federal government and governments of adjoining states in connection with the development of the federal areas and projects named in this section.

(4) Advise and confer with the various officials, agencies or departments of the State of North Carolina that may be directly or indirectly concerned in the development of the resources of these areas.

(5) Advise and confer with the various interested individuals, organizations or agencies that are interested in developing this area.

(6) Use its facilities and efforts in formulating, developing and carrying out overall programs for the development of the area as a whole.

(7) Study the need for additional entrances to the Great Smoky Mountains National Park, together with the need for additional highway approaches and connections.

(8) File its findings in this connection as recommendations with the National Park Service of the federal government, and the North Carolina Department of Transportation.

(9) Advise the Secretary of Environmental Quality upon any matter the Secretary of Environmental Quality may refer to it. (1973, c. 1262, s. 66; 1977, c. 198, ss. 5, 26; 1989, c. 751, s. 9(c); 1991 (Reg. Sess., 1992), c. 959, s. 85; 1997-443, ss. 11A.123, 15.36(b), (c); 2010-180, s. 7(b); 2015-241, ss. 14.30(u), (v).)

§ 143B-324.2. Western North Carolina Public Lands Council members; selection; officers; removal; compensation; quorum; services.

(a) Members; Selection; and Terms of Service. – The Western North Carolina Public Lands Council within the Department of Environmental Quality shall consist of seven members appointed by the Governor. The composition of the Council shall be as follows:

(1) One member shall be a resident of Buncombe County.

(2) One member shall be a resident of Haywood County.

(3) One member shall be a resident of Jackson County.

(4) One member shall be a resident of Swain County.

(5) One member shall be a resident of Cherokee County.

(6) Two members shall be residents of counties adjacent to the Blue Ridge Parkway, the Great Smoky Mountains National Park or the Pisgah or Nantahala national forests.

The appointment of members shall be for terms of four years, or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(b) Officers. – The Council shall elect a chair, a vice-chair, and a secretary. The chair and vice-chair shall all be members of the Council, but the secretary need not be a member of the Council. These officers shall perform the duties usually pertaining to such

offices and when elected shall serve for a period of one year, but may be reelected. In case of vacancies by resignation or death, the office shall be filled by the Council for the unexpired term of said officer.

(c) Removal. – The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

(d) Compensation. – Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973.

(e) Quorum. – Five members of the Council shall constitute a quorum for the transaction of business. (1973, c. 1262, s. 67; 1977, c. 198, ss. 5, 26; 1997-443, ss. 11A.123, 15.36(b), (d); 2010-180, s. 7(c); 2015-241, s. 14.30(u).)

§ 143B-324.3. Western North Carolina Public Lands Council meetings.

The Western North Carolina Public Lands Council shall meet monthly and may hold special meetings at any time and place within the State at the call of the chair or upon written request of at least a majority of the members. (1973, c. 1262, s. 68; 1977, c. 198, s. 26; 1997-443, s. 15.36(b); 2010-180, s. 7(d).)

Part 18. Commercial and Sports Fisheries Advisory Committee.

§§ 143B-325 through 143B-327: Repealed by Session Laws 1983 (Regular Session 1984), c. 995, s. 11.

Part 19. John H. Kerr Reservoir Committee.

§§ 143B-328 through 143B-330: Repealed by Session Laws 1985 (Regular Session 1986), c. 1028, s. 30.

Part 20. Science and Technology Committee.

§§ 143B-331 through 143B-332: Recodified as §§ 143B-440, 143B-441 by Session Laws 1977, c. 198, s. 26.

Part 21. North Carolina Trails Committee.

§ 143B-333: Recodified as G.S. 143B-135.130 by Session Laws 2015-241, s. 14.30(f), effective July 1, 2015.

§ 143B-334: Recodified as G.S. 143B-135.132 by Session Laws 2015-241, s. 14.30(f), effective July 1, 2015.

Part 22. North Carolina Zoological Park Council.

§§ 143B-335 through 143B-336.1: Recodified as G.S. 143B-135.205 through 143B-135.209 by Session Laws 2015-241, s. 14.30(i), effective July 1, 2015.

Part 23. Governor's Law and Order Commission.

§§ 143B-337 through 143B-339: Recodified as §§ 143B-478 to 143B-480.

Part 24. North Carolina Employment and Training Council.

§§ 143B-340 through 143B-341. Repealed by Session Laws 1985, c. 543, s. 6, effective July 1, 1985.

Part 25. Triad Park Commission.

§§ 143B-342 through 143B-344.2. Repealed by Session Laws 1983 (Regular Session 1984), c. 995, s. 13, effective June 27, 1984.

Part 26. Economic Opportunity Agencies.

§§ 143B-344.3 through 143B-344.10. Repealed by Session Laws 1981, c. 1127, s. 70.

Part 27. Employment and Training Act of 1985.

§§ 143B-344.11 through 143B-344.15: Recodified as §§ 143B-438.1 to 143B-438.5 by Session Laws 1989, c. 727, s. 202.

Part 28. North Carolina Aquariums Commission.

§§ 143B-344.16 through 143B-344.17: Repealed by Session Laws 1997, c. 286, s. 1.

Part 29. Advisory Commission for North Carolina State Museum of Natural Sciences.

§§ 143B-344.18 through 143B-344.23: Recodified as G.S. 143B-135.215 through 143B-135.229 by Session Laws 2015-241, s. 14.30(k), effective July 1, 2015.

§§ 143B-344.24 through 143B-344.29. Reserved for future codification purposes.

Part 30. State Infrastructure Council.

§§ 143B-344.30 through 143B-344.33: Repealed by Session Laws 2005-454, s. 9, effective January 1, 2006.

Part 31. North Carolina Sustainable Communities Task Force.

§§ 143B-344.34 through 143B-344.38: Expired pursuant to Session Laws 2010-31, s. 13.5(e), as amended by Session Laws 2013-360, s. 14.2, effective July 31, 2013.

§ 143B-344.39: Reserved for future codification purposes.

§ 143B-344.40: Reserved for future codification purposes.

§ 143B-344.41: Reserved for future codification purposes.

Part 32. Energy Loan Fund.

§ 143B-344.42. Short title.

This Part shall be known as the Energy Loan Fund. (2000-140, s. 76(i); 2001-338, s. 1; 2009-475, s. 13; 2010-96, s. 21; 2013-360, s. 15.22(b).)

§ 143B-344.43. Legislative findings and purpose.

The General Assembly finds and declares that it is in the best interest of the citizens of North Carolina to promote and encourage energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State. (2000-140, s. 76(i); 2001-338, s. 1; 2010-96, s. 21; 2013-360, s. 15.22(b).)

§ 143B-344.44. Lead agency; powers and duties.

(a) For the purposes of this Part, the Department of Environmental Quality, State Energy Office, is designated as the lead State agency in matters pertaining to energy efficiency.

(b) The Department shall have the following powers and duties with respect to this Part:

(1) To provide industrial and commercial concerns doing business in North Carolina, local governmental units, nonprofit organizations, and residents in North Carolina with information and assistance in undertaking energy conserving capital improvement projects to enhance efficiency.

(2) To establish one or more revolving funds within the Department for the purpose of providing secured loans in amounts not greater than one million dollars ($1,000,000) per entity to install or to an entity that installs energy-efficient and renewable energy improvements (i) within business or nonprofit organizations located within or translocating to North Carolina, (ii) within local governmental units, (iii) within buildings classified as multifamily residential, (iv) within buildings designated as multiuse that include residential units, and (v) within single family residences, however, in this instance the amount of the loan shall not exceed fifty thousand dollars ($50,000). In providing these loans, priority shall be given to entities already located in the State.

(3) To develop and adopt rules to allow State-regulated financial institutions to provide secured loans to corporate entities, nonprofit organizations, and local governmental units and residents in accordance with terms and criteria established by the State Energy Office.

(4) To work with appropriate State and federal agencies to develop and implement rules and regulations to facilitate this program.

(5) To contract with persons or entities, including other State agencies and United States Treasury certified Community Development Financial Institutions (CDFI), to administer the Energy Loan Fund. Contracts for the procurement of services to manage, administer, and operate the Energy Loan Fund shall be awarded on a competitive basis through the solicitation of proposals and through the procedures established by statute and the Division of Purchase and Contract.

(c) The annual interest rate charged for the use of the funds from the revolving fund established pursuant to subdivision (b)(2) of this section shall be a percentage not to exceed

three percent (3%) per annum, to be established by the State Energy Office, excluding other fees required for loan application review and origination. The term of any loan originated under this section may not be greater than 20 years.

(d) Notwithstanding subsection (c) of this section, the State Energy Office shall adopt rules to allow loans to be made from the revolving loan fund and by State-regulated financial institutions at interest rates as low as zero percent (0%) per annum for certain renewable energy, recycling, and energy efficient and conservation projects to encourage their development and use.

(e) In accordance with the terms of the Stripper Well Settlement, administrative expenses for activities under this section that are subject to the Stripper Well Settlement shall be limited to five percent (5%) of funds allocated for this purpose. In accordance with the provisions of the American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5), administrative expenses for activities under this section that are subject to the ARRA shall be limited to ten percent (10%) of funds allocated for this purpose.

(f) For purposes of this section:

(1) "Local governmental unit" means any board or governing body of a political subdivision of the State, including any board of a community college, any school board, or an agency, commission, or authority of a political subdivision of the State.

(2) "Nonprofit organization" means an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. (2000-140, s. 76(i); 2001-338, s. 1; 2009-446, s. 1(b); 2009-475, s. 13; 2010-96, s. 21; 2013-360, s. 15.22(b), (c); 2015-241, s. 14.30(u).)

§ 143B-344.45: Reserved for future codification purposes.

Part 33. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.

§ 143B-344.46. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.

The State Energy Office within the Department may administer the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program functions. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program. (2003-284, s. 10.3; 2013-360, s. 15.22(h), (i).)

§ 143B-344.47: Reserved for future codification purposes.

Part 34. North Carolina Energy Assistance Act for Low-Income Persons.

§ 143B-344.48. Legislative findings and purpose.

(a) The General Assembly finds that:

(1) Maintaining the general health, welfare, and prosperity of the people of this State requires that all citizens receive essential levels of heat and electric service regardless of their economic circumstances.
(2) Serving the State's most vulnerable citizens, its low-income elderly, persons with disabilities, families with children, high residential energy users, and households with a high-energy burden, is a priority.
(3) Conserving energy benefits all citizens and the environment.
(4) Ensuring proper payment to public utilities and other entities providing energy services actually rendered is a responsibility of this State.
(5) Declining federal low-income energy assistance funding necessitates a State response to ensure the continuity and further development of energy assistance and related policies and programs in this State.
(6) Current energy assistance policies and programs have benefited North Carolina citizens and should be continued with the modifications provided in this Part.

(b) The General Assembly declares that it is the policy of this State that weatherization, replacement of heating and cooling systems, and other energy-related assistance programs be utilized to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential expenditures, and improve their health and safety. The State shall utilize all appropriate and available means to fund the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program under G.S. 143B-344.46, and any other energy-related assistance program for low-income persons while, to the extent possible, identifying and utilizing sources of funding to achieve the objectives of this Part. (2006-206, s. 2; 2009-446, s. 2(a); 2013-360, s. 15.22(j).)

§ 143B-344.49. Definitions.

The following definitions apply to this Part:

(1) Applicant. – A member of the family residing in the dwelling unit, the owner, or designated agent of the owner of a dwelling unit applying for program services.
(2) Department. – The Department of Environmental Quality.
(3) Secretary. – The Secretary of the Department of Environmental Quality.
(4) Subgrantee. – An entity managing a weatherization project that receives a federal grant of funds awarded pursuant to 10 C.F.R. § 440 (1 January 2006 edition) from this State or other entity named in the Notification of Grant Award and otherwise referred to as the grantee.
(5) Weatherization. – The modification of homes and home heating and cooling systems to improve heating and cooling efficiency by caulking and weather stripping, as well as insulating ceilings, attics, walls, and floors. (2006-206, s. 2; 2009-446, ss. 2(a), (b); 2013-360, ss. 15.22(j), (k); 2015-241, s. 14.30(mmm).)

§ 143B-344.50. The State Energy Office designated agency; powers and duties.

(a) The State Energy Office in the Department of Environmental Quality shall administer the Weatherization Assistance Program for Low-Income Families established

by 42 U.S.C. § 6861, et seq., and 42 U.S.C. § 7101, et seq.; the Heating/Air Repair and Replacement Program established by the Secretary under G.S. 143B-344.46; and any other energy-related assistance program for the benefit of low-income persons in existing housing. The State Energy Office shall exercise the following powers and duties:

(1) Establish standards and criteria to carry out the provisions and purposes of this Part.

(2) Develop policy, criteria, and standards for receiving and processing applications for weatherization assistance.

(3) Make decisions and pursue appeals from decisions to accept or deny applications for weatherization, replacement of heating and cooling systems, and other energy-related assistance programs or otherwise participate in the State plan as a subgrantee or contractor.

(4) Adopt rules, consistent with the laws of this State, that may be required by the federal government for grants-in-aid for the Weatherization Assistance Program for Low-Income Families, the Heating/Air Repair and Replacement Program, or other energy-related assistance programs for the benefit of low-income residents in existing housing. This section shall be liberally construed in order that this State and its citizens may benefit from such grants-in-aid.

(5) Establish procedures for the submission of periodic reports by any community action agency or other agency or entity authorized to manage a weatherization project, replacement of heating and cooling systems, or other energy-related assistance project.

(6) Implement criteria for periodic review of weatherization, replacement of heating and cooling systems, or other energy-related programs in existing housing for low-income households.

(7) Solicit, accept, hold, and administer on behalf of this State any grants or devises of money, securities, or property for the benefit of low-income residents in existing housing for use by the Department or other agencies in the administration of this Part.

(8) Create a Policy Advisory Council within the State Energy Office that shall advise the State Energy Office with respect to the development and implementation of a Weatherization Program for Low-Income Families, the Heating/Air Repair and Replacement Program, and any other energy-related assistance program for the benefit of low-income persons in existing housing.

(b) The Secretary shall have final decision-making authority with regard to all functions described in this Part. (2006-206, s. 2; 2009-446, s. 2(a); 2011-284, s. 101; 2013-360, ss. 15.22(j), 15.22(k); 2015-241, s. 14.30(u).)

Part 35. Energy Policy Council.

§ 143B-344.55. Energy Policy Council – transfer.

The Energy Policy Council, as established by Chapter 113B of the General Statutes and other applicable laws of this State, is hereby transferred to the Department of Environmental Quality by a Type II transfer as defined in G.S. 143A-6. (2013-365, s. 8(m); 2015-241, s. 14.30(u).)

Part 36. Outdoor Heritage Advisory Council.

§ 143B-344.60. Outdoor heritage advisory council.

(a) The Outdoor Heritage Advisory Council is established within the North Carolina Wildlife Resources Commission for organizational and budgetary purposes only. The Council shall exercise all of its statutory powers independent of control by the Executive Director of the Wildlife Resources Commission. The Council shall advise State agencies and the General Assembly on the promotion of outdoor recreational activities, including, but not limited to, hiking, horseback riding, boating, sport shooting and archery, bird watching and wildlife watching, camping, swimming, hunting, trapping, and fishing in order to preserve North Carolina's outdoor heritage for future generations.

(b) The Council shall consist of 13 members, appointed as follows:

(1) Four members appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate.

(2) Four members appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives.

(3) Three members appointed by the Governor.

(4) One member appointed by the Commissioner of Agriculture.

(5) One member appointed by the chair of the Wildlife Resources Commission.

All members of the Council shall have knowledge and experience in outdoor recreational activities and have a demonstrated interest in promoting outdoor heritage.

(c) The terms of the initial members of the Council shall commence October 1, 2015. Of the Governor's initial appointments, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. Of the initial appointments by the President Pro Tempore of the Senate, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. Of the initial appointments by the Speaker of the House of Representatives, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. The members appointed by the Commissioner of Agriculture and the chair of the Wildlife Resources Commission shall each serve an initial term of four years. After the initial appointees' terms have expired, all members shall be appointed for a term of four years. No member shall serve more than two successive terms.

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(d) The initial chair of the Council shall be designated by the Governor from the Council members. The initial chair shall hold this office for not more than one year. Subsequent chairs shall be elected by the Council for terms of two years.

(e) The Council shall meet quarterly and at other times at the call of the chair. A majority of members of the Council shall constitute a quorum.

(f) Council members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5 and G.S. 138-6, as applicable.

(g) The Executive Director of the Wildlife Resources Commission shall provide clerical and other assistance as needed. (2015-144, s. 2(a); 2016-94, s. 14A.1(a).)

§ 143B-344.62. Outdoor Heritage Advisory Council – executive director; staff.

The Council may, subject to appropriations or other funds that accrue to it, employ an executive director to carry out the day-to-day responsibilities and business of the Council. The executive director shall serve at the pleasure of the Council. The executive director, also subject to appropriations or other funds that accrue to the Council, may hire additional staff and consultants to assist in the discharge of the executive director's responsibilities, as determined by the Council. (2017-212, s. 4.5(b).)

§ 143B-344.64. Outdoor Heritage Advisory Council – report.

On or before December 1, 2019, and at least annually thereafter, the Council shall submit a report to the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division regarding its activities, initiatives, partnerships, and use of donated and appropriated funds. (2018-5, s. 13A.1(b).)

Article 8.

Department of Transportation.

Part 1. General Provisions.

§ 143B-345. Department of Transportation – creation.

There is hereby created and established a department to be known as the "Department of Transportation" with the organization, powers, and duties defined in Article 1 of Chapter 143B, except as modified in this Article. (1975, c. 716, s. 1.)

§ 143B-346. Department of Transportation – purpose and functions.

The general purpose of the Department of Transportation is to provide for the necessary planning, construction, maintenance, and operation of an integrated statewide transportation system for the economical and safe transportation of people and goods as provided for by law. The Department shall also provide and maintain an accurate register of transportation vehicles as provided by statutes, and the Department shall enforce the laws of this State relating to transportation safety assigned to the Department. The Department of Transportation shall be responsible for all of the transportation functions of the executive branch of the State as provided by law except those functions delegated to the Utilities Commission and the Commissioners of Navigation and Pilotage as provided for by Chapter 76. The major transportation functions include aeronautics, highways, mass transportation, motor vehicles, and transportation safety as provided for by State law. The Department of Transportation shall succeed to all functions vested in the Board of

Transportation and the Department of Motor Vehicles on July 1, 1977. (1975, c. 716, s. 1; 1977, c. 464, s. 2; 2011-145, s. 14.6(e).)

§ 143B-347. Repealed by Session Laws 1977, c. 464, s. 3.

§ 143B-348. Department of Transportation – head; rules, regulations, etc., of Board of Transportation.

(a) The Secretary of Transportation shall be the head of the Department of Transportation. He shall carry out the day-to-day operations of the Department and shall be responsible for carrying out the policies, programs, priorities, and projects approved by the Board of Transportation. He shall be responsible for all other transportation matters assigned to the Department of Transportation, except those reserved to the Board of Transportation by statute. Except as otherwise provided for by statute, the Secretary shall have all the powers and duties as provided for in Article 1 of Chapter 143B including the responsibility for all management functions for the Department of Transportation. The Secretary shall be vested with authority to adopt design criteria, construction specifications, and standards as required for the Department of Transportation to construct and maintain highways, bridges, and ferries. The Secretary or the Secretary's designee shall be vested with authority to promulgate rules and regulations concerning all transportation functions assigned to the Department.

(b) All rules, regulations, ordinances, specifications, standards, and criteria adopted by the Board of Transportation and in effect on July 1, 1977, shall continue in effect until changed by the Board of Transportation or the Secretary of Transportation. The Secretary shall have complete authority to modify any of these matters existing on July 1, 1977, except as specifically restricted by the Board. Whenever any such criteria, rule, regulation, ordinance, specification, or standards are continued in effect under this section and the words "Board of Transportation" are used, the words shall mean the "Department of Transportation" unless the context makes such meaning inapplicable. All actions pending in court by or against the Board of Transportation may continue to be prosecuted in that name without the necessity of formally amending the name to the Department of Transportation.

(c) The Secretary of Transportation shall require that every transportation station, rest area, and welcome center in the State prominently display in a place that is clearly conspicuous and visible to employees and the public a public awareness sign created and provided by the North Carolina Human Trafficking Commission that contains the National Human Trafficking Resource hotline information. (1975, c. 716, s. 1; 1977, c. 464, s. 4; 2010-165, s. 11; 2017-57, ss. 17.4(e), (g).)

§ 143B-349: Repealed by Session Laws 1977, c. 464, s. 5.

Part 2. Board of Transportation.

§ 143B-350. Board of Transportation – organization; powers and duties, etc.

(a) Board of Transportation. – There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole. The diversity and size of the State require that regional differences be considered by Board members as they develop transportation policy and projects for the benefit of the citizens of the State.

(b) Membership of the Board. –

(1) Number, appointment. – The Board of Transportation shall have 19 voting members. Fourteen of the members shall be division members appointed by the Governor. Five shall be at-large members appointed by the Governor. At least three members of the Board shall be registered voters of a political party other than the political party of the Governor. The Secretary of Transportation shall serve as an ex officio nonvoting member of the Board. No more than two members of the Board may reside in the same highway division.

(2) Division members. – One member shall be appointed from and be a resident of each of the 14 highway divisions. The Governor, in selecting division members, shall consider for appointment persons suggested by the Transportation Advisory Committees located within each division. Division members shall direct their primary effort to developing transportation policy and addressing transportation problems in the region they represent. Division members shall regularly consult with and consider the views of local government units and Transportation Advisory Committees in the region they represent.

(3) At-large members. – Five members shall be appointed by the Governor from the State at large. At-large members appointed pursuant to this subdivision shall develop transportation policy and address transportation problems with a statewide perspective. At-large members appointed under this subdivision shall possess the following qualifications:

a. One at-large member shall be a person with expertise in environmental issues affecting the State;

b. One at-large member shall be a person familiar with the State ports and aviation issues;

c. One at-large member shall be a person residing in a rural area of the State with broad knowledge of and experience in transportation issues affecting rural areas;

d. One at-large member shall be a person residing in an urban area with broad knowledge of and expertise in mass transit;

e. One at-large member shall be a person with broad knowledge of and expertise in government-related finance and accounting.

(c) Staggered Terms. – The terms of all Board members serving on the Board prior to January 15, 2001, shall expire on January 14, 2001. A new board of 19 members shall be appointed with terms beginning on January 15, 2001. The Board shall serve the following terms: division members representing divisions 1, 3, 5, 7, 9, 11, and 13 and the three at-large members filling the positions designated in sub-subdivisions (b)(3)a., b., and e. of this section shall serve four-year terms beginning on January 15, 2001, and four-year terms thereafter; and division members representing divisions 2, 4, 6, 8, 10, 12, and 14 and the two at-large members filling the positions designated in sub-subdivisions (b)(3)c. and

d. of this section shall serve two-year terms beginning January 15, 2001, and four-year terms thereafter.

(d) Holdover Terms; Vacancies; Removal. – Members shall continue to serve until their successors are appointed. The Governor may appoint a member to serve out the unexpired term of any Board member. The Governor may remove any member of the Board for any cause the Governor finds sufficient. The Governor shall remove any member of the Board upon conviction of a felony, conviction of any offense involving a violation of the Board member's official duties, or for a violation of the provisions of subsections (i), (j), and (k) of this section or any other code of ethics applicable to members of the Board as determined by the Governor or the Governor's designee.

(e) Organization and Meetings of the Board. – Within 60 days after January 15, 2001, and thereafter within 60 days following the beginning of the regular term of the Governor, the Governor or his designee shall call the Board into session. The Board shall select a chair and vice-chair from among its membership for two-year terms. The Board may select a chair or vice-chair for one additional two-year term. The Board of Transportation shall meet once in each 60 days at such regular meeting times as the Board may by rule provide and at any place in the State as the Board may provide. The Board may hold special meetings at any time at the call of the chairman or any three members. The Board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The Board shall keep minutes of its meetings, which shall at all times be open to public inspection. The majority of the Board shall constitute a quorum for the transaction of business. Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) Duties of the Board. – The Board of Transportation has the following duties and powers:

(1) To formulate policies and priorities for all modes of transportation under the Department of Transportation.

(2) To advise the Secretary on matters to achieve the maximum public benefit in the performance of the functions assigned to the Department.

(3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of transportation taking into consideration the social, economic and environmental impacts of the various alternatives.

(4) To approve a schedule of all major transportation improvement projects and their anticipated cost. This schedule is designated the Transportation Improvement Program. The Board shall publish the schedule in a format that is easily reproducible for distribution and make copies available for distribution in accordance with the process established for public records in Chapter 132 of the General Statutes.

(4a) To approve a schedule of State highway maintenance projects and their anticipated cost. This schedule is designated the Highway Maintenance Improvement Program and is established in G.S. 136-44.3A. The Board shall publish the schedule on the Department's Web site by April 1 of each year. The

document that contains the Highway Maintenance Improvement Program shall include the anticipated funding sources for the improvement projects included in the Highway Maintenance Improvement Program, a list of any changes made from the previous year's Highway Maintenance Improvement Program, and the reasons for the changes.

(5) To consider and advise the Secretary of Transportation upon any other transportation matter that the Secretary may refer to it.

(6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the Department.

(7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available.

(8) To approve all highway construction programs.

(9) To approve all highway construction projects and construction plans for the construction of projects.

(10) To review all statewide maintenance functions.

(11) To award all highway construction contracts.

(12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain.

(12a) To approve partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, with priority given to highways, roads, streets, and bridges.

(13) Repealed by Session Laws 2010-165, s. 13, effective August 2, 2010.

(f1) Local Government Participation. – The ability of a local government to pay in part or whole for any transportation improvement project shall not be a factor considered by the Board of Transportation in its development and approval of a schedule of major State highway system improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).

(f2) Approval of aircraft and ferry purposes. – Before approving the purchase of an aircraft from the Equipment Fund or a ferry in a Transportation Improvement Program, the Board of Transportation shall prepare an estimate of the operational costs and capital costs associated with the addition of the aircraft or ferry and shall report those additional costs to the General Assembly pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental Operations.

(g) Delegation of Board Duties. – The Board of Transportation shall delegate to the Secretary of Transportation the authority under subdivisions (1) and (2) of this subsection, and may delegate the authority under subdivision (3) of this subsection:

(1) To approve all highway construction projects and construction plans for the construction of projects;

(2) To award all highway construction contracts;

(3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

The Secretary may, in turn, subdelegate these duties and powers.

(h) Consultation of Board Members. – Each member of the Board of Transportation who is appointed to represent a transportation engineering division or who resides in a division shall be consulted before the Board makes a decision affecting that division.

(i) Disclosure of Contributions. – Any person serving on the Board of Transportation or as Secretary of Transportation on December 1, 1998, shall disclose on that date any contributions the person or the person's immediate family made to the political campaign of the appointing Governor in the two years preceding December 1, 1998. A person appointed to the Board of Transportation and a person appointed as Secretary of Transportation after December 1, 1998, shall disclose at the time the appointment of the person is officially made public any contributions the person or the person's immediate family made to the political campaign of the appointing Governor in the two years preceding the date of appointment. The term "immediate family", as used in this subsection, means a person's spouse, children, parents, brothers, and sisters. Disclosure forms shall be filed with the Bipartisan State Board of Elections and Ethics Enforcement as a supplemental filing to the Statement of Economic Interest filed under Article 6 of Chapter 163A of the General Statutes. Disclosure forms shall not be a public record under the provisions of Chapter 132 of the General Statutes until such time as the appointment of the person filing the statement is officially made public.

(j) Disclosure of Campaign Fund-Raising. – A person appointed to the Board of Transportation on or after January 1, 2001, and a person appointed as Secretary of Transportation on or after January 1, 2001, shall disclose at the time the appointment of the person is officially made public any contributions the person personally acquired in the two years prior to appointment for: any political campaign for a statewide or legislative elected office in North Carolina; any political party executive committee or political committee acting on behalf of a candidate for statewide or legislative office. Disclosure forms shall be filed with the Bipartisan State Board of Elections and Ethics Enforcement as a supplemental filing to the Statement of Economic Interest filed under Article 6 of Chapter 163A of the General Statutes. Disclosure forms shall not be a public record under the provisions of Chapter 132 of the General Statutes until such time as the appointment of the person filing the statement is officially made public.

(k) Ethics Policy. – The Board shall adopt by December 1, 1998, a code of ethics applicable to members of the Board, including the Secretary. Any code of ethics adopted by the Board shall be supplemental to the provisions of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes. A code of ethics adopted pursuant to this subsection shall include a prohibition against a member taking action as a Board member when a conflict of interest, or the appearance of a conflict of interest, exists. The ethics policy adopted pursuant to this subsection shall specify that a conflict of interest exists when the use of the Board member's position, or any official action taken by the Board member, would result in financial benefit, direct or indirect, to the Board member, a member of the Board member's immediate family, or an individual with whom, or business with which, the

Board member is associated. The ethics policy adopted pursuant to this subsection shall specify that an appearance of a conflict of interest exists when a reasonable person would conclude from the circumstances that the Board member's ability to protect the public interest, or perform public duties, would be compromised by personal interest, even in the absence of an actual conflict of interest. The performance of usual and customary duties associated with the public position or the advancement of public policy goals or constituent services, without compensation, shall not constitute the use of the Board member's position for financial benefit. The conflict of interest provision of the ethics policy adopted pursuant to this subsection shall not apply to financial or other benefits derived by a Board member that the Board member would enjoy to an extent no greater than that which other citizens of the State would or could enjoy.

(*l*) Additional Requirements for Disclosure Statements. – All disclosure statements required under subsections (i), (j), and (k) of this section must be sworn written statements.

(m) Ethics and Board Duties Education. – The Board shall institute by January 1, 1999, and conduct annually an education program on ethics and on the duties and responsibilities of Board members. The training session shall be comprehensive in nature, conducted in conjunction with the Bipartisan State Board of Elections and Ethics Enforcement, and shall include input from the School of Government at the University of North Carolina at Chapel Hill, the Attorney General's Office, the University of North Carolina Highway Safety Research Center, and senior career employees of the various divisions of the Department. This program shall include an initial orientation for new members of the Board and continuing education programs for Board members at least once each year.

(n) Review of Appointments by the Joint Legislative Transportation Oversight Committee. – The Governor shall submit the names of all proposed Board of Transportation appointees, along with the disclosure statements required under subsections (i), (j), and (k) of this section, to the Joint Legislative Transportation Oversight Committee prior to Board members' taking office. The Committee shall have 30 days to review and submit comments to the Governor on the proposed appointees before they take office. The Governor shall consider the views expressed by the Committee concerning the appointees to the Board. If the Committee does not review or submit comments to the Governor on the proposed Board appointees within the 30 days, the Governor may proceed to appoint the proposed members to the Board.

(o) Additional Ethics Requirements. – Board members shall sign a sworn statement that they will abide by the disclosure, ethics, and education requirements of this section and of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes. Following the convening of each Board of Transportation meeting, and prior to the conduct of business, each Board member shall sign a sworn statement that the member has no financial, professional, or other interest in any project being considered on the meeting agenda. To the extent the Board member has such an interest, the chair and member shall take all appropriate steps to ensure that the interest is properly evaluated and addressed in accordance with law and that the member is not permitted to act on any matter in which the member has a disqualifying conflict of interest.

(p) Reports. – Notwithstanding any other provision of law, any report required to be submitted by the Board to the General Assembly or a committee thereof is due by the 15th day of the month that the report is due. (1975, c. 716, s. 1; 1977, c. 464, s. 6; 1981 (Reg. Sess., 1982), c. 1191, ss. 9, 10; 1985, c. 479, s. 185; 1987, c. 738, s. 170(b), (c); c. 747, s. 4.1; 1989, c. 500, s. 53; c. 692, s. 1.10; 1993, c. 483, s. 4; 1995, c. 490, s. 60; 1997-443, s. 32.1; 1997-495, s. 88(a); 1998-169, ss. 1, 2; 2006-201, s. 15; 2006-230, s. 1(c); 2006-264, s. 29(n); 2007-439, s. 2; 2008-180, s. 1; 2010-165, ss. 12, 13; 2012-84, ss. 1, 3; 2014-100, s. 34.11(a); 2015-241, ss. 29.12(b), 29.12(h); 2017-6, s. 3; 2017-57, s. 34.12.)

§§ 143B-351 through 143B-352: Repealed by Session Laws 1977, c. 464, s. 7.

Part 3. North Carolina State Ports Authority Transfer.

§ 143B-353: Repealed by Session Laws 1977, c. 65, s. 3.

Part 4. Navigation and Pilotage Commission.

§ 143B-354: Recodified as § 143B-451 by Session Laws 1977, c. 198, s. 26.

Part 5. Division of Aeronautics.

§ 143B-355. Division of Aeronautics.

There is hereby created the Division of Aeronautics of the Department of Transportation. The Division of Aeronautics shall carry out the duties assigned to the Department of Transportation by Article 1B of Chapter 113 of the General Statutes. (1975, c. 716, s. 1.)

§ 143B-356: Repealed by Session Laws 2011-145, s. 28.17(a), effective July 1, 2011 and Session Laws 2011-266, s. 1.21(a), effective July 1, 2011.

§ 143B-357: Repealed by Session Laws 2011-145, s. 28.17(a), effective July 1, 2011 and Session Laws 2011-266, s. 1.21(a), effective July 1, 2011.

Part 6. North Carolina Railroad and Atlantic and North Carolina Railroad.

§ 143B-358: Repealed by Session Laws 1991 (Regular Session 1992), c. 1030, s. 45, effective July 24, 1992.

Part 7. North Carolina Traffic Safety Authority.

§ 143B-359: Repealed by Session Laws 1981, c. 90, s. 2.

Part 8. Highway Safety Program.

§ 143B-360. Powers and duties of Department and Secretary.

The Department of Transportation is hereby empowered to contract on behalf of the State with the government of the United States to the extent allowed by the laws of North Carolina for the purpose of securing the benefits available to this State under the Federal Highway Safety Act of

1966. To that end, the Secretary of Transportation shall coordinate, with the Governor's approval, the activities of any and all departments and agencies of the State and its subdivisions relating thereto.

All of the duties and responsibilities of the Governor's Highway Safety Program, established pursuant to this section, are transferred to the Office of the Secretary of Transportation. (1975, c. 716, s. 1; 2001-424, s. 27.11(a).)

Part 9. North Carolina Rail Council.

§ 143B-361: Repealed by Session Laws 2011-145, s. 28.17(c), effective July 1, 2011 and Session Laws 2011-266, s. 1.14, effective July 1, 2011.

§ 143B-362: Repealed by Session Laws 2011-145, s. 28.17(c), effective July 1, 2011 and Session Laws 2011-266, s. 1.14, effective July 1, 2011.

§ 143B-363: Repealed by Session Laws 2011-145, s. 28.17(c), effective July 1, 2011 and Session Laws 2011-266, s. 1.14, effective July 1, 2011.

§ 143B-364. Reserved for future codification purposes.

§ 143B-365. Reserved for future codification purposes.

Article 9.

Department of Administration.

Part 1. General Provisions.

§ 143B-366. Department of Administration – creation.

There is hereby recreated and reestablished a department to be known as the "Department of Administration," with the organization, powers, and duties defined in the Executive Organization Act of 1973. (1975, c. 879, s. 2.)

§ 143B-367. Duties of the Department.

It shall be the duty of the Department of Administration to serve as a staff agency to the Governor and to provide for such ancillary services as the other departments of State government might need to insure efficient and effective operations. (1975, c. 879, s. 3.)

§ 143B-368. Functions of the Department.

(a) The functions of the Department of Administration shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all functions of the executive branch of the State in relation to interdepartmental administration previously delineated and further including those prescribed powers, duties, functions, and responsibilities enumerated in Article 10 of Chapter 143A of the General Statutes of North Carolina.

(b) Repealed by Session Laws 1991, c. 542, s. 11. (1975, c. 879, s. 4; 1991, c. 134, s. 2, c. 542, s. 11.)

§ 143B-369. Head of the Department.

The Secretary of Administration shall be the head of the Department. (1975, c. 879, s. 5.)

§ 143B-370: Repealed by Session Laws 1991, c. 542, s. 12.

§ 143B-370.1. Defibrillators in State buildings.

(a) Subject to the receipt of public-private funds for this purpose, the Department of Administration shall, in consultation with OEMS, AHA, and a qualified vendor/provider of AEDs and training services, develop and adopt policies and procedures relative to the placement and use of automated external defibrillators in State-owned and State-leased buildings. The Department of Administration shall also require that all State buildings, facilities, and institutions shall develop a Medical Emergency Response Plan that facilitates the following:

(1) Effective and efficient communication throughout the State-owned and State-leased buildings.
(2) Coordinated and practiced response plans.
(3) Training and equipment for first aid and CPR.
(4) Implementation of a lay rescuer AED program.

(b) In addition, for each State building, facility, or institution there shall be developed and periodically updated a maintenance plan that takes the following into account:

(1) Implementation of an appropriate training course in the use of AEDs, including the role of CPR.
(2) Proper maintenance and testing of the devices.
(3) Ensuring coordination with appropriate licensed professionals in the oversight of training of the devices.
(4) Ensuring coordination with local emergency medical systems regarding the placement of AEDs in State buildings, facilities, or institutions where such devices are to be used. (2012-198, s. 3(a), (b).)

Part 2. State Goals and Policy Board.

§§ 143B-371 through 143B-372: Repealed by Session Laws 1995, c. 117, s. 2.

Part 2A. North Carolina Progress Board.

§ 143B-372.1: Repealed by Session Laws 2007-323, s. 9.11, effective July 1, 2007.

§ 143B-372.2: Repealed by Session Laws 2007-323, s. 9.11, effective July 1, 2007.

§ 143B-372.3: Repealed by Session Laws 2007-323, s. 9.11, effective July 1, 2007.

Part 3. North Carolina Capital Planning Commission.

§ 143B-373. North Carolina Capital Planning Commission – creation; powers and duties.

(a) There is hereby recreated the North Carolina Capital Planning Commission of the Department of Administration.

(1) The Commission shall have all of the following powers and duties:

a. Compile and maintain up-to-date building requirements for State governmental agencies in Wake County.

b. Formulate and maintain an up-to-date long-range capital improvement program as required for State central governmental agencies in Wake County.

c. Recommend the acquisition of land as required.

d. Recommend to the Governor the locations for State government buildings, monuments, memorials and improvements in Wake County, except for buildings occupied by the General Assembly.

e. Recommend to the Governor the name for any new State government building or any building hereafter acquired by the State of North Carolina in Wake County, with the exception of buildings comprising a part of the North Carolina State University, the Dorothea Dix Hospital, the General Assembly or the Governor Morehead School.

(2), (3) Repealed by Session Laws 2014-115, s. 56.7A, effective August 11, 2014.

(b) Any:

(1) City exercising any jurisdiction in Wake County under Article 19 of Chapter 160A of the General Statutes (or under any local act of similar nature); and

(2) County exercising any jurisdiction in Wake County under Article 18 of Chapter 153A of the General Statutes (or under any local act of similar nature)

shall provide to the North Carolina Capital Planning Commission no later than August 1, 1989, a copy of any ordinance adopted under that Article and in effect on July 1, 1989, and shall provide a copy of any additional ordinance adopted or amended under such Article or similar local act after July 1, 1989, within 30 days of adoption; provided that no ordinance adopted under G.S. 160A-441 shall be so provided unless it applies to a structure owned by the State.

(c) Any:

(1) City exercising any jurisdiction in Wake County under Article 19 of Chapter 160A of the General Statutes (or under any local act of similar nature); and

(2) County exercising any jurisdiction in Wake County under Article 18 of Chapter 153A of the General Statutes (or under any local act of similar nature)

shall provide to the North Carolina Capital Planning Commission within seven days of first consideration by the governing body any proposal under either of those Articles or local acts which, if adopted would affect property within Wake County owned by the State.

(d) Repealed by Session Laws 2014-115, s. 56.7A, effective August 11, 2014. (1975, c. 879, s. 10; 1981 (Reg. Sess., 1982), c. 1191, s. 66; 1989, c. 32; 2014-115, s. 56.7A.)

§ 143B-374. North Carolina Capital Planning Commission – members; selection; quorum; compensation.

(a) The North Carolina Capital Planning Commission of the Department of Administration shall consist of the following ex officio members: the Governor of North Carolina who shall serve as chairman; all members of the Council of State including the Lieutenant Governor (or a person designated by the Lieutenant Governor), who shall serve as vice-chairman; the Speaker (or a

person designated by the Speaker), and four members of the North Carolina House of Representatives, and four members of the North Carolina Senate; and a representative of the City of Raleigh to be designated by the City Council of Raleigh to serve a two-year term to expire at the same date city council members' terms expire. The President Pro Tempore of the Senate shall appoint the four members of the Senate on or before July 1, 1975, for two-year terms to expire at the same date General Assembly members' terms expire. The Speaker of the House of Representatives shall appoint the four members of the House on or before July 1, 1975, for two-year terms to expire at the same date General Assembly members' terms expire.

Public officers who are made members of the Commission shall be deemed to serve ex officio.

(b) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Administration.

All minutes, records, plans, and all other documents of public record of the State Capital Planning Commission, the Heritage Square Commission, and the former North Carolina Capital Planning Commission shall be turned over to the Department of Administration.

The Commission shall meet quarterly, and at other times at the call of the chairman. (1975, c. 879, s. 11; 1981, c. 47, s. 3; 1991, c. 739, s. 28.)

Part 4. Child Day-Care Licensing Commission.

§§ 143B-375 through 143B-376: Recodified as §§ 143B-168.1, 143B-168.2 by Session Laws 1985, c. 757, s. 155(f).

Part 5. North Carolina Drug Commission.

§§ 143B-377 through 143B-378: Repealed by Session Laws 1977, c. 667, s. 1.

Part 6. North Carolina Council on Interstate Cooperation.

§ 143B-379 through 143B-384: Repealed by Session Laws 1991 (Regular Session, 1992), c. 912, s. 1, effective July 9, 1992.

Part 7. Youth Councils.

§ 143B-385: Recodified as G.S. 143B-394.25 by Session Laws 2016-94, s. 32.5(d).

§ 143B-386: Recodified as G.S. 143B-394.26 by Session Laws 2016-94, s. 32.5(d).

§ 143B-387: Recodified as G.S. 143B-394.27 by Session Laws 2016-94, s. 32.5(d).

§ 143B-387.1: Recodified as G.S. 120-32.04 by Session Laws 2016-94, s. 32.5(k).

§ 143B-388: Recodified as G.S. 143B-394.28 by Session Laws 2016-94, s. 32.5(d).

Part 8. North Carolina Marine Science Council.

§§ 143B-389 through 143B-390: Repealed by Session Laws 1991, c. 320, s. 1.

Part 8A. Office of Marine Affairs.

§ 143B-390.1: Recodified as § 143B-289.19 by Session Laws 1995, c. 509, s. 98.

§§ 143B-390.2 through 143B-390.4: Recodified as §§ 143B-289.20 through 143B-289.22 by Session Laws 1993, c. 321, s. 28.

§§ 143B-390.5 through 143B-390.9. Reserved for future codification purposes.

Part 8B. North Carolina Council on Ocean Affairs.

§§ 143B-390.10 through 143B-390.11: Repealed by Session Laws 1993, c. 321, s. 28.

§ 143B-390.12. Reserved for future codification purposes.

§ 143B-390.13. Reserved for future codification purposes.

§ 143B-390.14. Reserved for future codification purposes.

Part 8C. North Carolina Aquariums Commission.

§§ 143B-390.15 through 143B-390.16: Recodified as §§ 143B-344.16, 143B-344.17 by Session Laws 1993, c. 321, s. 28(h).

§§ 143B-391, 143B-392: Recodified as G.S. 7A-761 by Session Laws 2017-57, s. 31.1(b), effective July 1, 2017.

Part 10. North Carolina Council for Women and Youth Involvement.

§ 143B-393. North Carolina Council for Women and Youth Involvement – creation; powers and duties.

(a) There is hereby created the North Carolina Council for Women and Youth Involvement of the Department of Administration. The Council shall have the following functions and duties:

(1) To advise the Governor, the principal State departments, and the State legislature concerning the education and employment of women in the State of North Carolina.

(1a) To advise the Governor or Secretary of Administration upon any matter relating to the following programs and organizations:

a. North Carolina Internship Council and the North Carolina State Government Internship Program.

b. SADD (Students Against Destructive Decisions).

c. State Youth Councils.

(2) To advise the Secretary of Administration upon any matter the Secretary may refer to the Council.

(3) Repealed by Session Laws 2013-30.2(b), effective July 1, 2013.

(b) The programs listed in subdivision (1a) of subsection (a) of this section shall be administered in a nonpartisan manner and shall not disseminate or advocate partisan principles or ideas, promote the candidacy of any person seeking public office or preferment, or use State funds to disseminate or advocate partisan principles or ideas or to promote political candidates or appointees. (1975, c. 879, s. 37; 1979, c. 1016, s. 1; 1991, c. 134, s. 4; 2013-360, s. 30.2(b); 2016-94, s. 32.5(b).)

§ 143B-394. North Carolina Council for Women – members; selection; quorum; compensation.

The North Carolina Council for Women of the Department of Administration shall consist of 20 members appointed by the Governor. The initial members of the Council shall be the appointed members of the North Carolina Council for Women, three of whose appointments expire June 30, 1977, and four of whose appointments expire June 30, 1978. Thirteen additional members shall be appointed in 1977, six of whom shall serve terms expiring June 30, 1978, and seven of whom shall serve terms expiring June 30, 1979. At the ends of the respective terms of office of the initial members of the Council and of the 13 members added in 1977, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. Members of the Council shall be representative of age, sex, ethnic and geographic backgrounds.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council to serve as chairman at the pleasure of the Governor.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration. (1975, c. 879, s. 38; 1977, c. 818; 1991, c. 134, s. 4.)

Part 10A. Office of Coordinator of Services for Victims of Sexual Assault.

§ 143B-394.1. Office of Coordinator of Services for Victims of Sexual Assault – purpose.

The ultimate goal of this Article is to establish a network of coordinated public and private services for victims of sexual assault, incorporating existing programs as well as aiding in the development of new programs. (1977, c. 997, s. 1.)

§ 143B-394.2. Office of Coordinator of Services for Victims of Sexual Assault – office created.

(a) The office of Coordinator of Services for Victims of Sexual Assault is hereby created in the Department of Administration. The office shall be under the direction and supervision of a full-time salaried State employee who shall be designated as the State Coordinator. The State Coordinator shall be appointed by the Secretary of the Department of Administration and shall receive a salary commensurate with State government pay schedules for the duties of this office, or such salary to be set by the State Human Resources Commission pursuant to G.S. 126-4. Necessary travel allowance or reimbursement for

expenses shall be authorized for the State Coordinator in accordance with G.S. 138-6. Sufficient clerical staff shall be provided under the direction of the Secretary of the Department of Administration.

(b) This State Coordinator shall have administrative experience and the recommendation of the North Carolina Rape Crisis Association and the North Carolina Council for Women. If possible, the State Coordinator shall have public speaking experience, training in rape crisis intervention and education in a related field. (1977, c. 997, s. 1; 1991, c. 134, s. 5; 2013-382, s. 9.1(c).)

§ 143B-394.3. Office of Coordinator of Services for Victims of Sexual Assault – duties and responsibilities.

The duties of the State Coordinator shall include the following:

(1) To establish an office to facilitate and coordinate all programs and services which deal with the victim of sexual assault;
(2) To research the needs of the State and already existing programs for sexual assault services;
(3) To create a liaison between public services and private services with which victims of sexual assault normally come in contact;
(4) To be an information clearinghouse on all aspects of sexual assault services;
(5) To develop model programs and training techniques to be used to train medical, legal, and psychological personnel (both in the public and private sectors) who deal with the victims of sexual assault, and to aid in implementing these programs to suit the needs of specific communities;
(6) To be available to aid and advise sexual assault services on operational and functional problems; and
(7) To develop and coordinate a public education program for the State of North Carolina on the phenomenon of sexual assault. (1977, c. 997, s. 1.)

Part 10B. Displaced Homemakers.

§§ 143B-394.4 through 143B-394.10: Repealed by Session Laws 2013-360, s. 30.2(c), effective July 1, 2013.

§§ 143B-394.11 through 143B-394.14. Reserved for future codification purposes.

Part 10C. Domestic Violence Commission.

§ 143B-394.15. Commission established; purpose; membership; transaction of business.

(a) Establishment. – There is established the Domestic Violence Commission. The Commission shall be located within the Department of Administration for organizational, budgetary, and administrative purposes.

(b) Purpose. – The purpose of the Commission is to (i) assess statewide needs related to domestic violence, (ii) assure that necessary services, policies, and programs are provided to those in need, (iii) strengthen the existing domestic violence programs which

have been established pursuant to G.S. 50B-9 and are funded through the Domestic Violence Center Fund, and (iv) recommend new domestic violence programs.

(c) Membership. – The Commission shall consist of 38 members, who reflect the geographic and cultural regions of the State, as follows:

(1) Nine persons appointed by the Governor, one of whom is a clerk of superior court; one of whom is an academician who is knowledgeable about domestic violence trends and treatment; one of whom is a member of the medical community; one of whom is a United States Attorney for the State of North Carolina or that person's designee; one of whom is a member of the North Carolina Bar Association who has studied domestic violence issues; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; one of whom is a member of the North Carolina Coalition Against Domestic Violence; one of whom is a former victim of domestic violence; and one of whom is a member of the public at large.

(2) Nine persons appointed by the General Assembly, upon recommendation of the President Pro Tempore of the Senate, one of whom is a district court judge; one of whom is a district attorney or assistant district attorney; one of whom is a representative of the law enforcement community with specialized knowledge of domestic violence issues; one of whom is a county manager; one of whom is a representative of a community legal services agency who works with domestic violence victims; one of whom is a representative of the linguistic and cultural minority communities; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; and two of whom are members of the public at large.

(3) Nine persons appointed by the General Assembly, upon recommendation of the Speaker of the House of Representatives, one of whom is a magistrate; one of whom is a member of the business community; one of whom is a district court judge; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; one of whom is a representative of the law enforcement community with specialized knowledge of domestic violence issues; one of whom provides offender treatment and is approved by the North Carolina Council for Women; one of whom is a representative of the linguistic and cultural minority communities; and two of whom are members of the public at large.

(4) The following persons or their designees, ex officio:

a. The Governor.
b. The Lieutenant Governor.
c. The Attorney General.
d. The Secretary of Administration.
e. Repealed by Session Laws 2017-102, s. 24, effective July 12, 2017.
f. The Superintendent of Public Instruction.
g. The Secretary of Public Safety.
h. The Secretary of Health and Human Services.

i. The Director of the Office of State Human Resources.
j. The Chair of the North Carolina Council for Women.
k. The Dean of the School of Government at the University of North Carolina at Chapel Hill.
l. The Chairman of the Governor's Crime Commission.

(d) Terms. – Members shall serve for two-year terms, with no prohibition against being reappointed, except initial appointments shall be for terms as follows:

(1) The Governor shall initially appoint five members for terms of two years and four members for terms of three years.
(2) The President Pro Tempore of the Senate shall initially appoint five members for terms of two years and four members for terms of three years.
(3) The Speaker of the House of Representatives shall initially appoint five members for terms of two years and four members for terms of three years.

Initial terms shall commence on September 1, 1999.

(e) Chair. – The chair shall be appointed biennially by the Governor from among the membership of the Commission. The initial term shall commence on September 1, 1999.

(f) Vacancies. – A vacancy on the Commission or as chair of the Commission resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(g) Compensation. – The Commission members shall receive no salary as a result of serving on the Commission but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable. When approved by the Commission, members may be reimbursed for subsistence and travel expenses in excess of the statutory amount.

(h) Removal. – Members may be removed in accordance with G.S. 143B-13 as if that section applied to this Article.

(i) Meetings. – The chair shall convene the Commission. Meetings shall be held as often as necessary, but not less than four times a year.

(j) Quorum. – A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

(k) Office Space. – The Department of Administration shall provide office space in Raleigh for use as offices by the Domestic Violence Commission, and the Department of Administration shall receive no reimbursement from the Commission for the use of the property during the life of the Commission.

(*l*) Staffing. – The Secretary of the Department of Administration shall be responsible for staffing the Commission. (1999-237, s. 24.2(b); 2001-424, s. 7.7; 2006-264, s. 29(o); 2009-342, s. 1; 2011-145, s. 19.1(g), (i); 2013-382, s. 9.1(c); 2015-9, s. 2.2; 2017-102, s. 24.)

§ 143B-394.16. Powers and duties of the Commission; reports.

(a) Powers and Duties. – The Commission shall have the following powers and duties:

(1) As recommended in the January 15, 1999, final report of the Governor's Task Force on Domestic Violence, to develop and recommend to the General Assembly the "Safe Families Act" and to promote adequate funding to promote victim safety and accountability of perpetrators.

(2) To develop and recommend domestic violence training initiatives for law enforcement and judicial personnel and for all persons who provide treatment and services to domestic violence victims.

(3) To develop training initiatives for and make recommendations and provide information and advice to State agencies in the areas of child protection, education, employer/employee relations, criminal justice, and subsidized housing.

(4) To provide information and advice to any private entities that request assistance in providing services and support to domestic violence victims.

(5) To design, coordinate, and oversee a statewide public awareness campaign.

(6) To design and coordinate improved data collection efforts for domestic violence crimes and acts in the State.

(7) To research, develop, and recommend proposals of how best to meet the needs of domestic violence victims and to prevent domestic violence in the State.

(8) To adopt rules in accordance with Article 2A of Chapter 150B of the General Statutes for the approval of abuser treatment programs as provided in G.S. 50B-3(a)(12). The Commission shall adopt rules to establish a consistent level of performance from providers of abuser treatment programs and to ensure that approved programs enhance the safety of victims and hold those who perpetrate acts of domestic violence responsible.

(b) Report. – The Commission shall report its findings and recommendations, including any legislative or administrative proposals, to the General Assembly no later than April 1 each year. (1999-237, s. 24.2(b); 2002-105, s. 1.)

§ 143B-394.17. Reserved for future codification purposes.

§ 143B-394.18. Reserved for future codification purposes.

§ 143B-394.19. Reserved for future codification purposes.

§ 143B-394.20. Reserved for future codification purposes.

Part 10D. Sexual Assault and Rape Crisis Center Fund.

§ 143B-394.21. Sexual Assault and Rape Crisis Center Fund.

(a) The Sexual Assault and Rape Crisis Center Fund is established within the State Treasury. The fund shall be administered by the Department of Administration, North Carolina Council for Women, and shall be used to make grants to centers for victims of sexual assault or rape crisis and to the North Carolina Coalition Against Sexual Assault, Inc. This fund shall be administered in accordance with the provisions of the State Budget Act under Chapter 143C of the General Statutes. The Department of Administration shall make quarterly grants to each eligible sexual assault or rape crisis center and to the North Carolina Coalition Against Sexual Assault,

Inc. To be eligible to receive funds under this section, a sexual assault or rape crisis center shall meet the following requirements:

(1) Have been in operation on the preceding July 1 and continue to be in operation.
(2) Offer all of the following services: a hotline, transportation services, community education programs, daytime services, and call forwarding during the night; and fulfill other criteria established by the Department of Administration.
(3) Be a nonprofit corporation or a local governmental entity.
(4) Have a mission statement that clearly specifies rape crisis services are provided.
(5) Act in support of victims of rape or sexual assault by providing assistance to ensure victims' interests are represented in law enforcement and legal proceedings and support and referral services are provided in medical and community settings.

(b) Funds appropriated from the General Fund to the Department of Administration, North Carolina Council for Women, for the Sexual Assault and Rape Crisis Center Fund shall be distributed in two shares. The North Carolina Coalition Against Sexual Assault, Inc., and sexual assault or rape crisis centers whose services are confined to rape crisis or sexual assault services shall receive an equal share of thirty-five percent (35%) of the funds. Organizations whose services contain sexual assault or rape crisis services and domestic violence services or other support services shall receive an equal share of the remaining sixty-five percent (65%) of the funds. (2008-107, s. 19.1.)

Part 10E. Youth Councils.

§ 143B-394.25. State Youth Advisory Council – creation; powers and duties.

There is hereby created the State Youth Advisory Council of the Department of Administration. The State Youth Advisory Council shall have the following functions and duties:

(1) To advise the youth councils of North Carolina;
(2) To encourage State and local councils to take active part in governmental and civic affairs, promote and participate in leadership and citizenship programs, and cooperate with other youth-oriented groups;
(3) To receive on behalf of the Department of Administration and to recommend expenditure of gifts and grants from public and private donors;
(4) To establish procedures for the election of its youth representatives by the State Youth Council; and
(5) To advise the Secretary of Administration upon any matter the Secretary may refer to it. (1975, c. 879, s. 26; 2016-94, s. 32.5(d).)

§ 143B-394.26. State Youth Advisory Council – members; selection; quorum; compensation.

The State Youth Advisory Council of the Department of Administration shall consist of 20 members. The composition and appointment of the Council shall be as follows:

Ten youths to be elected by the procedure adopted by the Youth Advisory Council, which shall include a requirement that four of the members represent youth organizations; and 10 adults to be appointed by the Governor at least four of whom shall be individuals

working on youth programs through youth organizations. Provided that no person shall serve on the Board for more than two complete consecutive terms.

The initial members of the Council shall be the appointed members of the Youth Advisory Board who shall serve for a period equal to the remainder of their current terms on the Youth Advisory Board. The current terms of the youth members expire July 1, 1976, the current terms of four of the adult members expire April 7, 1976, and the remaining four adult members' terms expire May 1, 1978. At the end of the respective terms of office of the initial members of the Council, the appointment of their successors shall be as follows:

(1) Eight youth members to serve for terms beginning on July 1, 1976, and expiring on June 30, 1977, and two additional youth members to serve for terms beginning on July 1, 1977, and expiring on June 30, 1978. At the end of the terms of office of these youth members of the Council, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify.

(2) Four adult members to serve for terms beginning on April 8, 1976, and expiring on June 30, 1979; four adult members to serve for terms beginning on May 1, 1978, and expiring on June 30, 1980; one additional adult member to serve for a term beginning July 1, 1977, and expiring June 30, 1978; and one additional adult member to serve for a term beginning July 1, 1977, and expiring June 30, 1979. At the end of the respective terms of office of these adult members of the Council, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. At least one adult member shall be an advisor of a local youth council at appointment and for the duration of the term. The total membership shall reasonably reflect the socioeconomic, ethnic, sexual and sectional composition of the State.

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate an adult member of the Council to serve as chairman at the pleasure of the Governor. The Council shall elect a youth member to serve as vice-chairman for a one-year term.

A majority of the Council shall constitute a quorum for the transaction of business.

Members of the Council who are not officers or employees of the State shall receive per diem and necessary travel and subsistence expenses in accordance with provisions of G.S. 138-5.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration. (1975, c. 879, s. 27; 1977, c. 510; 1979, c. 410; 1991, c. 128, s. 1; 2016-94, s. 32.5(d).)

§ 143B-394.27. State Youth Council.

There shall be a State Youth Council. It shall be established within one year of July 1, 1975, in accordance with the methods and procedures established by the Youth Advisory Council. The State Youth Council is authorized and empowered to do the following:

(1) To consider problems affecting youth and recommend solutions or approaches to these problems to State and local governments and their officials;
(2) To promote statewide activities for the benefit of youth; and,
(3) To elect the youth representatives to the Youth Advisory Council. (1975, c. 879, s. 28; 2016-94, s. 32.5(d).)

§ 143B-394.28. Local youth councils.

The primary purpose of local youth councils is to promote participation by youth in programs affecting civic and governmental affairs. (1975, c. 879, s. 29; 2016-94, s. 32.5(d).)

Part 10F. North Carolina Internship Council.

§ 143B-394.31. North Carolina Internship Council – creation; powers and duties.

There is hereby created the North Carolina Internship Council of the Department of Administration. The North Carolina Internship Council shall have the following functions and duties:

(1) To determine the number of student interns to be allocated to each of the following offices or departments:
    a. Office of the Governor
    b. Department of Administration
    c. Repealed by Session Laws 2012-83, s. 49, effective June 26, 2012.
    d. Department of Natural and Cultural Resources
    e. Department of Revenue
    f. Department of Transportation
    g. Department of Environmental Quality
    h. Department of Commerce
    i. Department of Public Safety
    j. Department of Health and Human Services
    k. Office of the Lieutenant Governor
    l. Office of the Secretary of State
    m. Office of the State Auditor
    n. Office of the State Treasurer
    o. Department of Public Instruction
    p. Repealed by Session Laws 1985, c. 757, s. 162.
    q. Department of Agriculture and Consumer Services
    r. Department of Labor
    s. Department of Insurance
    t. Office of the Speaker of the House of Representatives
    u. Justices of the Supreme Court and Judges of the Court of Appeals
    v. Community Colleges System Office
    w. Office of State Human Resources
    x. Office of the Senate President Pro Tempore

y. Repealed by Session Laws 2012-83, s. 49, effective June 26, 2012.
z. Administrative Office of the Courts
aa. Bipartisan State Board of Elections and Ethics Enforcement
bb. Division of Employment Security
cc. Repealed
dd. Department of Justice

(2) To screen applications for student internships and select from these applications the recipients of student internships; and

(3) To determine the appropriateness of proposals for projects for student interns submitted by the offices and departments enumerated in subdivision (1) of this section. (1977, c. 771, s. 4; c. 967; 1979, c. 783; 1983, c. 710; 1985, c. 757, s. 162; 1989, c. 727, s. 218(151), c. 751, s. 7(21); 1989 (Reg. Sess., 1990), c. 900, s. 1; 1991 (Reg. Sess., 1992), c. 959, s. 42; 1993, c. 522, s. 17; 1997-261, s. 104; 1997-443, ss. 11A.118(a), 11A.119(a); 1999-84, s. 25; 2000-137, s. 4(oo); 2007-121, s. 1; 2011-145, s. 19.1(g), (h), (*l*); 2011-401, s. 3.21; 2012-83, s. 49; 2013-382, s. 9.1(c); 2015-241, ss. 14.30(s), (u); 2016-94, s. 32.5(f); 2017-6, s. 3.)

§ 143B-394.32. North Carolina Internship Council – members; selection; quorum; compensation; clerical, etc., services.

The North Carolina Internship Council shall consist of 17 members, including the Secretary of Administration or his designee, one member to be designated by and to serve at the pleasure of the President Pro Tempore of the Senate, one member to be designated by and to serve at the pleasure of the Speaker of the House of Representatives and the following 14 members to be appointed by the Governor to a two-year term commencing on July 1 of odd-numbered years: two representatives of community colleges; four representatives of The University of North Carolina system; two representatives of private colleges or universities; three representatives of colleges or universities with an enrollment of less than 5,000 students; and three former interns.

At the end of the respective terms of office of the 14 members of the Council appointed by the Governor, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. The Governor may remove any member appointed by the Governor.

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Council shall meet at the call of the chairman or upon written request of at least five members.

The Governor shall designate a member of the Council as chairman to serve at the pleasure of the Governor.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration. (1977, c. 967; 1987, c. 564, s. 9; 1995, c. 490, s. 28; 2016-94, s. 32.5(f).)

§ 143B-394.33. North Carolina Internship Council – committees for screening applications.

The North Carolina Internship Council may designate one representative from each office or department enumerated in G.S. 143B-394.31 to serve on a committee to assist pursuant to guidelines adopted by the Council, in the screening and selection of applicants for student internships. (1977, c. 967; 2016-94, ss. 32.5(f), (g).)

Part 11. North Carolina Manpower Council.

§§ 143B-395 through 143B-396: Repealed by Session Laws 1977, c. 771, s. 14.

Part 12. Standardization Committee.

§§ 143B-397 through 143B-398: Repealed by Session Laws 1983, c. 717, s. 81.

Part 13. Veterans' Affairs Commission.

§§ 143B-399 through 143B-401: Recodified as G.S. 143B-1220 through 143B-1222 by Session Laws 2015-241, s. 24.1(c). For effective date, see Editor's Note.

Part 14. Advocacy Council for the Handicapped.

§§ 143B-402, 143B-403: Repealed by Session Laws 1979, c. 575, s. 1.

Part 14A. Governor's Advocacy Council for Persons with Disabilities.

§ 143B-403.1: Repealed by Session Laws 2007-323, s. 19.1(a), effective July 1, 2007.

§ 143B-403.2: Repealed by Session Laws 2007-323, s. 19.1(a), effective July 1, 2007.

Part 15. North Carolina State Commission of Indian Affairs.

§ 143B-404. North Carolina State Commission of Indian Affairs – creation; name.

There is hereby created and established the North Carolina State Commission of Indian Affairs. The Commission shall be administered under the direction and supervision of the Department of Administration pursuant to G.S. 143A-6(b) and (c). (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189.)

§ 143B-405. North Carolina State Commission of Indian Affairs – purposes for creation.

The purposes of the Commission shall be as follows:

(1) To deal fairly and effectively with Indian affairs.

(2) To bring local, State, and federal resources into focus for the implementation or continuation of meaningful programs for Indian citizens of the State of North Carolina.

(3) To provide aid and protection for Indians as needs are demonstrated; to prevent undue hardships.

(4) To hold land in trust for the benefit of State-recognized Indian tribes. This subdivision shall not apply to federally recognized Indian tribes.

(5) To assist Indian communities in social and economic development.

(6) To promote recognition of and the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to Native Americans. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189; 2001-344, s. 1; 2006-264, s. 15.)

§ 143B-406. North Carolina State Commission of Indian Affairs – duties; use of funds.

(a) The Commission shall have the following duties:

(1) To study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian affairs.

(2) To investigate relief needs of Indians of North Carolina and to provide technical assistance in the preparation of plans for the alleviation of such needs.

(3) To confer with appropriate officials of local, State and federal governments and agencies of these governments, and with such congressional committees that may be concerned with Indian affairs to encourage and implement coordination of applicable resources to meet the needs of Indians in North Carolina.

(4) To cooperate with and secure the assistance of the local, State and federal governments or any agencies thereof in formulating any such programs, and to coordinate such programs with any programs regarding Indian affairs adopted or planned by the federal government to the end that the State Commission of Indian Affairs secure the full benefit of such programs.

(5) To act as trustee for any interest in real property that may be transferred to the Commission for the benefit of State-recognized Indian tribes in accordance with a trust agreement approved by the Commission. The Commission shall not hold any interest in real property for the benefit of federally recognized Indian tribes.

(6) To review all proposed or pending State legislation and amendments to existing State legislation affecting Indians in North Carolina.

(7) To conduct public hearings on matters relating to Indian affairs and to subpoena any information or documents deemed necessary by the Commission.

(8) To study the existing status of recognition of all Indian groups, tribes and communities presently existing in the State of North Carolina.

(9) To establish appropriate procedures to provide for legal recognition by the State of presently unrecognized groups.

(10) To provide for official State recognition by the Commission of such groups.

(11) To initiate procedures for their recognition by the federal government.

(b) The Commission may adopt rules to implement the provisions of subdivision (a)(5) of this section. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189; 2001-344, s. 2.)

§ 143B-407. North Carolina State Commission of Indian Affairs – membership; term of office; chairman; compensation.

(a) The State Commission of Indian Affairs shall consist of two persons appointed by the General Assembly, the Secretary of Health and Human Services, the Assistant Secretary of Commerce in charge of the Division of Employment Security, the Secretary of Administration, the Secretary of Environmental Quality, the Commissioner of Labor or their designees and 21 representatives of the Indian community. These Indian members shall be selected by tribal or community consent from the Indian groups that are recognized by the State of North Carolina and are principally geographically located as follows: the

Coharie of Sampson and Harnett Counties; the Eastern Band of Cherokees; the Haliwa Saponi of Halifax, Warren, and adjoining counties; the Lumbees of Robeson, Hoke and Scotland Counties; the Meherrin of Hertford County; the Waccamaw-Siouan from Columbus and Bladen Counties; the Sappony; the Occaneechi Band of the Saponi Nation of Alamance and Orange Counties, and the Native Americans located in Cumberland, Guilford, Johnston, Mecklenburg, Orange, and Wake Counties. The Coharie shall have two members; the Eastern Band of Cherokees, two; the Haliwa Saponi, two; the Lumbees, three; the Meherrin, one; the Waccamaw-Siouan, two; the Sappony, one; the Cumberland County Association for Indian People, two; the Guilford Native Americans, two; the Metrolina Native Americans, two; the Occaneechi Band of the Saponi Nation, one, the Triangle Native American Society, one. Of the two appointments made by the General Assembly, one shall be made upon the recommendation of the Speaker, and one shall be made upon recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121 and vacancies shall be filled in accordance with G.S. 120-122.

(b) Members serving by virtue of their office within State government shall serve so long as they hold that office. Members representing Indian tribes and groups shall be elected by the tribe or group concerned and shall serve for three-year terms except that at the first election of Commission members by tribes and groups one member from each tribe or group shall be elected to a one-year term, one member from each tribe or group to a two-year term, and one member from the Lumbees to a three-year term. The initial appointment from the Indians of Person County shall expire on June 30, 1999. The initial appointment from the Triangle Native American Society shall expire June 30, 2003. The initial appointment of the Occaneechi Band of the Saponi Nation shall expire June 30, 2005. Thereafter, all Commission members will be elected to three-year terms. All members shall hold their offices until their successors are appointed and qualified. Vacancies occurring on the Commission shall be filled by the tribal council or governing body concerned. Any member appointed to fill a vacancy shall be appointed for the remainder of the term of the member causing the vacancy. The Governor shall appoint a chairman of the Commission from among the Indian members of the Commission, subject to ratification by the full Commission. The initial appointments by the General Assembly shall expire on June 30, 1983. Thereafter, successors shall serve for terms of two years.

In the event that a vacancy occurs among the membership representing Indian tribes and groups and the vacancy temporarily cannot be filled by the tribe or group for any reason, the Commission membership may designate a tribal or group member to serve on the Commission on an interim basis until the tribe or group is able to select a permanent member to fill the vacancy. The service of the interim member shall terminate immediately upon appointment by the tribe or group of a member to fill the vacancy in its membership.

(c) Commission members who are seated by virtue of their office within the State government shall be compensated at the rate specified in G.S. 138-6. Commission members who are members of the General Assembly shall be compensated at the rate specified in G.S. 120-3.1. Indian members of the commission shall be compensated at the rate specified in G.S. 138-5. (1977, c. 771, s. 4; c. 849, s. 1; 1977, 2nd Sess., c. 1189; 1981, c. 47, s. 5;

1981 (Reg. Sess., 1982), c. 1191, ss. 74, 76; 1989, c. 727, s. 218(149); 1991, c. 467, s. 1; 1995, c. 490, s. 27; 1997-147, s. 2; 1997-293, s. 2; 1997-443, ss. 11A.118(a), 11A.119(a); 2001-318, s. 1; 2002-126, s. 19.1A(a); 2003-87, s. 2; 2009-39, s. 1; 2011-401, s. 3.20; 2015-241, s. 14.30(v).)

§ 143B-408. North Carolina State Commission of Indian Affairs – meetings; quorum; proxy vote.

(a) The Commission shall meet quarterly, and at any other such time that it shall deem necessary. Meetings may be called by the chairman or by a petition signed by a majority of the members of the Commission. Ten days' notice shall be given in writing prior to the meeting date.

(b) Simple majority of the Indian members of the Commission must be present to constitute a quorum.

(c) Proxy vote shall not be permitted. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189.)

§ 143B-409. North Carolina State Commission of Indian Affairs – reports.

The Commission shall prepare a written annual report giving an account of its proceedings, transactions, findings, and recommendations. This report shall be submitted to the Governor and the legislature. The report will become a matter of public record and will be maintained in the State Historical Archives. It may also be furnished to such other persons or agencies as the Commission may deem proper. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189.)

§ 143B-410. North Carolina State Commission of Indian Affairs – fiscal records; clerical staff.

Fiscal records shall be kept by the Secretary of Administration. The audit report will become a part of the annual report and will be submitted in accordance with the regulations governing preparation and submission of the annual report. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189; 1983, c. 913, s. 41.)

§ 143B-411. North Carolina State Commission of Indian Affairs – executive director; employees.

The Commission may, subject to legislative or other funds that would accrue to the Commission, employ an executive director to carry out the day-to-day responsibilities and business of the Commission. The executive director shall serve at the pleasure of the Commission. The executive director, also subject to legislative or other funds that would accrue to the Commission, may hire additional staff and consultants to assist in the discharge of his responsibilities, as determined by the Commission. The executive director shall not be a member of the Commission, and shall be of Indian descent. (1977, c. 849, s. 1; 1977, 2nd Sess., c. 1189; 1991, c. 88.)

Part 15A. North Carolina Advisory Council on the Eastern Band of the Cherokee.

§ 143B-411.1. North Carolina Advisory Council on the Eastern Band of the Cherokee – creation; membership; terms of office.

The North Carolina Advisory Council on the Eastern Band of the Cherokee is created in the Department of Administration. The Council shall consist of 16 members and shall include the following members: eight members shall be appointed by the Chief with the consent of the Tribal Council of the Eastern Band of the Cherokee; the Superintendent of

Public Instruction or his designee; the Secretary of Administration or his designee; the Secretary of Health and Human Services or his designee; the Secretary of Environmental Quality or his designee; the Attorney General or his designee; one member appointed by the Governor who shall be a representative of local government in Swain, Jackson, or Cherokee Counties; one legislator appointed by the Speaker of the House; and one legislator appointed by the President Pro Tempore of the Senate. Members serving by virtue of their office within State Government shall serve so long as they hold that office, except that the members appointed by the Speaker of the House and the President Pro Tempore of the Senate shall serve for two-year terms. Members appointed by the Chief shall serve at the pleasure of the Chief. Members appointed by the Governor shall serve a term of four years at the pleasure of the Governor. (1983 (Reg. Sess., 1984), c. 1085, s. 1; 1989, c. 727, s. 218(150); 1997-443, ss. 11A.118(a), 11A.119(a); 2015-241, s. 14.30(v).)

§ 143B-411.2. North Carolina Advisory Council on the Eastern Band of the Cherokee – purpose or creation; powers and duties.

The purpose of the Council is to study on a continuing basis the relationship between the Eastern Band of the Cherokee and the State of North Carolina in order to resolve any matters of concern to the State or the Tribe. It shall be the duty of the Council:

(1) Identify existing and potential conflicts between the State of North Carolina and the Eastern Band of Cherokee Indians;

(2) Propose State and federal legislation and agreements between the State of North Carolina and the Cherokee Tribe to resolve existing and potential conflicts;

(3) To study and make recommendations concerning any issue referred to the Council by any official of the Eastern Band of the Cherokee, the State of North Carolina, or the government of Haywood, Jackson, Swain, Graham, or Cherokee Counties.

(4) Study other issues of mutual concern to the Eastern Band of the Cherokee;

(5) Make a report with recommendations as needed, but not less often than biannually to the Governor, the Chief of the Eastern Band of the Cherokee, the General Assembly, and the Tribal Council of the Eastern Band of the Cherokee. (1983 (Reg. Sess., 1984), c. 1085, s. 1.)

§ 143B-411.3. North Carolina Advisory Council of the Eastern Band of the Cherokee – meetings; quorum; compensation; chairman.

The Council shall meet at least quarterly or at the call of the chairman or a majority of the Council. A quorum shall consist of a majority of the Council. Designees of Council members serving by virtue of office shall be entitled to vote. The Chairman of the Council shall be elected from the membership. The selection of a member as chairman shall have no effect on the member's voting privileges. Council members who are seated by virtue of their office within State government shall be compensated at the rate specified in G.S. 138-6. Council members who are members of the General Assembly shall be compensated at the rate specified in G.S. 120-31. Other Council members shall be compensated at the rate specified in G.S. 138-5. (1983 (Reg. Sess., 1984), c. 1085, s. 1.)

§ 143B-411.4. North Carolina Advisory Council on the Eastern Band of the Cherokee – clerical and administrative support.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration. (1983 (Reg. Sess., 1984), c. 1085, s. 1.)

Part 16. Governor's Council on Employment of the Handicapped.

§§ 143B-412 through 143B-413. Repealed by Session Laws 1979, c. 575, s. 1.

Part 17. Governor's Advocacy Council on Children and Youth.

§ 143B-414: Repealed by Session Laws 2011-266, s. 1.7, effective July 1, 2011.

§ 143B-415: Repealed by Session Laws 2011-266, s. 1.7, effective July 1, 2011.

§ 143B-416: Repealed by Session Laws 2011-266, s. 1.7, effective July 1, 2011.

Part 18. North Carolina Internship Council.

§ 143B-417: Recodified as § 143B-394.31 by Session Laws 2016-94, s. 32.5(f).

§ 143B-418: Recodified as G.S. 143B-394.32 by Session Laws 2016-94, s. 32.5(d).

§ 143B-419: Recodified as G.S. 143B-394.33 by Session Laws 2016-94, s. 32.5(d).

Part 19. Jobs for Veterans Committee.

§§ 143B-420, 143B-421: Recodified as G.S. 143B-1235, 143B-1236 by Session Laws 2015-241, s. 24.1(d). For effective date, see Editor's Note.

Part 19A. Selective Service Registration.

§ 143B-421.1. Selective Service registration.

(a) A person who is required under 50 United States Code Appx. § 453 (Military Selective Service Act) to present himself for and submit to registration and fails to do so in accordance with any proclamation or any rule or regulation issued under this section, shall be ineligible for:

(1) Employment by or service for the State, or a political subdivision of the State, including all boards and commissions, departments, agencies, institutions, and instrumentalities.

(2) State-supported scholarships, programs for financial assistance for postsecondary education, or loans insured by any State agency, including educational assistance authorized under Article 23 of Chapter 116 of the General Statutes.

(b) It shall be the duty of all persons or officials having charge of and authority over either the hiring of employees or granting of educational assistance, as described in this section, to adopt rules and regulations which shall require applicants to indicate on a form whether they are in compliance with the registration requirements described in subsection (a). Rules and regulations issued under the authority of this section shall provide that an applicant be given not less than 30

days after notification of a proposed finding of ineligibility for employment or benefits to provide the issuing official with information that he is in compliance with the registration requirements described in subsection (a). The issuing official may afford such person an opportunity for a hearing to establish his compliance or for any other purpose.

(c) A person may not be denied a right, privilege, or benefit under State law by reason of failure to present himself for and submit to registration under 50 U.S.C.S. Appx. § 453 if:

(1) The requirement for the person to so register has terminated or become inapplicable to the person; and

(2) The person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register. (1989, c. 618.)

§ 143B-421.2. Reserved for future codification purposes.

§ 143B-421.3. Consultation required for welcome and visitor centers.

The Department of Commerce and the Department of Transportation shall consult with the chairs of the Joint Legislative Transportation Oversight Committee, the chairs of the Senate Appropriations Committee on Department of Transportation, the chairs of the House of Representatives Appropriations Committee on Transportation, the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, and the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources before beginning the design or construction of any new welcome center or visitor center buildings. (2007-356; s. 1; 2017-57, s. 14.1(x).)

Part 20. Public Officers and Employees Liability Insurance Commission.

§§ 143B-422 through 143B-426.1: Recodified as §§ 58-27.20 through 58-27.26 (now 58-32-1 through 58-32-30) by Session Laws 1985, c. 666, s. 79.

Part 21. Child and Family Services Interagency Committees.

§§ 143B-426.2 through 143B-426.7A. Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1028, s. 31.

Part 22. North Carolina Agency for Public Telecommunications.

§ 143B-426.8. Definitions.

As used in this Part, except where the context clearly requires otherwise:

(1) "Agency" means the North Carolina Agency for Public Telecommunications.

(2) "Board" means the Board of Public Telecommunications Commissioners.

(3) "Telecommunications" means any origination, creation, transmission, emission, storage-retrieval, or reception of signs, signals, writing, images and sounds, or intelligence of any nature, by wire, radio, television, optical or other electromagnetic systems. (1979, c. 900, s. 1.)

§ 143B-426.9. North Carolina Agency for Public Telecommunications – Creation; membership; appointments, terms and vacancies; officers; meetings and quorum; compensation.

The North Carolina Agency for Public Telecommunications is created. It is governed by the Board of Public Telecommunications Commissioners, composed of 26 members as follows:

(1) A Chairman appointed by, and serving at the pleasure of, the Governor;
(2) Ten at-large members, appointed by the Governor from the general public;
(3) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121;
(4) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121;
(5) The Secretary of Administration, ex officio;
(6) The Chairman of the Board of Trustees of The University of North Carolina Center for Public Television (if and when established), ex officio;
(7) The Chairman of the State Board of Education, ex officio;
(8) The Chairman of the OPEN/net Committee, ex officio, so long as such person is not a State employee;
(9) The Chairman of the North Carolina Utilities Commission, ex officio;
(10) The Director of the Public Staff of the North Carolina Utilities Commission, ex officio;
(11) Repealed by Session Laws 2011-266, s. 1.13(b), effective July 1, 2011.
(12) The Superintendent of Public Instruction, ex officio;
(13) The President of the University of North Carolina, ex officio;
(14) The President of the Community Colleges System, ex officio; and
(15) Two members ex officio who shall rotate from among the remaining heads of departments enumerated in G.S. 143A-11 or G.S. 143B-6, appointed by the Governor.

The 10 at-large members shall serve for terms staggered as follows: four terms shall expire on June 30, 1980; and three terms shall expire on June 30, 1982; and three terms shall expire on June 30, 1984. Thereafter, the members at large shall be appointed for full four-year terms and until their successors are appointed and qualified. In making appointments of members at large, the Governor shall seek to appoint persons from the various geographic areas of the State including both urban and rural areas; persons from various classifications as to sex, race, age, and handicapped persons; and persons who are representatives of the public broadcast, commercial broadcast, nonbroadcast distributive systems and private education communities of the State.

The terms of the ex officio members are coterminous with their respective terms of office. In the event that any of the offices represented on the Board ceases to exist, the successor officer to the designated member shall become an ex officio member of the Board; if there shall be no successor, then the position on the Board shall be filled by a member to be appointed by the Governor from the general public. The ex officio members shall have the right to vote.

The initial members appointed to the Board by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years.

The terms of the rotating ex officio members shall be of one-year duration, and the schedule of rotation is determined by the Governor.

Each State official who serves on the Board may designate a representative of his department, agency or institution to sit in his place on the Board and to exercise fully the official's privileges of membership.

The Secretary of Administration or his designee serves as secretary of the Board.

Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Other vacancies shall be filled in the same manner as the original appointment.

The Governor may remove any member of the Board from office in accordance with the provisions of G.S. 143B-16.

The Board meets quarterly and at other times at the call of the chairman or upon written request of at least six members.

A majority of the Board members shall constitute a quorum for the transaction of business. (1979, c. 900, s. 1; 1981 (Reg. Sess., 1982), c. 1191, ss. 6-8; 1983 (Reg. Sess., 1984), c. 1116, s. 92; 1995, c. 490, s. 42; 1999-84, s. 26; 2011-266, s. 1.13(b).)

§ 143B-426.10. Purpose of Agency.

The North Carolina Agency for Public Telecommunications shall serve as an instrumentality of the State of North Carolina for the accomplishment of the following general purposes:

(1) To advise the Governor, the Council of State, the principal State departments, the University of North Carolina, the General Assembly and all other State agencies and institutions on all matters of telecommunications policy as may affect the State of North Carolina and its citizens;

(2) To foster and stimulate the use of telecommunications programming, services and systems for noncommercial educational and cultural purposes by public agencies for the improvement of the performance of governmental services and functions;

(3) To serve State government, local governments and other public agencies and councils in the following ways:

a. To provide a clearinghouse of information about innovative projects, programs or demonstrations in telecommunications;

b. To provide advice on the acquisition, location and operation of telecommunications systems, equipment, and facilities and to provide particularly such advice as may foster compatibility of systems, equipment and facilities and as may reduce or eliminate duplication or mismatching of systems and facilities;

c. To provide advice on the disposition of excess or unused telecommunications equipment;

d. To provide information and advice on new telecommunications developments and emerging technologies;

e. To provide advice on procurement matters on all purchases and contracts for telecommunications systems, programming and services;

f. To provide information and advice on the most cost-effective means of using telecommunications for management, operations and service delivery;

g. To provide advice and assistance in the evaluation of alternative media programming so that the most efficient and effective products may be developed and used;

h. To provide advice and assistance in the identification of various methods of distributing programs and materials;

(4) To study the utilization of the frequency spectrum and to advise appropriate authorities as to effective frequency management;

(5) To assist in the development of a State plan or plans for the best development of telecommunications systems, both public and private, to insure that all citizens of North Carolina will enjoy the benefits which such systems may deliver;

(6) In addition to and not in place of the programs, projects, and services of The University of North Carolina Center for Public Television (or its functional predecessor), to develop and provide media programs and programming materials and services of a noncommercial educational, informational, cultural or scientific nature;

(7) To undertake innovative projects in interactive telecommunications and teleconferencing whenever such projects might serve to improve services, expand opportunities for citizen participation in government and reduce the costs of delivering a service;

(8) To serve as a means of acquiring governmental and private funds for use in the development of services through telecommunications;

(9) To serve as a means of distributing State funds and awarding grants for any purpose determined to be in furtherance of the purposes of this Part;

(10) To operate such telecommunications facilities or systems as may fall within the purview of this Part or as may be assigned to the Agency by the Governor, by the General Assembly, or by the Secretary of Administration consistent with the provisions of G.S. 143-340(14);

(11) To review, assess and report to the Governor on an annual basis on the telecommunications needs and services of State and local government and on the production capabilities and services, the nonproduction services, and the research and development services offered by the Agency and by all other agencies of State government;

(12) To review, assess and report to the Governor, after a period of not less than two years and not more than three years after the enactment of this Part, on the telecommunications statutes, plans and operations in State government, including those resulting from the enactment of this Part and from revision of statutes pertaining to telecommunications in the Department of Administration;

(13) To serve as liaison between State government and local governments, regional organizations, the federal government, foundations and other states and nations on common telecommunications concerns;

(14) To study and evaluate all existing or proposed statutes, rules or regulations at all levels of government touching upon or affecting telecommunications policy, services, systems, programming, rates or funds and to advise the appropriate officials, agencies and councils;

(15) To acquire, construct, equip, maintain, develop and improve such facilities as may be necessary to the fulfillment of the purpose of the Part;

(16) To provide information and advice on any related matter which may be referred to it by any agency or council of State or local government;

(17) And in general to do and perform any act or function which may tend to be useful toward the development and improvement of telecommunications services within State government and which may increase the delivery of services through telecommunications programs or systems.

The enumeration of the above purposes shall not limit or circumscribe the broad objective of developing to the utmost the possibilities of telecommunications programming, services and systems in the State of North Carolina. (1979, c. 900, s. 1.)

§ 143B-426.11. Powers of Agency.

In order to enable it to carry out the purposes of this Part, the Agency:

(1) Has the powers of a body corporate, including the power to sue and be sued, to make contracts, to hold and own copyrights and to adopt and use a common seal and to alter the same as may be deemed expedient;

(2) May make all necessary contracts and arrangements with any parties which will serve the purposes and facilitate the business of the North Carolina Agency for Public Telecommunications; except that, the Agency may not contract or enter into any agreement for the production by the Agency of programs or programming materials with any person, group, or organization other than government agencies; principal State departments; public and noncommercial broadcast licensees;

(3) May rent, lease, buy, own, acquire, mortgage, or otherwise encumber and dispose of such property, real or personal; and construct, maintain, equip and operate any facilities, buildings, studios, equipment, materials, supplies and systems as said Board may deem proper to carry out the purposes and provisions of this Part;

(4) May establish an office for the transaction of its business at such place or places as the Board deems advisable or necessary in carrying out the purposes of this Part;

(5) May apply for and accept loans and grants of money from any federal agency or the State of North Carolina or any political subdivision thereof or from any public or private sources for any and all of the purposes authorized in this Part; may extend or distribute the funds in accordance with directions and requirements attached thereto or imposed thereon by the federal agency, the State of North Carolina or any political subdivision thereof, or any public or private lender or donor; and may give such evidences of indebtedness as shall be required, but no indebtedness of any kind incurred or created by the Agency shall constitute an indebtedness of the State of North Carolina or any political subdivision thereof, and no such indebtedness shall involve or be secured by

the faith, credit or taxing power of the State of North Carolina or any political subdivision thereof. At no time may the total outstanding indebtedness of the Agency, excluding bond indebtedness, exceed five hundred thousand dollars ($500,000) unless the Agency has consulted with the Director of the Budget;

(6) May pay all necessary costs and expenses involved in and incident to the formation and organization of the Agency and incident to the administration and operation thereof, and may pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Part;

(7) Under such conditions as the Board may deem appropriate to the accomplishment of the purposes of this Part, may distribute in the form of grants, gifts, or loans any of the revenues and earnings received by the Agency from its operations;

(8) May adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the power granted to it may be exercised, and may provide for the creation of such divisions and for the appointment of such committees, and the functions thereof, as the Board deems necessary or expedient in facilitating the business and purposes of the Agency;

(9) The Board shall be responsible for all management functions of the Agency. The chairman shall serve as the chief executive officer, and shall have the responsibility of executing the policies of the Board. The Executive Director shall be the chief operating and administrative officer and shall be responsible for carrying out the decisions made by the Board and its chairman. The Executive Director shall be appointed by the Governor upon the recommendation of the Board and shall serve at the pleasure of the Governor. The salary of the Executive Director shall be fixed by the General Assembly in the Current Operations Appropriations Act. Subject to the provisions of the North Carolina Human Resources Act and with the approval of the Board, the Executive Director may appoint, employ, dismiss and fix the compensation of such professional, administrative, clerical and other employees as the Board deems necessary to carry out the purposes of this Part; but any employee who serves as the director of any division of the Agency which may be established by the Board shall be appointed with the additional approval of the Secretary of Administration. There shall be an executive committee consisting of three of the appointed members and three of the ex officio members elected by the Board and the chairman of the Board, who shall serve as chairman of the executive committee. The executive committee may do all acts which are authorized by the bylaws of the Agency. Members of the executive committee shall serve until their successors are elected;

(10) May do any and all other acts and things in this Part authorized or required to be done, whether or not included in the general powers in this section; and

(11) May do any and all things necessary to accomplish the purposes of this Part.

Nothing herein authorizes the Agency to exercise any control over any public noncommercial broadcast licensee, its staff or facilities or over any community antenna television system (Cable TV; CATV), its staff, employees or facilities operating in North

Carolina, or the Police Information Network (PIN), its staff, employees or facilities or the Judicial Department.

The property of the Agency shall not be subject to any taxes or assessments. (1979, c. 900, s. 1; 1983, c. 666; c. 717, s. 82; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1985, c. 122, ss. 3, 4; 1985 (Reg. Sess., 1986), c. 955, ss. 99-101; 2006-203, s. 107; 2013-382, s. 9.1(c).)

§ 143B-426.11A. Use of Agency for Public Telecommunications required.

Notwithstanding any other provision of law, the Agency for Public Telecommunications shall be the primary party with whom all State agencies, departments, and institutions other than The University of North Carolina System and the Community College System may contract for media placement and the creation of the media to be placed. Agencies, departments, and institutions may use another party only if the Agency for Public Telecommunications determines that the Agency for Public Telecommunications cannot fulfill the agency's, department's, or institution's needs. Any contract entered into contrary to the provisions of this section is voidable at the discretion of the Governor and the Council of State. (2011-145, s. 20.1.)

§ 143B-426.12: Repealed by Session Laws 2011-266, s. 1.13(a), effective July 1, 2011.

§ 143B-426.13. Approval of acquisition and disposition of real property.

Any transaction relating to the acquisition or disposition of any estate or interest in real property by the North Carolina Agency for Public Telecommunications shall be subject to prior review by the Governor and Council of State, and shall become effective only after the transaction has been approved by the Governor and Council of State. Upon the acquisition of an estate in real property by the North Carolina Agency for Public Telecommunications, the fee title or other estate shall vest in and the instrument of conveyance shall name "North Carolina Agency for Public Telecommunications" as grantee, lessee, or transferee. Upon the disposition of an interest or estate in real property, the instrument of lease conveyance or transfer shall be executed by the North Carolina Agency for Public Telecommunications. The approval of any transaction by the Governor or Council of State shall be evidenced by a duly certified copy of excerpt of minutes of the meeting of the Governor and the Council of State, attested by the Governor or by the private secretary to the Governor, reciting the approval, affixed to the instrument of acquisition or transfer; the certificate may be recorded as a part of the instrument, and shall be conclusive evidence of review and approval of the subject transaction by the Governor and Council of State. The Governor, acting with the approval of the Council of State, may delegate the review and approval of such classes of lease, rental, easement or right-of-way transactions as he deems advisable, and he may likewise delegate the review and approval of the severance of buildings and timber from the land. (1979, c. 900, s. 1.)

§ 143B-426.14. Issuance of bonds.

As a means of raising the funds needed from time to time in the acquisition, construction, equipment, maintenance and operation of any facility, building, structure, telecommunications equipment or systems or any other matter or thing which the Agency is herein authorized to acquire, construct, equip, maintain, or operate, the Agency may at one time or from time to time issue negotiable revenue bonds of the Agency. The principal and interest of the revenue bonds

shall be payable solely from the revenues to be derived from the operation of all or any part of the Agency's properties and facilities. A pledge of the net revenues derived from the operation of specified properties and facilities of the Agency may be made to secure the payment of the bonds as they mature. Revenue bonds issued under the provisions of this Part shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State. The issuance of revenue bonds shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. The bonds and the income therefrom shall be exempt from all taxation within the State. (1979, c. 900, s. 1; 2006-203, s. 108.)

§ 143B-426.15. Exchange of property; removal of building, etc.

The Agency may exchange any property or properties acquired under the authority of this Chapter for other property or properties usable in carrying out the powers hereby conferred, and also may remove from lands needed for its purposes and reconstruct on other locations, buildings, facilities, equipment, telecommunications systems or other structures, upon the payment of just compensation. (1979, c. 900, s. 1.)

§ 143B-426.16. Treasurer of the Agency.

The Board shall select its own treasurer from among the at-large members. The Board shall require a corporate surety bond of the treasurer in an amount fixed by the Board, and the premium or premiums thereon shall be paid by the Board as a necessary expense of the Agency. (1979, c. 900, s. 1.)

§ 143B-426.17. Deposit and disbursement of funds.

All Agency funds shall be handled in accordance with the Executive Budget Act. (1979, c. 900, s. 1.)

§ 143B-426.18. Audit.

The operations of the North Carolina Agency for Public Telecommunications shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (1979, c. 900, s. 1; 1983, c. 913, s. 42.)

§ 143B-426.19. Purchase of supplies, material and equipment.

All the provisions of Article 3 of Chapter 143 of the General Statutes relating to the purchase of supplies, material and equipment by the State government are applicable to the North Carolina Agency for Public Telecommunications. (1979, c. 900, s. 1.)

§ 143B-426.20. Liberal construction of Part.

It is intended that the provisions of this Part shall be liberally construed to accomplish the purposes provided for herein. (1979, c. 900, s. 1.)

Part 23. Information Technology [Resource Management] Commission.

§ 143B-426.21: Recodified as § 143B-472.41 by Session Laws 1997-148, s. 2.

Part 24. Governor's Management Committee.

§§ 143B-426.22, 143B-426.23: Repealed by Session Laws 2014-120, s. 1, effective September 18, 2014.

Part 25. Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan.

§ 143B-426.24. North Carolina Public Employee Deferred Compensation Plan.

(a) The Governor may, by Executive Order, establish a Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan, which when established shall be constituted an agency of the State of North Carolina within the Department of State Treasurer. The Board shall create, establish, implement, coordinate and administer a Deferred Compensation Plan for employees of the State, any county or municipality, the North Carolina Community College System, and any political subdivision of the State. Until so established, the Board heretofore established pursuant to Executive Order XII dated November 12, 1974, shall continue in effect. Likewise, the Plan heretofore established shall continue until a new plan is established. Effective July 1, 2008, the Plan shall be administered by the Supplemental Retirement Board of Trustees established under G.S. 135-96.

(b)-(f) Repealed by Session Laws 2008-132, s. 3, effective July 1, 2009.

(g) It shall be the duty of the Supplemental Retirement Board to review all contracts, agreements or arrangements then in force relating to G.S. 147-9.2 and Executive Order XII to include, but not be limited to, such contracts, agreements or arrangements pertaining to the administrative services and the investment of deferred funds under the Plan for the purpose of recommending continuation of or changes to such contracts, agreements or arrangements.

(h) It shall be the duty of the Supplemental Retirement Board to devise a uniform Deferred Compensation Plan for teachers and employees, which shall include a reasonable number of options to the teacher or employee, for the investment of deferred funds, among which may be life insurance, fixed or variable annuities and retirement income contracts, regulated investment trusts, pooled investment funds managed by the Board or its designee, or other forms of investment approved by the Board, always in such form as will assure the desired tax treatment of such funds. The Board may alter, revise and modify the Plan from time to time to improve the Plan or to conform to and comply with requirements of State and federal laws and regulations relating to the deferral of compensation of teachers and public employees generally.

(h1) Notwithstanding any other law, an employee of any county or municipality, an employee of the North Carolina Community College System, or an employee of any political subdivision of the State may participate in any 457 Plan adopted by the State, with the consent of the Supplemental Retirement Board and with the consent of the proper governing authority of such county, municipality, community college, or political subdivision of the State where such employee is employed.

(h2) The administrative costs of the North Carolina Public Employee Deferred Compensation Plan may be charged to members or deducted from members' accounts in

accordance with nondiscriminatory procedures established by the Department of State Treasurer and Board of Trustees.

(i) The Supplemental Retirement Board is authorized to delegate the performance of such of its administrative duties as it deems appropriate including coordination, administration, and marketing of the Plan to teachers and employees. Prior to entering into any contract with respect to such administrative duties, it shall seek bids, hold public hearings and in general take such steps as are calculated by the Board to obtain competent, efficient and worthy services for the performance of such administrative duties.

(j) The Supplemental Retirement Board may acquire investment vehicles from any company duly authorized to conduct such business in this State or may establish, alter, amend and modify, to the extent it deems necessary or desirable, a trust for the purpose of facilitating the administration, investment and maintenance of assets acquired by the investment of deferred funds. All assets of the Plan, including all deferred amounts, property and rights purchased with deferred amounts, and all income attributed thereto shall be held in trust for the exclusive benefit of the Plan participants and their beneficiaries.

(k), (*l*) Repealed by Session Laws 2008-132, s. 3, effective July 1, 2009.

(m) Investment of deferred funds shall not be unreasonably delayed, and in no case shall the investment of deferred funds be delayed more than 30 days. The Supplemental Retirement Board may accumulate such funds pending investment, and the interest earned on such funds pending investment shall be available to and may be spent in the discretion of the Board only for the reasonable and necessary expenses of the Board. The State Treasurer is authorized to prescribe guidelines for the expenditure of such funds by the Board. From time to time as the Board may direct, funds not required for such expenses may be used to defray administrative expenses and fees which would otherwise be required to be borne by teachers and employees who are then participating in the Plan.

(n) Repealed by Session Laws 2008-132, s. 3, effective July 1, 2009.

(o) It is intended that the provisions of this Part shall be liberally construed to accomplish the purposes provided for herein. (1983, c. 559, s. 1; 1991, c. 389, s. 2; 1995, c. 490, s. 40; 1999-456, s. 42; 2004-137, s. 1; 2006-66, s. 20.1; 2008-132, s. 3; 2018-84, s. 5(a).)

Part 26. North Carolina Farmworker Council.

§ 143B-426.25. North Carolina Farmworker Council – creation; membership; meetings.

(a) There is established within the Department of Administration the North Carolina Farmworker Council.

(b) The North Carolina Farmworker Council shall consist of 13 members as follows:

(1) Four shall be appointed by the Governor.

(2) Two shall be appointed by the Speaker of the House of Representatives.

(3) Two shall be appointed by the President Pro Tempore of the Senate.

(4) The Secretary of the Department of Health and Human Services or the Deputy Secretary of the Department if designated by the Secretary shall serve ex officio.

(5) The Commissioner of Labor or the Deputy Commissioner of the Department if designated by the Commissioner shall serve ex officio.

(6) The Commissioner of Agriculture or the Deputy Commissioner of the Department if designated by the Commissioner shall serve ex officio.

(7) The Assistant Secretary of Commerce in charge of the Division of Employment Security or that officer's designee shall serve ex officio.

(8) The Secretary of Environmental Quality or his designee shall serve ex officio.

(c) Vacancies in membership of the Council shall be filled by the original appointing authority for the remainder of the unexpired term.

(d) The Governor shall appoint the chairman of the Council. At its first meeting the Council shall select a vice-chairman from its membership and a secretary. The chairman shall preside at all meetings and in his absence the vice-chairman shall act as chairman.

(e) A majority of the membership shall constitute a quorum.

(f) The initial meeting of the Council shall be called by the Governor. Subsequent meetings shall be held upon the call of the chairman or upon the written request of four members. The Council shall meet at least four times per year.

(g) Council members who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1. Council members and ex officio members who are employees of the State of North Carolina shall receive travel allowances at the rate set forth in G.S. 138-6. All other Council members shall receive per diem, subsistence and travel expenses at the rate set forth in G.S. 138-5.

(h) The Department of Administration shall provide necessary clerical equipment and administrative services to the Council, provided the Council may hire and discharge its own staff if it so desires. (1983, c. 923, s. 205; 1987, c. 876, s. 29.1; 1991, c. 130, s. 1; 1995, c. 490, s. 19; 1997-443, ss. 11A.118(a), 11A.119(a); 2011-401, s. 3.22; 2015-241, s. 14.30(v).)

§ 143B-426.26. North Carolina Farmworker Council – duties; annual report.

(a) The Council shall have the following duties:

(1) Study and evaluate the existing system of delivery of services to farmworkers.

(2) Seek effective methods for the improvement of living, working, and related problems affecting farmworkers.

(3) Recommend a mechanism for coordinating all farmworkers' activities in the State.

(4) Identify and make recommendations to alleviate gaps and duplication of services or programs.

(5) Propose and review legislation relating to farmworkers.

(b) By February 1 of each year, the Council shall make a report describing its activities for the preceding calendar year to the Governor and General Assembly. (1983, c. 923, s. 205.)

§ 143B-426.27. Reserved for future codification purposes.

§ 143B-426.28. Reserved for future codification purposes.

§ 143B-426.29. Reserved for future codification purposes.

Part 27. North Carolina Board of Science and Technology.

§§ 143B-426.30, 143B-426.31: Recodified as §§ 143B-472.80, 143B-472.81 by Session Laws 2001-424, s. 7.6.

§ 143B-426.32. Reserved for future codification purposes.

§ 143B-426.33. Reserved for future codification purposes.

§ 143B-426.34. Reserved for future codification purposes.

Part 27A. Martin Luther King, Jr. Commission.

§ 143B-426.34A. Martin Luther King, Jr. Commission – creation; powers and duties.

There is hereby created the Martin Luther King, Jr. Commission of the Department of Administration. The Martin Luther King, Jr. Commission shall have the following functions and duties:

(1) To encourage appropriate ceremonies and activities throughout the State relating to the observance of the legal holiday honoring Martin Luther King, Jr.'s birthday;

(2) To provide advice and assistance to local governments and private organizations across the State with respect to the observance of such holiday; and

(3) To promote among the people of North Carolina an awareness and appreciation of the life and work of Martin Luther King, Jr. (1993, c. 502.)

§ 143B-426.34B. Martin Luther King, Jr. Commission – members; selection; quorum; compensation.

(a) The Martin Luther King, Jr. Commission of the Department of Administration shall consist of 16 members. The Governor shall appoint 12 members, one of whom he shall designate as the chair of the Commission. The Governor shall make reasonable efforts to assure that his appointees are equally distributed geographically throughout the State. The President Pro Tempore of the Senate shall appoint two members and the Speaker of the House of Representatives shall appoint two members. The terms of four of the members appointed by the Governor shall expire June 30, 1997. The terms of four of the members appointed by the Governor shall expire June 30, 1996. The terms of four of the members appointed by the Governor shall expire June 30, 1994. The terms of the members appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire June 30, 1995. At the end of the respective terms of office of the initial members of the Commission, the appointment of their successors shall be for terms of four years. No member of the Commission shall serve more than two consecutive terms. A member having served two consecutive terms shall be eligible for reappointment one year after the expiration of the second term. A member who fails to attend any three meetings of the Commission shall be dismissed automatically from the Commission upon failure to attend the third such meeting. Provided, however, that the Commission may, by majority vote, reinstate any such dismissed member for the remainder of the unexpired term for good cause shown for failing to attend the meetings. Vacancies shall be filled by the appointing officer for the unexpired term.

(b) A majority of the Commission shall constitute a quorum for the transaction of business.

(c) Members of the Commission shall be compensated for their services as authorized by G.S. 138-5. Members of the Commission who are State officials or employees shall be reimbursed as authorized by G.S. 138-6.

(d) The Department of Administration shall provide necessary clerical and administrative support services to the Commission. (1993, c. 502.)

Part 28. Office of the State Controller.

§ 143B-426.35. Definitions.

As used in this Part, unless the context clearly indicates otherwise:

(1) "Accounting system" means the total structure of records and procedures which discover, record, classify, and report information on the financial position and operating results of a governmental unit or any of its funds, balanced account groups, and organizational components.

(2) "Office" means the Office of the State Controller.

(3) "State agency" means any State agency as defined in G.S. 147-64.4(4).

(4) "State funds" means any moneys appropriated by the General Assembly, or moneys collected by or for the State, or any agency of the State, pursuant to the authority granted in any State laws. (1985 (Reg. Sess., 1986), c. 1024, s. 1; 1991, c. 542, s. 13.)

§ 143B-426.36. Office of the State Controller; creation.

There is created the Office of the State Controller. This office shall be located administratively within the Department of Administration but shall exercise all of its prescribed statutory powers independently of the Secretary of Administration. (1985 (Reg. Sess., 1986), c. 1024, s. 1.)

§ 143B-426.37. State Controller.

(a) The Office of the State Controller shall be headed by the State Controller who shall maintain the State accounting system and shall administer the State disbursing system.

(b) The State Controller shall be a person qualified by education and experience for the office and shall be appointed by the Governor subject to confirmation by the General Assembly. The term of office of the State Controller shall be for seven years; the first full term shall begin July 1, 1987.

The Governor shall submit the name of the person to be appointed, for confirmation by the General Assembly, to the President of the Senate and the Speaker of the House of Representatives by May 1 of the year in which the State Controller is to be appointed. If the Governor does not submit the name by that date, the President of the Senate and the Speaker of the House of Representatives shall submit a name to the General Assembly for confirmation.

In case of death, incapacity, resignation, removal by the Governor for cause, or vacancy for any other reason in the Office of State Controller prior to the expiration of the term of office while the General Assembly is in session, the Governor shall submit the name of a successor to the President of the Senate and the Speaker of the House of Representatives within four weeks after the vacancy occurs. If the Governor does not do so, the President of the Senate and the Speaker of the House of Representatives shall submit a name to the General Assembly for confirmation.

In case of death, incapacity, resignation, removal by the Governor for cause, or vacancy for any other reason in the Office of State Controller prior to the expiration of the term of office while

the General Assembly is not in session, the Governor shall appoint a State Controller to serve on an interim basis pending confirmation by the General Assembly.

(c) The salary of the State Controller shall be set by the General Assembly in the Current Operations Appropriations Act. (1985 (Reg. Sess., 1986), c. 1024, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 27.)

§ 143B-426.38. Organization and operation of office.

(a) The State Controller may appoint a Chief Deputy State Controller. The salary of the Chief Deputy State Controller shall be set by the State Controller.

(b) The State Controller may appoint all employees necessary to carry out his powers and duties. These employees shall be subject to the North Carolina Human Resources Act.

(c) All employees of the office shall be under the supervision, direction, and control of the State Controller. Except as otherwise provided by this Part, the State Controller may assign any function vested in him or his office to any subordinate officer or employee of the office.

(d) The State Controller may, subject to the provisions of G.S. 147-64.7(b)(2), obtain the services of independent public accountants, qualified management consultants, and other professional persons or experts to carry out his powers and duties.

(e) The State Controller shall have legal custody of all books, papers, documents, and other records of the office.

(f) The State Controller shall be responsible for the preparation of and the presentation of the office budget request, including all funds requested and all receipts expected for all elements of the budget.

(g) The State Controller may adopt regulations for the administration of the office, the conduct of employees of the office, the distribution and performance of business, the performance of the functions assigned to the State Controller and the office of the State Controller, and the custody, use, and preservation of the records, documents, and property pertaining to the business of the office. (1985 (Reg. Sess., 1986), c. 1024, s. 1; 2013-382, s. 9.1(c).)

§ 143B-426.38A: Recodified as G.S. 143B-1381 by Session Laws 2015-241, s. 7A.2(c), effective September 18, 2015, and subsequently renumbered as 143B-1385 by the Revisor of Statutes.

§ 143B-426.39. Powers and duties of the State Controller.

The State Controller shall:

(1) Prescribe, develop, operate, and maintain in accordance with generally accepted principles of governmental accounting, a uniform state accounting system for all state agencies. The system shall be designed to assure compliance with all legal and constitutional requirements including those associated with the receipt and expenditure of, and the accountability for public funds. The State Controller may elect to review a State agency's compliance with prescribed uniform State

accounting system standards, as well as applicable legal and constitutional requirements related to compliance with such standards.

(2) On the recommendation of the State Auditor, prescribe and supervise the installation of any changes in the accounting systems of an agency that, in the judgment of the State Controller, are necessary to secure and maintain internal control and facilitate the recording of accounting data for the purpose of preparing reliable and meaningful statements and reports. The State Controller shall be responsible for seeing that a new system is designed to accumulate information required for the preparation of budget reports and other financial reports.

(3) Maintain complete, accurate and current financial records that set out all revenues, charges against funds, fund and appropriation balances, interfund transfers, outstanding vouchers, and encumbrances for all State funds and other public funds including trust funds and institutional funds available to, encumbered, or expended by each State agency, in a manner consistent with the uniform State accounting system.

(4) Prescribe the uniform classifications of accounts to be used by all State agencies including receipts, expenditures, assets, liabilities, fund types, organization codes, and purposes. The State Controller shall also, after consultation with the Office of State Budget and Management, prescribe a form for the periodic reporting of financial accounts, transactions, and other matters that is compatible with systems and reports required by the State Controller under this section. Additional records, accounts, and accounting systems may be maintained by agencies when required for reporting to funding sources provided prior approval is obtained from the State Controller.

(4a) Prescribe that, unless exempted by the State Controller, newly created or acquired component units of the State are required to have the same fiscal year as the State.

(5) Prescribe the manner in which disbursements of the State agencies shall be made and may require that warrants, vouchers, electronic payments, or checks, except those drawn by the State Auditor, State Treasurer, and Administrative Officer of the Courts, shall bear two signatures of officers as designated by the State Controller.

(6) Prescribe, develop, operate, and maintain a uniform payroll system, in accordance with G.S. 143B-426.40G and G.S. 143C-6-6 for all State agencies. This uniform payroll system shall be designed to assure compliance with all legal and constitutional requirements. When the State Controller finds it expedient to do so because of a State agency's size and location, the State Controller may authorize a State agency to operate its own payroll system. Any State agency authorized by the State Controller to operate its own payroll system shall comply with the requirements adopted by the State Controller.

(7) Keep a record of the appropriations, allotments, expenditures, and revenues of each State agency.

(8) Make appropriate reconciliations with the balances and accounts kept by the State Treasurer.

(9) Develop, implement, and amend as necessary a uniform statewide cash management plan for all State agencies in accordance with G.S. 147-86.11.

(9a) Implement a statewide accounts receivable program in accordance with Article 6B of Chapter 147 of the General Statutes.

(10) Prepare and submit to the Governor, the State Auditor, the State Treasurer, and the Office of State Budget and Management each month, a report summarizing by State agency and appropriation or other fund source, the results of financial transactions. This report shall be in the form that will most clearly and accurately set out the current fiscal condition of the State. The State Controller shall also furnish each State agency a report of its transactions by appropriation or other fund source in a form that will clearly and accurately present the fiscal activities and condition of the appropriation or fund source.

(11) Prepare and submit to the Governor, the State Auditor, the State Treasurer, and the Office of State Budget and Management, at the end of each quarter, a report on the financial condition and results of operations of the State entity for the period ended. This report shall clearly and accurately present the condition of all State funds and appropriation balances and shall include comments, recommendations, and concerns regarding the fiscal affairs and condition of the State.

(12) Prepare on or before October 31 of each year, a Comprehensive Annual Financial Report in accordance with generally accepted accounting principles of the preceding fiscal year, in accordance with G.S. 143B-426.40H. The report shall include State agencies and component units of the State, as defined by generally accepted accounting principles.

(13) Perform additional functions and duties assigned to the State Controller, within the scope and context of the State Budget Act, Chapter 143C of the General Statutes.

(14) through (16) Recodified as G.S. 143B-472.42(1), (2), and (3) by Session Laws 1997-148, s. 3.

(17) Repealed by Session Laws 2014-115, s. 56.8(b), effective August 11, 2014.

(18) Require a criminal history record check of any current or prospective employee, volunteer, or contractor, which shall be conducted by the State Bureau of Investigation as provided in G.S. 143B-966. The criminal history report shall be provided to the State Controller and is not a public record under Chapter 132 of the General Statutes. (1985 (Reg. Sess., 1986), c. 1024, s. 1; 1987, c. 738, s. 59(a)(2); 1989, c. 239, s. 4; 1989 (Reg. Sess., 1990), c. 1024, s. 37; 1991, c. 542, s. 14; 1993, c. 512, s. 2; 1993 (Reg. Sess., 1994), c. 777, s. 1(a); 1997-148, s. 3; 2000-67, s. 7(b); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2005-65, s. 1; 2005-276, s. 6.19; 2006-66, s. 6.19(a), (c); 2006-203, s. 8; 2006-221, s. 3A; 2006-259, s. 40(a), (c); 2013-360, s. 7.10(e); 2014-115, s. 56.8(b); 2016-28, s. 1.)

§ 143B-426.39A: Recodified as § 143B-472.43 by Session Laws 1997-148, s. 4.

§ 143B-426.39B. Compliance review work papers not public records.

Work papers and other supportive material created as a result of a compliance review conducted under G.S. 143B-426.39(1) are not public records under Chapter 132 of the General Statutes. The State Controller shall make all work papers and other supportive materials available to the State Auditor. The State Controller may, unless otherwise prohibited by law, make work papers available for inspection by duly authorized representatives of the State and federal governments in connection with matters officially before them. Any report resulting from a compliance review is a public record under Chapter 132 of the General Statutes. (2005-65, s. 2.)

Part 28A. State Information Processing Services.

§ 143B-426.40: Recodified as § 143B-472.44 by Session Laws 1997-148, s. 5.

Part 28B. Assignment of Claims Against State.

§ 143B-426.40A. Assignments of claims against State.

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

(1) Assignment. An assignment or transfer of a claim, or a power of attorney, an order, or another authority for receiving payment of a claim.

(2) Claim. A claim, a part or a share of a claim, or an interest in a claim, whether absolute or conditional.

(3) Qualified charitable organization. A charitable organization that is exempt from federal income tax pursuant to section 501(c)(3) of the Internal Revenue Code.

(4) State employee credit union. A credit union organized under Chapter 54 of the General Statutes whose membership is at least one-half employees of the State.

(5) The State. The State of North Carolina and any department, bureau, or institution of the State of North Carolina.

(b) Assignments Prohibited. – Except as otherwise provided in this section, any assignment of a claim against the State is void, regardless of the consideration given for the assignment, unless the claim has been duly audited and allowed by the State and the State has issued a warrant for payment of the claim. Except as otherwise provided in this section, the State shall not issue a warrant to an assignee of a claim against the State.

(c) Assignments in Favor of Certain Entities Allowed. – This section does not apply to an assignment in favor of:

(1) A hospital.

(2) A building and loan association.

(3) A uniform rental firm in order to allow an employee of the Department of Transportation to rent uniforms that include Day-Glo orange shirts or vests as required by federal and State law.

(4) An insurance company for medical, hospital, disability, or life insurance.

(d) Assignments to Meet Child Support Obligations Allowed. – This section does not apply to assignments made to meet child support obligations pursuant to G.S. 110-136.1.

(e) Assignments for Prepaid Legal Services Allowed. – This section does not apply to an assignment for payment for prepaid legal services.

(f) Payroll Deduction for State Employees' Credit Union Accounts Allowed. – An employee of the State who is a member of a State employee credit union may authorize, in

writing, the periodic deduction from the employee's salary or wages paid for employment by the State of a designated lump sum for deposit to any credit union accounts, purchase of any credit union shares, or payment of any credit union obligations agreed to by the employee and the State Employees' Credit Union.

(f1) Payroll Deduction for Contributions to the Parental Savings Fund Allowed. – An employee of the State may authorize, in writing, the periodic deduction from the employee's salary or wages paid for employment by the State of a designated lump sum for deposit in the Parental Savings Trust Fund administered by the State Education Assistance Authority.

(g) Payroll Deduction for Payments to Certain Employees' Associations Allowed. – An employee of the State or any of its political subdivisions, institutions, departments, bureaus, agencies or commissions, or any of its local boards of education or community colleges, who is a member of a domiciled employees' association that has at least 2,000 members, 500 of whom are employees of the State, a political subdivision of the State, or public school employees, may authorize, in writing, the periodic deduction each payroll period from the employee's salary or wages a designated lump sum to be paid to the employees' association. A political subdivision may also allow periodic deductions for a domiciled employees' association that does not otherwise meet the minimum membership requirements set forth in this paragraph. The total membership count and the State, political subdivision of the State, or public school employee membership count of a domiciled employees' association that has at least 2,000 members, 500 of whom are employees of the State, a political subdivision of the State, or public school employees, shall be verified and certified annually by the State Auditor.

An employee of any local board of education who is a member of a domiciled employees' association that has at least 40,000 members, the majority of whom are public school teachers, may authorize in writing the periodic deduction each payroll period from the employee's salary or wages a designated lump sum or sums to be paid for dues and voluntary contributions for the employees' association. The total membership count and the public school teacher membership count of a domiciled employees' association that has at least 40,000 members, the majority of whom are public school teachers, shall be verified and certified annually by the State Auditor.

An authorization under this subsection shall remain in effect until revoked by the employee. A plan of payroll deductions pursuant to this subsection for employees of the State and other association members shall become void if the employees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit. This subsection does not apply to county or municipal governments or any local governmental unit, except for local boards of education.

(h) Payroll Deduction for State Employees Combined Campaign Allowed. – Subject to rules adopted by the State Controller, an employee of the State may authorize, in writing, the periodic deduction from the employee's salary or wages paid for employment by the State of a designated lump sum to be paid to satisfy the employee's pledge to the State Employees Combined Campaign.

(i) Payroll Deduction for Public School and Community College Employees' Contributions to Charitable Organizations Allowed. – Subject to rules adopted by the State Controller, an employee of a local board of education or community college may authorize, in writing, the periodic deduction from the employee's salary or wages paid for employment by the board of education or community college of a designated lump sum to be contributed to a qualified charitable organization that has first been approved by the employee's board of education or community college board.

(j) Payroll Deduction for University of North Carolina System Employees' Contributions to Certain Charitable Organizations Allowed. – Subject to rules adopted by the State Controller, if a constituent institution of The University of North Carolina approves a payroll deduction plan under this subsection, an employee of the constituent institution may authorize, in writing, the periodic deduction from the employee's salary or wages paid for employment by the constituent institution of a designated lump sum to be contributed to a qualified charitable organization that exists to support athletic or charitable programs of the constituent institution and that has first been approved by the President of The University of North Carolina as existing to support athletic or charitable programs. If a payroll deduction plan under this subsection results in additional costs to a constituent institution, these costs shall be paid by the qualified charitable organizations receiving contributions under the plan.

(k) Payroll Deduction for University of North Carolina System Employees to Pay for Discretionary Privileges of University Service. – Subject to rules adopted by the State Controller, if a constituent institution of The University of North Carolina approves a payroll deduction plan under this subsection, an employee of the constituent institution may authorize, in writing, the periodic deduction from the employee's salary or wages paid for employment by the constituent institution, of one or more designated lump sums to be applied to the cost of corresponding discretionary privileges available at employee expense from the employing institution. Discretionary privileges from the employing institution that may be paid for through this subsection include parking privileges, athletic passes, use of recreational facilities, admission to campus concert series, and access to other institutionally hosted or provided entertainments, events, and facilities.

(l) Assignment of Payments From the Underground Storage Tank Cleanup Funds. – This section does not apply to an assignment of any claim for payment or reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund established by G.S. 143-215.94B or the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund established by G.S. 143-215.94D.

(m) Assignment of Funds Allocated by the State Board of Education to Charter Schools. – This section does not apply to assignments by charter schools to obtain funds for facilities, equipment, or operations pursuant to G.S. 115C-218.105. (2006-66, s. 6.19(a), (b); 2006-203, s. 9; 2006-221, s. 3A; 2006-259, s. 40(a), (b); 2006-264, s. 67(b); 2012-1, s. 1; 2013-355, s. 4; 2014-100, s. 7; 2014-115, ss. 62(a), (b).)

§ 143B-426.40B: Reserved for future codification purposes.

§ 143B-426.40C: Reserved for future codification purposes.

§ 143B-426.40D: Reserved for future codification purposes.

§ 143B-426.40E: Reserved for future codification purposes.

§ 143B-426.40F: Reserved for future codification purposes.

Part 28C. Accounting Systems.

§ 143B-426.40G. Issuance of warrants upon State Treasurer; delivery of warrants and disbursements for non-State entities.

(a) The State Controller shall have the exclusive responsibility for the issuance of all warrants for the payment of money upon the State Treasurer. All warrants upon the State Treasurer shall be signed by the State Controller, who before issuing them shall determine the legality of payment and the correctness of the accounts. All warrants issued for non-State entities shall be delivered by the appropriate agency to the entity's legally designated recipient by United States mail or its equivalent, including electronic funds transfer.

When the State Controller finds it expedient to do so because of a State agency's size and location, the State Controller may authorize a State agency to make expenditures through a disbursing account with the State Treasurer. The State Controller shall authorize the Judicial Department and the General Assembly to make expenditures through such disbursing accounts. All disbursements made to non-State entities shall be delivered by the appropriate agency to the entity's legally designated recipient by United States mail or its equivalent, including electronic funds transfer. All deposits in these disbursing accounts shall be by the State Controller's warrant. A copy of each voucher making withdrawals from these disbursing accounts and any supporting data required by the State Controller shall be forwarded to the Office of the State Controller monthly or as otherwise required by the State Controller. Supporting data for a voucher making a withdrawal from one of these disbursing accounts to meet a payroll shall include the amount of the payroll and the employees whose compensation is part of the payroll.

A central payroll unit operating under the Office of the State Controller may make deposits and withdrawals directly to and from a disbursing account. The disbursing account shall constitute a revolving fund for servicing payrolls passed through the central payroll unit.

The State Controller may use a facsimile signature machine in affixing his signature to warrants.

(b) The State Treasurer may impose on an agency with non-State funds a fee of fifteen dollars ($15.00) for each check drawn against the agency's disbursing account that causes the balance in the account to be in overdraft or while the account is in overdraft. The financial officer shall pay the fee from the agency's non-State funds to the General Fund to the credit of the miscellaneous nontax revenue account by the agency. (2006-66, s. 6.19(a); 2006-203, s. 9; 2006-221, s. 3A; 2006-259, s. 40(a); 2017-129, s. 8(a).)

§ 143B-426.40H. Annual financial information.

Every fiscal year, all State agencies and component units of the State, as defined by generally accepted accounting principles, shall prepare annual financial information on all funds administered by them no later than 60 days after the end of the State's fiscal year then ended in accordance with generally accepted accounting principles as described in authoritative pronouncements and interpreted or prescribed by the State Controller, and in the form and time frame required by the State Controller. The State Controller shall publish guidelines specifying the procedures to implement the necessary records, procedures, and accounting systems to reflect these statements on the proper basis of accounting.

Accordingly, the State Controller shall combine the financial information for the various agencies into a Comprehensive Annual Financial Report for the State of North Carolina in accordance with generally accepted accounting principles. These statements, along with the opinion of the State Auditor, shall be published as the official financial statements of the State and shall be distributed to the Governor, the Office of State Budget and Management, members of the General Assembly, heads of departments, agencies, and institutions of the State, and other interested parties. The State Controller shall notify the Director of the Budget of any State agencies and component units of the State, as defined by generally accepted accounting principles, that have not complied fully with the requirements of this section within the specified time, and the Director of the Budget shall employ whatever means necessary, including the withholding of allotments, to ensure immediate corrective actions. (2006-66, s. 6.19(a); 2006-203, s. 9; 2006-221, s. 3A; 2006-259, s. 40(a).)

Part 29. Board of Trustees of the North Carolina Public Employee Special Pay Plan.

§ 143B-426.41: Repealed by Session Laws 2011-266, s. 1.24, effective July 1, 2011.

§ 143B-426.42: Reserved for future codification purposes.

§ 143B-426.43: Reserved for future codification purposes.

§ 143B-426.44: Reserved for future codification purposes.

§ 143B-426.45: **Reserved for future codification purposes.**

§ 143B-426.46: Reserved for future codification purposes.

§ 143B-426.47: Reserved for future codification purposes.

§ 143B-426.48: Reserved for future codification purposes.

§ 143B-426.49: Reserved for future codification purposes.

Part 30. Eugenics Asexualization and Sterilization Compensation Program.

§ 143B-426.50: Expired pursuant to Session Laws 2013-360, s. 6.18(g), as amended by Session Laws 2014-100, s. 6.13(e), effective June 30, 2015.

§ 143B-426.51: Expired pursuant to Session Laws 2013-360, s. 6.18(g), as amended by Session Laws 2014-100, s. 6.13(e), effective June 30, 2015.

§ 143B-426.52: Expired pursuant to Session Laws 2013-360, s. 6.18(g), as amended by Session Laws 2014-100, s. 6.13(e), effective June 30, 2015.

§ 143B-426.53: Expired pursuant to Session Laws 2013-360, s. 6.18(g), as amended by Session Laws 2014-100, s. 6.13(e), effective June 30, 2015.

§ 143B-426.54: Expired pursuant to Session Laws 2013-360, s. 6.18(g), as amended by Session Laws 2014-100, s. 6.13(e), effective June 30, 2015.

§ 143B-426.55: Expired pursuant to Session Laws 2013-360, s. 6.18(g), as amended by Session Laws 2014-100, s. 6.13(e), effective June 30, 2015.

§ 143B-426.56: Expired pursuant to Session Laws 2013-360, s. 6.18(g), as amended by Session Laws 2014-100, s. 6.13(e), effective June 30, 2015.

§ 143B-426.57: Expired pursuant to Session Laws 2013-360, s. 6.18(g), as amended by Session Laws 2014-100, s. 6.13(e), effective June 30, 2015.

Article 10.

Department of Commerce.

Part 1. General Provisions.

§ 143B-427. Department of Commerce – creation.

There is hereby recreated and reconstituted a Department to be known as the "Department of Commerce," with the organization, powers, and duties defined in Article 1 of this Chapter, except as modified in this Article. (1977, c. 198, s. 1; 1989, c. 751, s. 7(23); 1991 (Reg. Sess., 1992), c. 959, ss. 44, 45.)

§ 143B-428. Department of Commerce – declaration of policy.

It is hereby declared to be the policy of the State of North Carolina to actively encourage the expansion of existing environmentally sound North Carolina industry; to actively encourage the recruitment of environmentally sound national and international industry into North Carolina through industrial recruitment efforts and through effective advertising, with an emphasis on high-wage-paying industry; to promote the development of North Carolina's labor force to meet the State's growing industrial needs; to promote the growth and development of our travel and tourist industries; to promote the development of our State ports; and to assure throughout State government, the coordination of North Carolina's economic development efforts. (1977, c. 198, s. 1; 1989, c. 751, s. 7(24); 1991 (Reg. Sess., 1992), c. 959, s. 46; 2003-340, s. 1.10.)

§ 143B-429. Department of Commerce – duties.

It shall be the duty of the Department of Commerce to provide for and promote the implementation of the declared policy of the State of North Carolina as provided in G.S. 143B-428, to promote and assist in the total economic development of North Carolina in accord with such declared policy and to perform such other duties and functions as are conferred by this Chapter, delegated or assigned by the Governor and conferred by the Constitution and laws of this State. (1977, c. 198, s. 1; 1989, c. 751, s. 7(25); 1991 (Reg. Sess., 1992), c. 959, s. 47.)

§ 143B-430. Secretary of Commerce – powers and duties.

(a) The head of the Department of Commerce is the Secretary of Commerce. The Secretary of Commerce shall have such powers and duties as are conferred on him by this Chapter, delegated to him by the Governor, and conferred on him by the Constitution and laws of this State. The Secretary of Commerce shall be responsible for effectively and efficiently organizing the Department of Commerce to promote the policy of the State of North Carolina as outlined in G.S. 143B-428 and to promote statewide economic development in accord with that policy. Except as otherwise specifically provided in this Article and in Article 1 of this Chapter, the functions, powers, duties and obligations of every agency or subunit in the Department of Commerce shall be prescribed by the Secretary of Commerce.

(b) The Secretary of Commerce shall have the power and duty to accept and administer federal funds provided to the State through the Job Training Partnership Act, Pub. L. No. 97-300, 96 Stat. 1322, 29 U.S.C. § 1501 et seq., as amended.

(c) The Secretary of Commerce may adopt rules to administer a program or fulfill a duty assigned to the Department of Commerce or the Secretary of Commerce. (1977, c. 198, s. 1; 1989, c. 727, s. 6, c. 751, ss. 7(26), 8(18); 1991 (Reg. Sess., 1992), c. 959, s. 48; 2003-284, s. 12.6A(c).)

§ 143B-431. Department of Commerce – functions.

(a) The functions of the Department of Commerce, except as otherwise expressly provided by Article 1 of this Chapter or by the Constitution of North Carolina, shall include:

(1) All of the executive functions of the State in relation to economic development and employment security, including by way of enumeration and not of limitation, the expansion and recruitment of environmentally sound industry, labor force development, the administration of unemployment insurance, the promotion of and assistance in the orderly development of North Carolina counties and communities, the promotion and growth of the travel and tourism industries, and energy resource management and energy policy development;

(2) All functions, powers, duties and obligations heretofore vested in an agency enumerated in Article 15 of Chapter 143A, to wit:

a. Repealed by Session Laws 2014-100, s. 15.2A(b), effective October 1, 2014.

b. The North Carolina Utilities Commission,

c. Repealed by Session Laws 2011-401, s. 1.4, effective November 1, 2011.

d. Repealed by Session Laws 2017-57, s. 15.19A(b), effective July 1, 2017.

e. State Banking Commission and the Commissioner of Banks,

f. Savings Institutions Division,

g. Repealed by Session Laws 2001-193, s. 10, effective July 1, 2001.

h. Credit Union Commission,

i. Repealed by Session Laws 2004-199, s. 27(c), effective August 17, 2004.

j. The North Carolina Mutual Burial Association Commission,

k. The North Carolina Rural Electrification Authority,

l. Repealed by Session Laws 2011-145, s. 14.6(f), effective July 1, 2011.

all of which enumerated agencies are hereby expressly transferred by a Type II transfer, as defined by G.S. 143A-6, to this recreated and reconstituted Department of Commerce; and

(3) All other functions, powers, duties and obligations as are conferred by this Chapter, delegated or assigned by the Governor and conferred by the Constitution and laws of this State. Any agency transferred to the Department of Commerce by a Type II transfer, as defined by G.S. 143A-6, shall have the authority to employ, direct and supervise professional and technical personnel, and such agencies shall not be accountable to the Secretary of Commerce in their exercise of quasi-judicial powers authorized by statute, notwithstanding any other provisions of this Chapter.

(b) The Department of Commerce is authorized to establish and provide for the operation of North Carolina nonprofit corporations for any of the following purposes:

(1) To aid the development of small businesses.

(2) To achieve the purposes of the United States Small Business Administration's 504 Certified Development Company Program.

(3) To acquire options and hold options for the purchase of land under G.S. 143B-437.02.

(b1) The Department of Commerce is authorized to contract for the preparation of proposals and reports in response to requests for proposals for location or expansion of major industrial projects.

(c) The Department of Commerce shall have the following powers and duties with respect to local planning assistance:

(1) To provide planning assistance to municipalities and counties and joint and regional planning boards established by two or more governmental units in the solution of their local planning problems. Planning assistance as used in this section shall consist of making population, economic, land use, traffic, and parking studies and developing plans based thereon to guide public and private development and other planning work of a similar nature. Planning assistance shall also include the preparation of proposed subdivision regulations, zoning ordinances, capital budgets, and similar measures that may be recommended for the implementation of such plans. The term planning assistance shall not be construed to include the providing of plans for specific public works.

(2) To receive and expend federal and other funds for planning assistance to municipalities and counties and to joint and regional planning boards, and to enter into contracts with the federal government, municipalities, counties, or joint and regional planning boards with reference thereto.

(3) To perform planning assistance, either through the staff of the Department or through acceptable contractual arrangements with other qualified State agencies or institutions, local planning agencies, or with private professional organizations or individuals.

(4) To assume full responsibility for the proper execution of a planning program for which a grant of State or federal funds has been made and for carrying out the terms of a federal grant contract.

(5) To cooperate with municipal, county, joint and regional planning boards, and federal agencies for the purpose of aiding and encouraging an orderly, coordinated development of the State.

(6) To establish and conduct, either with its own staff or through contractual arrangements with institutions of higher education, State agencies, or private agencies, training programs for those employed or to be employed in community development activities.

(d) The Department of Commerce, with the approval of the Governor, may apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual and may comply with the terms, conditions, and limitations of such grants in order to accomplish the Department's purposes. Grant funds shall be expended pursuant to the Executive Budget Act. In addition, the Department shall have the following powers and duties with respect to its duties in administering federal programs:

(1) To negotiate, collect, and pay reasonable fees and charges regarding the making or servicing of grants, loans, or other evidences of indebtedness.

(2) To establish and revise by regulation, in accordance with Chapter 150B of the General Statutes, schedules of reasonable rates, fees, or charges for services rendered, including but not limited to, reasonable fees or charges for servicing applications. Schedules of rates, fees, or charges may vary according to classes of service, and different schedules may be adopted for public entities, nonprofit entities, private for-profit entities, and individuals.

(3) To pledge current and future federal fund appropriations to the State from the Community Development Block Grant (CDBG) program for use as loan guarantees in accordance with the provisions of the Section 108 Loan Guarantee program, Subpart M, 24 CFR 570.700, et seq., authorized by the Housing and Community Development Act of 1974 and amendments thereto. The Department may enter into loan guarantee agreements in support of projects sponsored by individual local governments or in support of pools of two or more projects supported by local governments with authorized State and federal agencies and other necessary parties in order to carry out its duties under this subdivision. In making loan guarantees and grants under this subdivision the Department shall take into consideration project applications, geographic diversity and regional balance in the entire community development block grant program. In making loan guarantees authorized under this subdivision, the Department shall ensure that apportionment of the risks involved in pledging future federal funds in accordance with State policies and priorities for financial support of categories of assistance is made primarily against the category from which the loan guarantee originally derived. A pledge of future CDBG funds

under this subdivision is not a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or any political subdivision of the State. The pledging of future CDBG funds under this subdivision does not directly, indirectly, or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes, nor may pledges exceed twice the amount of annual CDBG funds.

Prior to issuing a Section 108 Loan Guarantee agreement, the Department of Commerce must make the following findings:

a. The minimum size of the Section 108 Loan Guarantee is (i) seven hundred fifty thousand dollars ($750,000) for a project supported by an individual local government and (ii) two hundred fifty thousand dollars ($250,000) for a project supported as part of a loan pool; and the maximum size is five million dollars ($5,000,000) per project.

b. The Section 108 Loan Guarantee cannot constitute more than fifty percent (50%) of total project costs.

c. The project has ten percent (10%) equity from the corporation, partnership, or sponsoring party. "Equity" means cash, real estate, or other hard assets contributed to the project and loans that are subordinated in payment and collateral during the term of the Section 108 Loan Guarantee.

d. The project has the personal guarantee of any person owning ten percent (10%) or more of the corporation, partnership, or sponsoring entity, except for projects involving Low-Income Housing Tax Credits under section 42 of the Internal Revenue Code or Historic Tax Credits under section 47 of the Internal Revenue Code. Collateral on the loan must be sufficient to cover outstanding debt obligations.

e. The project has sufficient cash flow from operations for debt service to repay the Section 108 loan.

f. The project meets all underwriting and eligibility requirements of the North Carolina Section 108 Guarantee Program Guidelines and of the Department of Housing and Urban Development regulations, except that projects involving hotels, motels, private recreational facilities, private entertainment facilities, and convention centers are ineligible for Section 108 loan guarantees.

The Department shall create a loan loss reserve fund as additional security for loans guaranteed under this section and may deposit federal program income or other funds governed by this section into the loan loss reserve fund. The Department shall maintain a balance in the reserve fund of no less than ten percent (10%) of the outstanding indebtedness secured by Section 108 loan guarantees.

(e) The Department of Commerce may establish a clearinghouse for State business license information and shall perform the following duties:

(1) Establish a license information service detailing requirements for establishing and engaging in business in the State.

(2) Provide the most recent forms and information sheets for all State business licenses.

(3) Prepare, publish, and distribute a complete directory of all State licenses required to do business in North Carolina.

(4) Upon request, the Department shall assist a person as provided below:

a. Identify the type and source of licenses that may be required and the potential difficulties in obtaining the licenses based on an informal review of a potential applicant's business at an early stage in its planning. Information provided by the Department is for guidance purposes only and may not be asserted by an applicant as a waiver or release from any license requirement. However, an applicant who uses the services of the Department as provided in this subdivision, and who receives a written statement identifying required State business licenses relating to a specific business activity, shall not be assessed a penalty for failure to obtain any State business license which was not identified, provided that the applicant submits an application for each such license within 60 days after written notification by the Department or the agency responsible for issuing the license.

b. Arrange an informal conference between the person and the appropriate agency to clarify licensing requirements or standards, if necessary.

c. Assist in preparing the appropriate application and supplemental forms.

d. Monitor the license review process to determine the status of a particular license. If there is a delay in the review process, the Department may demand to know the reasons for the delay, the action required to end the delay, and shall provide this information to the applicant. The Department may assist the applicant in resolving a dispute with an agency during the application process. If a request for a license is refused, the Department may explain the recourse available to the person under the Administrative Procedure Act.

(5) Collaborate with the business license coordinator designated in State agencies in providing information on the licenses and regulatory requirements of the agency, and in coordinating conferences with applicants to clarify license and regulatory requirements.

Each agency shall designate a business license coordinator. The coordinator shall have the following responsibilities:

a. Provide to the Department the most recent application and supplemental forms required for each license issued by the agency, the most recent information available on existing and proposed agency rules, the most recent information on changes or proposed changes in license requirements or agency rules and how those changes will affect the business community, and agency publications that would be of aid or interest to the business community.

b. Work with the Department in scheduling conferences for applicants as provided under this subsection.

c. Determine, upon request of an applicant or the Department, the status of a license application or renewal, the reason for any delay in the license review process, and the action needed to end the delay; and to notify the applicant or Department, as appropriate, of those findings.

d. Work with the Department or applicant, upon request, to resolve any dispute that may arise between the agency and the applicant during the review process.

e. Review agency regulatory and license requirements and to provide a written report to the Department that identifies the regulatory and licensing requirements that affect the business community; indicates which, if any, requirements should be eliminated, modified, or consolidated with other requirements; and explains the need for continuing those requirements not recommended for elimination.

f. Report, on an annual basis, to the Department on the number of licenses issued during the previous fiscal year on a form prescribed by the Department.

(f) Financial statements submitted to the Department by a private company or an individual seeking assistance from the Department are not public records as defined in G.S. 132-1. (1977, c. 198, s. 1; 1987, c. 214; 1989, c. 76, s. 25; c. 751, s. 2; 1991, c. 689, s. 153; 1991 (Reg. Sess., 1992), c. 959, s. 49; 1995, c. 310, s. 1; 1995 (Reg. Sess., 1996), c. 575, s. 1; 2001-193, s. 10; 2004-124, ss. 6.26(c), 6.26(d), 13.9A(c); 2004-199, s. 27(c); 2011-145, s. 14.6(f); 2011-297, s. 3; 2011-401, s. 1.4; 2012-187, s. 10.3; 2014-100, s. 15.2A(b); 2017-57, s. 15.19A(b).)

§ 143B-431.01. Department of Commerce – contracting of functions.

(a) Purpose. – The purpose of this section is to establish a framework whereby the Department of Commerce may contract with a North Carolina nonprofit corporation to assist the Department in fostering and retaining jobs and business development, international investment recruiting, international trade, marketing, and travel and tourism. It is the intent of the General Assembly that the Department develop a plan to work cooperatively with a nonprofit corporation for these purposes while safeguarding programmatic transparency and accountability as well as the fiscal integrity of economic development programs of the State.

(b) Contract. – The Department of Commerce is authorized to contract with a North Carolina nonprofit corporation to perform one or more of the Department's functions, powers, duties, and obligations set forth in G.S. 143B-431, except as provided in this subsection. The contract entered into pursuant to this section between the Department and the Economic Development Partnership of North Carolina is exempt from Articles 3 and 3C of Chapter 143 of the General Statutes and G.S. 143C-6-23. If the Department contracts with a North Carolina nonprofit corporation to promote and grow the travel and tourism industries, then all funds appropriated to the Department for tourism marketing purposes shall be used for a research-based, comprehensive marketing program directed toward consumers in key markets most likely to travel to North Carolina and not for ancillary activities, such as statewide branding and business development marketing. The Department may not contract with a North Carolina nonprofit corporation regarding any of the following:

(1) The obligation or commitment of funds under this Article, such as the One North Carolina Fund, the Job Development Investment Grant Program, the

Industrial Development Fund, or the Job Maintenance and Capital Development Fund.

(2) The Division of Employment Security, including the administration of unemployment insurance.

(3) The functions set forth in G.S. 143B-431(a)(2).

(4) The administration of funds or grants received from the federal government or its agencies.

(c) Oversight. – There is established the Economic Development Accountability & Standards Committee, which shall be treated as a board for purposes of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes. The Committee shall consist of seven members as follows: the Secretary of Commerce as Chair of the Committee, the Secretary of Transportation, the Secretary of Environmental Quality, the Secretary of Revenue, the Chair of the North Carolina Travel and Tourism Board, one member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate. Members appointed by the General Assembly shall be appointed for four-year terms beginning July 1 and may not be members of the General Assembly.

The Committee shall be administratively housed in the Department of Commerce. The Department of Commerce shall provide for the administrative costs of the Committee and shall provide staff to the Committee. The Committee shall meet at least quarterly upon the call of the Chair. The duties of the Committee shall include all of the following:

(1) Monitoring and oversight of the performance of a contract entered into pursuant to this section by the Department with a North Carolina nonprofit corporation.

(2) Receiving, reviewing, and referring complaints regarding the contract or the performance of the North Carolina nonprofit corporation, as appropriate.

(3) Requesting enforcement of the contract by the Attorney General or the Department.

(4) Auditing, at least biennially, by the Office of State Budget and Management, State Auditor, or internal auditors of the Department, the records of the North Carolina nonprofit corporation with which the Department has contracted pursuant to this section during and after the term of the contract to review financial documents of the corporation, performance of the corporation, and compliance of the corporation with applicable laws. A copy of any audit performed at the request of the Committee shall be forwarded to the North Carolina Travel and Tourism Board.

(5) Coordination of economic development grant programs of the State between the Department of Commerce, the Department of Transportation, and the Department of Environmental Quality.

(6) Any other duties deemed necessary by the Committee.

(d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation pursuant to this section and in order for the North Carolina nonprofit corporation to receive State funds, the following conditions shall be met:

(1) At least 45 days prior to entering into or amending in a nontechnical manner a contract authorized by this section, the Department shall submit the contract or

amendment, along with a detailed explanation of the contract or amendment, to the the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, and the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division.

(2) The nonprofit corporation adheres to the following governance provisions related to its governing board:

a. The board shall be composed of 17 voting members as follows: eight members and the chair appointed by the Governor, four members appointed by the Speaker of the House of Representatives, and four members appointed by the President Pro Tempore of the Senate. The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate shall each use best efforts to select members so as to reflect the diversity of the State's geography. The Speaker of the House and the President Pro Tempore shall each select their appointed members so that one-fourth come from a development tier one area, one-fourth come from a development tier two area, and no two members come from the same Collaboration for Prosperity Zone. The Governor shall select appointed members so that two-ninths come from a development tier one area, two-ninths come from a development tier two area, and no more than two members come from the same Collaboration for Prosperity Zone. The Governor shall use best efforts to ensure that each member appointed by the Governor has expertise in one or more of the following areas:

1. Agribusiness, as recommended by the Commissioner of Agriculture.
2. Financial services.
3. Information technology.
4. Biotechnology or life sciences.
5. Energy.
6. Manufacturing.
7. Military or defense.
8. Tourism, as recommended by the North Carolina Travel and Tourism Coalition.
9. Tourism, as recommended by the North Carolina Travel Industry Association.

b. The nonprofit corporation shall comply with the limitations on lobbying set forth in section 501(c)(3) of the Internal Revenue Code.

c. No State employee may serve on the board.

d. The board shall meet at least quarterly at the call of its chair. Each quarter and upon request, the board shall report to the Chair of the Economic Development Accountability and Standards Committee on the progress of the State's economic development.

e. The board is required to perform the following duties if the Department contracts pursuant to this section for the performance of the Secretary's responsibilities under G.S. 143B-434.01:

1. To provide advice concerning economic and community development planning for the State, including a strategic business facilities development analysis of existing, available buildings or shell or special-use buildings and sites.
2. To recommend economic development policy to the Secretary of Commerce, the General Assembly, and the Governor.
3. To recommend annually to the Governor biennial and annual appropriations for economic development programs.
4. To recommend how best to coordinate economic development efforts among the various agencies and entities, including those created by executive order of the Governor, that receive economic development appropriations, including the assignment of key responsibilities for different aspects of economic development and resource allocation and planning designed to encourage each agency to focus on its area of primary responsibility and not diffuse its resources by conducting activities assigned to other agencies.

(3) The amount of State funds that may be used for the annual salary of any one officer or employee of the nonprofit corporation with which the Department contracts pursuant to this section shall not exceed the greater of (i) one hundred twenty thousand dollars ($120,000) or (ii) the amount most recently set by the General Assembly in a Current Operations Appropriations Act. Members of the governing board may receive only per diem and allowances pursuant to G.S. 138-5.

(4) The nonprofit corporation shall have received from fundraising efforts and sources, other than State funds, an amount totaling at least two hundred fifty thousand dollars ($250,000) to support operations and functions of the corporation.

(e) Mandatory Contract Terms. – Any contract entered into under this section shall include all of the following:

(1) A provision requiring the North Carolina nonprofit corporation provide to the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Department of Commerce, and the Fiscal Research Division a copy of the corporation's annual audited financial statement within seven days of issuance of the statement.

(2) A provision requiring the nonprofit corporation to provide by January 31 of each year, and more frequently as requested, a report to the Department on prior calendar year program activities, objectives, and accomplishments and prior calendar year itemized expenditures and fund sources. The report shall also include all of the following:

a. Jobs anticipated to result from efforts of the nonprofit corporation. This includes project leads that were not submitted to the Department for possible discretionary incentives pursuant to Chapter 143B of the General Statutes.

b. Developed performance metrics of economic development functions itemized by county, by development tier area designation, as defined by

G.S. 143B-437.08, and by Collaboration for Prosperity Zones created pursuant to G.S. 143B-28.1.

c. Any proposed amendments to the areas of expertise required to be represented on the governing board of the nonprofit corporation.

d. A detailed explanation of how annual salaries are determined, including base pay schedules and any additional salary amounts or bonuses that may be earned as a result of job performance. The explanation shall include the proportion of State and private funds for each position and shall include the means used by the nonprofit corporation to foster employee efforts for economic development in rural and low-income areas in the State. Any bonuses paid to employees shall be based upon overall job performance and not be based on a specific project lead.

e. Any other information requested by the Department.

(3) A provision providing that, upon termination of the contract, or upon dissolution of, or repeal by the General Assembly of, the charter of the nonprofit corporation with which the Department has contracted under this section, all assets and funds of the nonprofit corporation, including interest on funds, financial and operational records, and the right to receive future funds pursuant to the contract, will be surrendered to the Department within 30 days of the termination, dissolution, or repeal. During the 30-day period, the corporation may not further encumber any assets or funds. For purposes of this subdivision, assets and funds of the nonprofit corporation include assets and funds of any subsidiary or affiliate of the nonprofit corporation. An affiliate of the nonprofit corporation exists 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.

(4) A provision providing that the nonprofit corporation shall adopt and publish a resolution or policy containing a conflict of interest policy and gift policy to guide actions by the governing board members, officers, and employees of the nonprofit corporation in the performance of their duties.

(5) The conflict of interest policy required by subdivision (4) of this subsection shall contain at a minimum the information in this subdivision. No subject person of the nonprofit corporation may take any official action or use the subject person's official position to profit in any manner the subject person, the subject person's immediate family, a business with which the subject person or the subject person's immediate family has a business association, or a client of the subject person or the subject person's immediate family with whom the subject person, or the subject person's immediate family, has an existing business relationship. No subject person shall attempt to profit from a proposed project lead if the profit is greater than that which would be realized by other persons living in the area where the project lead is located. If the profit under this subdivision would be greater for the subject person than other persons living in the area where the project lead is located, not only shall the subject person abstain from voting on that issue, but once the conflict of interest is

apparent, the subject person shall not discuss the project lead with any other subject person or representative of the Department except to state that a conflict of interest exists. Under this subdivision, a subject person is presumed to profit if the profit would be realized by the subject person, the subject person's immediate family, a business with which the subject person or the subject person's immediate family has a business association, or a client of the subject person or the subject person's immediate family with whom the subject person, or the subject person's immediate family, has an existing business relationship with a company that is the subject of a proposed project lead. No subject person, in contemplation of official action by the subject person, or in reliance on information that was made known to the subject person in the subject person's official capacity and that has not been made public, shall (i) acquire a pecuniary interest in any property, transaction, or enterprise or gain any pecuniary benefit that may be affected by such information or official action or (ii) intentionally aid another to do any of the above acts. As used in this subdivision, the following terms mean:

a. Board. – The governing board of the nonprofit corporation with which the Department contracts pursuant to this section.
b. Board member. – A member of the board.
c. Business association. – A director, employee, officer, or partner of a business entity, or owner of more than ten percent (10%) interest in any business entity.
d. Department. – The Department of Commerce.
e. Immediate family. – Spouse, children, parents, brothers, and sisters.
f. Official action. – Actions taken in connection with the subject person's duties, including, but not limited to, voting on matters before the board, proposing or objecting to proposals for economic development actions by the Department, discussing economic development matters with other subject persons or Department staff in an effort to further the matter after the conflict of interest has been discovered, or taking actions in the course and scope of the position as a subject person and actions leading to or resulting in profit.
g. Profit. – Receive monetary or economic gain or benefit, including an increase in value whether or not recognized by sale or trade.
h. Subject person. – A board member, officer, or employee of the nonprofit corporation.

(6) The gift policy required by subdivision (4) of this subsection shall at a minimum prohibit an employee, officer, or member of the board of the corporation from knowingly accepting a gift from a person whom the employee, officer, or member of the board knows or has reason to know (i) is seeking to do business of any kind in the State or (ii) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of official duties of the employee, officer, or member of the board. This prohibition shall not apply to either of the following:

a. Gifts given to the employee, officer, or member of the board where the gift is food or beverages, transportation, lodging, entertainment or related expenses associated with industry recruitment, promotion of international trade, or the promotion of travel and tourism, and the employee, officer, or member of the board is responsible for conducting the business on behalf of the State, provided (i) the employee, officer, or member of the board did not solicit the gift and did not accept the gift in exchange for the performance or nonperformance of corporate duties, and (ii) the employee, officer, or member of the board reports electronically to the corporation within 30 days of receipt of the gift, including a description and value of the gift and a description of how the gift contributed to industry recruitment, promotion of international trade, or the promotion of travel and tourism.

b. Gifts of personal property valued at less than one hundred dollars ($100.00) given to the employee, officer, or member of the board in the commission of corporate duties if the gift is given as a personal gift in another country as part of an overseas trade mission and the giving and receiving of such personal gifts is considered a customary protocol in the other country.

(7) A provision providing that the nonprofit corporation maintain a record containing the name of all persons who have contributed to the nonprofit corporation, the date of each contribution, and the aggregate total of all contributions to the nonprofit corporation. The nonprofit corporation shall include the record in the report required to be filed with the Department pursuant to subdivision (2) of subsection (e) of this section.

(8) A provision requiring the nonprofit corporation to maintain separate accounting records for and separate accounts for State and private funds and prohibiting any commingling of State and private funds. Records and accounts must be maintained according to generally accepted accounting principles.

(9) A provision stating that the nonprofit corporation will not engage in the awarding of grants of the public or private funds of the nonprofit corporation.

(10) A provision limiting the term of the contract to no more than five years. The term of the contract may be extended in one-year increments up to four times after no less than four-fifths of the original contract term has passed. A contract extension may not extend the remaining term of the contract, including the term of the extension, to more than two years. Nothing in this subdivision shall be construed as a prohibition against entering into a new contract with the nonprofit corporation.

(11) A provision prohibiting the use of State funds for the severance pay of the chief executive officer and other officers of the nonprofit corporation and otherwise limiting the severance pay from funds other than State funds to no more than the lesser of the following:

a. The salary limitation contained in subdivision (3) of subsection (d) of this section.

b. The salary limitation contained in subdivision (3) of subsection (d) of this section multiplied by a fraction, the numerator of which is the

number of whole years the chief officer has been chief officer of the corporation and the denominator of which is four.

(12) A provision requiring annual certification by the nonprofit corporation that it is in compliance with the following:

a. The requirements of Chapter 55A of the General Statutes.

b. The requirements of each of the provisions listed in subsection (e) of this section. For any provision in this subsection that the nonprofit corporation did not comply with, the corporation shall provide a detailed explanation of the circumstances and time of the noncompliance.

(13) A provision requiring the nonprofit corporation to comply with and perform the duties set out in G.S. 143B-434.2 in the event the Department contracts with the nonprofit corporation to promote and market tourism.

(14) A provision requiring the nonprofit corporation to receive from fund-raising efforts and sources other than State funds an amount totaling at least five million seven hundred fifty thousand dollars ($5,750,000) during the term of the contract to support operations and functions of the corporation. The corporation shall raise at least seven hundred fifty thousand dollars ($750,000) during the first year of the term of the contract and shall raise at least one million two hundred fifty thousand dollars ($1,250,000) during each subsequent year of the term of the contract. Amounts raised prior to entering the contract or during a year preceding the current year of the contract shall not apply to the amount required to be raised during the current year.

(15) A provision that the limitation of G.S. 143C-6-8 applies.

(16) For any entity reported pursuant to subdivision (6) of subsection (f) of this section for a gift, contribution, or item or service of value for which fair market value exceeds one thousand dollars ($1,000) and was not paid, a provision requiring the nonprofit corporation to publish within seven days of the award: (i) the entity, (ii) the fair market value and description of that which was received from the entity by the nonprofit corporation or the affiliate entity of the corporation, and (iii) the date and amount of the award to the entity. This publication requirement is satisfied if the Department publishes the information required in this subdivision within seven days of the award either separately or as part of a press release concerning the award.

(17) A provision requiring the nonprofit to provide international investment recruiting resources to market and advertise the State as a business destination.

(f) Report. – By March 1 of each year, and more frequently as requested, the Department shall submit a report to the the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, and the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the Joint Legislative Economic Development and Global Engagement Oversight Committee, and the Fiscal Research Division on any performance for which the Department has contracted pursuant to this section. The report shall contain, at a minimum, each of the following presented on a calendar year basis:

(1) A copy of the most recent report required by the Department pursuant to subdivision (2) of subsection (e) of this section.

(2) An executive summary of the report required by subdivision (1) of this subsection.

(3) A listing of each entity referred to the Department by a North Carolina nonprofit corporation with which the Department contracts pursuant to this section and any other information the Secretary determines is necessary or that is specifically requested in writing.

(4) An explanation of the response by the Department to any notifications of noncompliance submitted to the Department by the nonprofit corporation, as required by G.S. 143B-431.01(e), including actions taken by the Department to prevent repeat or similar instances of noncompliance.

(5) For each activity in which the Secretary of Commerce solicits funds for the corporation, as permitted by subsection (i) of this section, a listing of each activity, including the date and the name of each person or entity from whom funds were solicited.

(6) If the nonprofit corporation or any affiliated entity of the corporation has received, directly or indirectly, any gift, contribution, or item or service of value for which fair market value was not paid and if an entity making the gift or contribution receives an award, a list of the entity and the amount of the award.

(g) Public Funds. – A North Carolina nonprofit corporation with which the Department contracts pursuant to this section shall comply with the requirements provided in this subsection regarding the use of State funds:

(1) Interest earned on State funds after receipt of the funds by the nonprofit corporation shall be used for the same purposes for which the principal was to be used.

(2) The travel and personnel policies and regulations of the State of North Carolina Budget Manual limiting reimbursement for expenses of State employees apply to reimbursements for expenses of officers, employees, or members of a governing board of the nonprofit corporation. Deviations from the policies and regulations shall be approved by the Secretary.

(3) State funds shall not be used to hire a lobbyist.

(h) Applicable Laws. – A North Carolina nonprofit corporation with which the Department contracts pursuant to this section is subject to the requirements of (i) Chapter 132 of the General Statutes and (ii) Article 33C of Chapter 143 of the General Statutes. Officers, employees, and members of the governing board of the corporation are public servants, as defined in 163A-152, and are subject to the requirements of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes. Employees of the corporation whose annual compensation is less than eighty thousand dollars ($80,000) are not subject to G.S. 163A-187.

(i) Prohibition. – A State officer or employee, other than the Secretary of Commerce, shall not solicit funds for a North Carolina nonprofit corporation with which the Department contracts pursuant to this section. The Secretary of Commerce may solicit funds for the nonprofit corporation pursuant to G.S. 163A-211(b)(5).

(j) Benefits. – An officer, employee, or member of a governing board of a North Carolina nonprofit corporation with which the Department contracts pursuant to this section is not a State employee, is not covered by Chapter 126 of the General Statutes, and

is not entitled to State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees.

(k) Raised Funds. – For funds raised from sources other than State funds by the nonprofit corporation, at least twenty-five percent (25%) of the funds shall be used for the benefit of or for salaried positions located in or working solely on development in development tier one or two areas, as defined in G.S. 143B-437.08. (2014-18, s. 1.1(a); 2014-109, s. 1; 2014-115, s. 57; 2015-7, s. 10; 2015-241, ss. 14.30(u), (v), 15.1; 2015-264, s. 19; 2016-94, s. 15.6(b); 2017-6, s. 3; 2017-57, ss. 14.1(r), 15.3(a); 2018-5, ss. 15.5(b), 15.5(c).)

§ 143B-431.1. Toll-free number for information on housing assistance.

There shall be established in the Department of Commerce a toll-free telephone number to provide information on housing assistance to the citizens of the State. (1989, c. 751, s. 6; 1991 (Reg. Sess., 1992), c. 959, s. 50.)

§ 143B-431.2. Department of Commerce – limitation on grants and loans.

The Department of Commerce may not make a loan nor award a grant to any individual, organization, or governmental unit if that individual, organization, or governmental unit is currently in default on any loan made by the Department of Commerce. (2000-56, s. 4.)

§ 143B-431.3. Human trafficking public awareness sign.

The Secretary of the Department of Commerce shall require that every JobLink or other center under its authority that offers employment or training services to the public prominently display in a place that is clearly conspicuous and visible to employees and the public a public awareness sign created and provided by the North Carolina Human Trafficking Commission that contains the National Human Trafficking Resource hotline information. (2017-57, s. 17.4(f); 2017-197, s. 5.8.)

§ 143B-432. Transfers to Department of Commerce.

(a) The Division of Economic Development of the Department of Natural and Economic Resources, the Science and Technology Committee of the Department of Natural and Economic Resources, and the Science and Technology Research Center of the Department of Natural and Economic Resources are each hereby transferred to the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6.

(b) All functions, powers, duties, and obligations heretofore vested in the following subunits of the Department of Natural Resources and Community Development are hereby transferred to and vested in the Department of Commerce by a Type I transfer as defined in G.S. 143A-6:

(1) Community Assistance Division.

(2) Employment and Training Division.

(c) All functions, powers, duties, and obligations heretofore vested in the following councils of the Department of Natural Resources and Community Development are hereby

transferred to and vested in the Department of Commerce by a Type II transfer as defined in G.S. 143A-6:

(1) Community Development Council.

(2) Job Training Coordinating Council. (1977, c. 198, s. 1; 1989, c. 727, s. 7; c. 751, s. 7(27); 1989 (Reg. Sess., 1990), c. 1004, s. 32; 1991 (Reg. Sess., 1992), c. 959, s. 51; 2010-180, s. 7(e); 2012-201, s. 9.)

§ 143B-432.1. Department of Commerce – Small Business Ombudsman.

A Small Business Ombudsman is created in the Department of Commerce to work with small businesses to ensure they receive timely answers to questions and timely resolution of issues involving State government. The Small Business Ombudsman shall have the authority to make inquiry of State agencies on behalf of a business, to receive information concerning the status of a business's inquiry, and to convene representatives of various State agencies to discuss and resolve specific issues raised by a business. The Small Business Ombudsman shall also work with the small business community to identify problems in State government related to unnecessary delays, inconsistencies between regulatory agencies, and inefficient uses of State resources. (2004-124, s. 13.9A(e).)

§ 143B-432.2: Repealed by Session Laws 2018-5, s. 15.5(d), effective July 1, 2018.

§ 143B-433. Department of Commerce – organization.

The Department of Commerce shall be organized to include:

(1) The following agencies:

a. Repealed by Session Laws 2014-100, s. 15.2A(c), effective October 1, 2014.

b. The North Carolina Utilities Commission.

c. Repealed by Session Laws 2011-401, s. 1.5, effective November 1, 2011.

d. Repealed by Session Laws 2017-57, s. 15.19A(b), effective July 1, 2017.

e. State Banking Commission.

f. Savings Institutions Division.

g. Repealed by Session Laws 2001-193, s. 11, effective July 1, 2001.

h. Credit Union Commission.

i. Repealed by Session Laws 2004-199, s. 27(d), effective August 17, 2004.

j. The North Carolina Mutual Burial Association Commission.

k. Repealed by Session Laws 2012-120, s. 3(g), effective June 28, 2012.

l. The North Carolina Rural Electrification Authority.

m. Repealed by Session Laws 1985, c. 757, s. 179(d).

n. North Carolina Science and Technology Research Center.

o. Repealed by Session Laws 2011-145, s. 14.6(g), effective July 1, 2011.

p. Repealed by Session Laws 2010-180, s. 7(f), effective August 2, 2010.

q. Economic Development Board.

r. Labor Force Development Council.

s., t. Repealed by Session Laws 2000, c. 140, s. 76.(j), effective September 30, 2000.

u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.

v. Repealed by Session Laws 1993, c. 321, s. 313b.

w. The Rural Economic Development Division.

x. The Rural Infrastructure Authority.

(2) Those agencies which are transferred to the Department of Commerce including the:

a. Community Assistance Division.

b. Community Development Council.

c. Employment and Training Division.

d. Job Training Coordinating Council.

(3) The Division of Employment Security.

(4) Such divisions as may be established pursuant to Article 1 of this Chapter. (1977, c. 198, s. 1; 1979, c. 668, s. 2; 1981, c. 412, ss. 4, 5; 1983, c. 899, s. 1; 1985, c. 757, s. 179(d); 1989, c. 76, s. 26; c. 727, s. 8; c. 751, s. 7(28); 1991 (Reg. Sess., 1992), c. 959, s. 52; 1993, c. 321, s. 313(b); 1998-217, s. 19; 2000-140, s. 76(j); 2001-193, s. 11; 2004-199, s. 27(d); 2010-180, s. 7(f); 2011-145, s. 14.6(g); 2011-401, s. 1.5; 2012-120, s. 3(g); 2013-360, s. 15.10(e); 2014-100, s. 15.2A(c); 2017-57, s. 15.19A(b).)

Part 1A. Housing Coordination and Policy Council.

§§ 143B-433.1 through 143B-433.3: Repealed by Session Laws 1993, c. 321, s. 305(c).

Part 2. Economic Development.

§ 143B-434: Repealed by Session Laws 2014-18, s. 1.2(a), effective July 1, 2014.

§ 143B-434.01. Comprehensive Strategic Economic Development Plan.

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

(1) Repealed by Session Laws 2014-18, s. 1.2(b), effective July 1, 2014.

(2) Department. – The Department of Commerce.

(3) Economic distress. – The presence of at least one trend indicator or at least one status indicator:

a. Trend indicators:

1. Weighted average age of industrial plants exceeding statewide average age.

2. Loss of population over the most recent three- to five-year period.

3. Below average job growth over the most recent three- to five-year period.

4. Outmigration over the most recent three- to five-year period.

5. Decline in real wages over the most recent three- to five-year period.

6. Above average rate of business failures over the most recent three- to five-year period.

b. Status indicators:

1. Per capita income below the State average.
2. Earnings or wages per job below the State average.
3. Unemployment above the State average.
4. Poverty rate above the State average.
5. Below average fiscal capacity.

(4) Plan. – The Comprehensive Strategic Economic Development Plan.

(5) Region. – One of the major geographic regions of the State defined in the Plan as an economic region based on compatible economic development factors.

(6) Secretary. – The Secretary of Commerce or the governing board of a North Carolina nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431.01 for the performance of the Secretary's responsibilities under this section.

(b) Plan. – The Secretary shall review and update the existing Plan on or before April 1 of each year. The Plan shall cover a period of four years and each annual update shall extend the time frame by one year so that a four-year plan is always in effect. The Secretary shall provide copies of the Plan and each annual update to the Governor and the Joint Legislative Commission on Governmental Operations. The Plan shall encompass all of the components set out in this section.

(c) Purpose. – The purpose of this section is to require the Secretary to apply strategic planning principles to its economic development efforts. This requirement is expected to result in:

(1) The selection of a set of priority development objectives that recognizes the increasingly competitive economic environment and addresses the changing needs of the State in a more comprehensive manner.

(2) The effective utilization of available and limited resources.

(3) A commitment to achieve priority objectives and to sustain the process.

(d) (1) Public and Private Input. – At each stage as it develops and updates the Plan, the Secretary shall solicit input from all parties involved in economic development in North Carolina, including:

a. Each of the programs and organizations that, for State budget purposes, identifies economic development as one of its global goals.

b. Local economic development departments and regional economic development organizations.

c. The Board of Governors of The University of North Carolina.

(2) The Secretary shall also hold hearings in each of the Regions to solicit public input on economic development before the initial Plan is completed. The purposes of the public hearings are to:

a. Assess the strengths and weaknesses of recent regional economic performance.

b. Examine the status and competitive position of the regional resource base.

c. Identify and seek input on issues that are key to improving the economic well-being of the Region.

The Secretary shall hold additional hearings from time to time to solicit public input regarding economic development activities.

(3) Each component of the Plan shall be based on this broad input and, to the extent possible, upon a consensus among all affected parties. The Secretary shall coordinate its planning process with any State capital development planning efforts affecting State infrastructure such as roads and water and sewer facilities.

(e) Environmental Scan. – The first step in developing the Plan shall be to develop an environmental scan based on the input from economic development parties and the public and on information about the economic environment in North Carolina. To prepare the scan, the Secretary shall gather the information required in this subsection and ensure that the information is updated periodically. The updated information may be provided in whatever format and through whatever means is most efficient. The information required to prepare the scan includes all of the following:

(1) Compilation of the latest economic and demographic data on North Carolina by State, Region, and county including population, population projections, employment, and employment projections, income and earnings status and outlook, migration and commuting patterns, unemployment, poverty, and other similar data.

(2) Compilation of the latest data on the strength of the business environment by State, Region, and county with emphasis on the dynamics of job creation: start-ups, expansions, locations, contractions, and failures. Special assessments are to be made of rural, small, and minority business components of overall activity.

(3) Compilation of the latest data on labor compensation, construction costs, utility rates, payroll costs, taxes, and other cost data normally considered by manufacturing firms and new businesses and shall be tabulated by State, Region, and county.

(4) Compilation of data on assets within the State and by Region and county to include the following:

a. Available buildings, bona fide industrial parks, and sites.

b. Characteristics of the available labor force (number, demographic attributes, skill levels, etc.).

c. Special labor situations, such as military base discharges and large plant closings.

d. Available infrastructure capacities by county and Region including water, sewer, electrical, natural gas, telecommunication, highway access, and other pertinent services.

e. The fiscal capacity of counties and localities within counties to support the infrastructure development necessary to participate in the development process.

f. Analyses of assimilative capacity of riverine, estuarine, or ocean outfalls, or other environmental cost considerations.

g. Proximity analyses of counties in close alignment with major urban areas in bordering states.

h. Special educational and research capabilities.

i. Special transportation situations such as major airports, ports, and railyards.

j. Available data on the performance, contribution, and impact each economic sector (including, but not limited to, agriculture, finance, manufacturing, public utilities, trade, services, tourism, and government) is having on individual counties, Regions, and the State.

k. Available tourist and service assets.

l. Analyses of seasonal population and absentee ownership in resort and tourism areas and their impact on the delivery of public services.

m. Cost and availability of natural gas and electricity.

(5) Compilation and analyses of data on economic and industrial changes in competitor states by Region, as applicable. This data shall be entered into a database and kept current. It shall include, specifically, all new plant location information such as origin of the plant, Standard Industrial Classification Code, employment, and investment.

(6) Compilation of cost data, policies, and strategies in competitive Southeastern states as well as other United States regions and foreign countries.

(7) Compilation of incentives and special programs being offered by other states.

(8) Compilation and analyses of other data relating to economic development such as regulatory or legal matters, structural problems, and social considerations, e.g. unemployment, underemployment, poverty, support services, equity concerns, etc.

(9) The cost of doing business in North Carolina and other competing states, as it may affect decisions by firms to locate in this State.

(10) Competitive assets within the State and by Region and county, including infrastructure, tourist assets, natural resources, labor, educational and research resources, and transportation.

(11) Other information relating to economic development such as regulatory or legal matters and social considerations.

(f) Repealed by Session Laws 2012-142, s. 13.4(a), effective July 1, 2012.

(g) Vision and Mission Statements. – The Secretary shall develop a vision statement for economic development that would describe the preferred future for North Carolina and what North Carolina would be like if all economic development efforts were successful. The Secretary shall then develop a mission statement that outlines the basic purpose of each of North Carolina's economic development programs. Because special purpose nonprofit organizations are uniquely situated to conduct the entrepreneurial and high-risk activity of investing in and supporting new business creation in the State, they should be assigned a dominant role in this key component of economic development activity.

(h) Goals and Objectives. – The Secretary, using data from the public input and the environmental scan, shall formulate a list of goals and objectives. Goals shall be long-range, four years or more, and shall address both needs of economically distressed Regions and counties as well as opportunities for Regions and counties not distressed. The goals shall be developed with realism but should also be selected so as to encourage every Region and county within the State to develop to its maximum potential. Objectives shall

be one year or less in scope and shall, if achieved, lead to the realization of the goals formulated by the Secretary as provided in this section.

Both goals and objectives should be stated largely in economic terms, that is, they should be related to specific population, employment, demographic targets, or economic sector targets. Both efficiency and equity considerations are to be addressed and balanced with special emphasis placed on the needs of disadvantaged or economically distressed populations and communities. The goals and objectives should not state how the economic targets are to be reached, but rather what the economic conditions will be if they are obtained. So that the progress of North Carolina's economic development efforts can be monitored, the Secretary shall set objectives for each goal that allow measurement of progress toward the goal. Objectives should be quantifiable and time-specific in order to serve as performance indicators.

(i) Formulation of Economic Development Strategy. – The Plan shall have as its action component a strategy set forth in a blueprint for directing resources of time and dollars toward the satisfaction of the goals and objectives stated in subsection (h) of this section. As a practical consequence of the economic environment, a focus on the competitiveness of indigenous industries and entrepreneurial development is required. The Plan shall include a strategy for the coordination of initiatives and activities for workforce preparedness, funded by federal or State sources, including, but not limited to, vocational education, applied technology education, remedial education, and job training, and the achievement of the economic development goals of the Plan. A balance of opportunity between rural and urban regions and between majority and minority populations should be an overriding consideration. Equity of opportunity for counties and communities across the State will involve the explicit consideration of local fiscal capacity and the fiscal ability to support development activities.

The concept of differentiation should be employed. The Plan should recognize the various strengths and weaknesses of the State and its component regions, subregions, and, in some cases, individual counties. The concept of market segmentation should be employed. Different Regions and subregions of the State should be promoted to different markets.

(j) Implementation Plan. – Based upon all of the foregoing steps, the Secretary shall establish an implementation plan assigning to the appropriate parties specific responsibilities for meeting measurable objectives. The implementation plan shall contain all necessary elements so that it may be used as a means to monitor performance, guide appropriations, and evaluate the outcomes of the parties involved in economic development in the State.

(k) Annual Evaluation. – The Secretary shall annually evaluate the State's economic performance based upon the statistics listed in this subsection and upon the Secretary's stated goals and objectives in its Plan. The statistics upon which the evaluation is made should be available to policymakers. The information may be provided in whatever format and through whatever means is most efficient.

(1) The net job change (expansions minus contractions) by the various economic sectors of the county, Region, and State.

(2) Realized capital investment in plants and equipment by new and expanding industry in each county, Region, and State.
(3) Manufacturing changes by county, Region, and State that affect the value of firms, total payrolls, average wages, value of shipments, contributions to gross State product, and value added.
(4) The net change in the number of firms by county, Region, and State with statistics on the dynamics of change: relocations in versus relocations out; births versus deaths; and expansions versus contractions.
(5) A measure of the status and performance of all sectors of the county, Region, and State economy including, but not limited to, manufacturing, agriculture, trade, finance, communications, transportation, utilities, services, and travel and tourism.
(6) An assessment of the relative status and performance of rural business development as opposed to that in urban areas.
(7) An analysis of the status of minority-owned businesses throughout the State.
(8) An assessment of the development capability of the various Regions of the State in terms of their environmental, fiscal, and administrative capacity. Those areas that are handicapped by barriers to development should be highlighted.
(9) Repealed by Session Laws 2012-142, s. 13.4(a), effective July 1, 2012.

(*l*) Accountability. – The Secretary shall make all data, plans, and reports available to the the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Joint Legislative Economic Development and Global Engagement Oversight Committee, the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, and the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources at appropriate times and upon request. The Secretary shall prepare and make available on an annual basis public reports on each of the major sections of the Plan and the Annual Report indicating the degree of success in attaining each development objective. (1993, c. 321, s. 313(c); 1997-456, s. 27; 2012-142, s. 13.4(a); 2014-18, s. 1.2(b); 2017-57, s. 14.1(q), (y).)

§ 143B-434.1. The North Carolina Travel and Tourism Board – creation, duties, membership.

(a) There is created within the Department of Commerce the North Carolina Travel and Tourism Board. The Secretary of Commerce and the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431.01(b) to promote and market tourism will work with the Board to fulfill the duties and requirements set forth in this section, and to promote the sound development of the travel and tourism industry in North Carolina.

(b) The function and duties of the Board shall be:
(1) To advise the Secretary of Commerce in the formulation of policy and priorities for the promotion and development of travel and tourism in the State.
(2) To advise the Secretary of Commerce in the development of a budget for achieving the goals of the Travel and Tourism Policy Act, as provided in

G.S. 143B-434.2 and the nonprofit corporation contracted to promote and market tourism.

(3) To recommend programs to the Secretary of Commerce that will promote the State as a travel and tourism destination and that will develop travel and tourism opportunities throughout the State.

(4) To advise the Secretary of Commerce every three months as to the effectiveness of agencies with which the Department has contracted for advertising and regarding the selection of an advertising agency that will assist the Department in the promotion of the State as a travel and tourism destination.

(5) Repealed by Session Laws 2016-94, s. 15.6(a), effective July 14, 2016, and applicable to appointments made on or after that date.

(6) To advise the Secretary of Commerce from time to time as to the effectiveness of the overall operations of the travel and tourism programs under the authority of the Department of Commerce.

(7) To promote the exchange of ideas and information on travel and tourism between State and local governmental agencies, and private organizations and individuals.

(8) To advise the Secretary of Commerce upon any matter that the Secretary, chief executive officer of the nonprofit corporation, or Governor may refer to it.

(9) To promote policies that support tourism in North Carolina.

(10) To advise the General Assembly on tourism policy matters upon request of the Joint Legislative Oversight Committee on Governmental Operations or the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources.

(c) The Board shall consist of 19 members as follows:

(1) The Secretary of Commerce, who shall not be a voting member.

(2) The chief executive officer of the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431.01(b), who shall not be a voting member.

(3) One member designated by the Board of Directors of the North Carolina Restaurant and Lodging Association, representing the lodging sector.

(4) One member designated by the Board of Directors of the North Carolina Restaurant and Lodging Association, representing the restaurant sector.

(5) One member of the Destination Marketing Association of North Carolina designated by the Board of Directors of the Destination Marketing Association of North Carolina.

(6) The Chair of the Travel and Tourism Coalition or the Chair's designee.

(7) One person who is a member of the Travel and Tourism Coalition designated by the Board of Directors of the Travel and Tourism Coalition.

(8) A member designated by the Board of Directors of the North Carolina Travel Industry Association.

(9), (10) Repealed by Session Laws 2016-94, s. 15.6(a), effective July 14, 2016, and applicable to appointments made on or after that date.

(11) Four persons appointed by the Speaker of the House of Representatives; one of whom shall be associated with the tourism industry and one of whom shall not be a member of the General Assembly.

(12) Four persons appointed by the President Pro Tempore of the Senate; one of whom shall be associated with the tourism industry and one of whom shall not be a member of the General Assembly.

(13) Repealed by Session Laws 2016-94, s. 15.6(a), effective July 14, 2016, and applicable to appointments made on or after that date.

(14) Two members appointed by the Governor, one of whom is involved in the tourism industry.

(15) One at-large member appointed by the Board of the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431.01(b).

(16), (17) Repealed by Session Laws 2016-94, s. 15.6(a), effective July 14, 2016, and applicable to appointments made on or after that date.

(d) The members of the Board shall serve the following terms: the Secretary of Commerce, the chief executive officer of the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431.01(b), and the Chair of the Travel and Tourism Coalition shall serve on the Board while they hold their respective offices. Each member of the Board appointed by the Governor shall serve during his or her term of office. The members of the Board appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve two-year terms beginning on September 1 of even-numbered years and ending on August 31. The first such term shall begin on September 1, 2016, or as soon thereafter as the member is appointed to the Board, and end on August 31, 2018. All other members of the Board shall serve a term which includes the portion of calendar year 2016 that remains following their appointment or designation and ends on August 31, 2017, and, thereafter, two-year terms which shall begin on September 1 of an odd-numbered year and end on August 31. The first such two-year term shall begin on September 1, 2017, and end on August 31, 2019.

(e) No member of the Board, except a member serving by virtue of his or her office, shall serve during more than five consecutive calendar years, except that a member shall continue to serve until his or her successor is appointed.

(f) Appointments to fill vacancies in the membership of the Board that occur due to resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term and shall be made by the same appointing authority that made the initial appointment.

(g) Board members who are employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. Board members who are legislators shall be reimbursed for travel and subsistence in accordance with G.S. 120-3.1. All other Board members, except those serving pursuant to subdivisions (3) through (7) of subsection (c) of this section, shall receive per diem, subsistence, and travel expenses, paid by the Department of Commerce, at the rate set forth in G.S. 138-5. Board members serving pursuant to subdivisions (3) through (7) of subsection (c) of this section shall not receive per diem, subsistence, or travel expenses but shall be reimbursed at the discretion of the appointing organization.

(h) The Board shall elect one of its voting members to serve as Chairperson. At its last regularly scheduled meeting each year, the Board shall elect one of its voting members to serve as Chairperson for the coming calendar year. No person shall serve as Chairperson

during more than three consecutive calendar years. The Chairperson shall continue to serve until his or her successor is elected.

(i) A majority of the current voting membership shall constitute a quorum.

(j) The Secretary of Commerce shall provide clerical and other services as required by the Board. (1991, c. 406, s. 1; 1991 (Reg. Sess., 1992), c. 959, s. 54; 1997-495 s. 89(a); 2000-140, s. 79(a); 2007-67, s. 1; 2007-484, ss. 32(a), (b); 2009-550, s. 7; 2009-570, s. 8(f), (g); 2015-241, s. 15.4(b); 2016-94, s. 15.6(a); 2017-57, s. 15.2.)

§ 143B-434.2. Travel and Tourism Policy Act.

(a) This section shall be known as the Travel and Tourism Policy Act.

(b) The General Assembly of North Carolina finds that:

(1) The State of North Carolina is endowed with great scenic beauty, historical sites, and cultural resources, and with a population whose ethnic diversity and traditions are attractive to visitors.

(2) These resources should be preserved and nurtured, not only because they are appreciated by other Americans and by visitors from other lands, but because they are valued by the State's own residents.

(3) Tourism provides economic well-being by contributing to employment and economic development, generating State revenues and receipts for local businesses, and increasing international trade.

(4) Tourism is an educational and informational medium for personal growth which informs residents about their State's geography and history, their political institutions, their cultural resources, and their environment, and about each other.

(5) Tourism instills State pride and a sense of common interest among the people of the State.

(6) Tourism enhances the quality of life and well-being of the State's residents by affording recreation, new experiences, and opportunities for relief from job stress.

(7) Tourism promotes international understanding and goodwill, and contributes to intercultural appreciation.

(8) Tourism engenders appreciation of the State's cultural, architectural, technological, and industrial achievements.

(9) The development and promotion of tourism to and within the State is in the interest of the people of North Carolina.

(10) Tourism should develop in an orderly manner in order to provide the maximum benefit to the State and its residents.

(11) A comprehensive tourism policy is essential if tourism is to grow in an orderly way.

(c) The policy of the State of North Carolina is to:

(1) Encourage the orderly growth and development of travel and tourism to and within the State.

(2) Promote the State's travel and tourism resources to the residents of the State, and to potential visitors from other states and other countries.

(3) Instill a sense of history in the State's young people by encouraging family visits to State historic sites, and by promoting the preservation and restoration of historic sites, trails, buildings, and districts.
(4) Promote the mental, emotional, and physical well-being of the people of North Carolina by encouraging outdoor recreational activities within the State.
(5) Strengthen a sense of common interest among the residents of the State by encouraging them to visit each other's communities and discover each other's traditions and ways of life.
(6) Increase national and international awareness of the State's cultural contributions by encouraging attendance at orchestral, operatic, dramatic, and other productions by artistic groups performing in the State.
(7) Cultivate the State's commercial interests by encouraging local and county fairs so that visitors may learn about local products and crafts.
(8) Encourage the talents and strengthen the economic independence of State residents by encouraging the preservation of traditional craft skills; the production of handicrafts and folk art by private artisans and craftspeople; and the holding of craft demonstrations.
(9) Provide visitors to the State with a hospitable reception.
(10) Develop and maintain a statewide tourism data base.
(11) Encourage the protection of wildlife and natural resources and the preservation of geological, archaeological, and cultural treasures in tourist areas.
(12) Encourage, assist, and coordinate, where possible, the tourism activities of local and area promotional organizations.
(13) Ensure that the tourism interest of the State is fully considered by State agencies and the General Assembly in their deliberations; and coordinate, to the maximum extent possible, all State activities in support of tourism with the needs of the general public, the political subdivisions of the State, and the tourism industry.

(d) The Department of Commerce, and the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431.01(b) to promote and market tourism, shall implement the policies set forth in this section. The nonprofit corporation shall make an annual report to the the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee regarding the status of the travel and tourism industry in North Carolina; the report shall be submitted to the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee by October 15 of each year beginning October 15, 2015. The duties and responsibilities of the nonprofit corporation shall be to:

(1) Organize and coordinate programs designed to promote tourism within the State and to the State from other states and foreign countries.

(2) Measure and forecast tourist volume, receipts, and impact, both social and economic.
(3) Develop a comprehensive plan to promote tourism to the State.
(4) Encourage the development of the State's tourism infrastructure, facilities, services, and attractions.
(5) Cooperate with neighboring states and the federal government to promote tourism to the State from other countries.
(6) Develop opportunities for professional education and training in the tourism industry.
(7) Provide advice and technical assistance to local public and private tourism organizations in promoting tourism to the State.
(8) Encourage cooperation between State agencies and private individuals and organizations to advance the State's tourist interests and seek the views of these agencies and the private sector in the development of State tourism programs and policies.
(9) Give leadership to all concerned with tourism in the State.
(10) Perform other functions necessary to the orderly growth and development of tourism.
(11) Develop informational materials for visitors which, among other things, shall:
  a. Describe the State's travel and tourism resources and the State's history, economy, political institutions, cultural resources, outdoor recreational facilities, and principal festivals.
  b. Urge visitors to protect endangered species, natural resources, archaeological artifacts, and cultural treasures.
  c. Instill the ethic of stewardship of the State's natural resources.
(12) Foster an understanding among State residents and civil servants of the economic importance of hospitality and tourism to the State.
(13) Work with local businesses, including banks and hotels, with educational institutions, and with the United States Travel and Tourism Administration, to provide special services for international visitors, such as currency exchange facilities.
(14) Encourage the reduction of architectural and other barriers which impede travel by physically handicapped persons. (1991, c. 144, ss. 1-4; 1991 (Reg. Sess., 1992), c. 959, s. 85; 2000-140, s. 79(b); 2011-145, s. 14.3; 2015-241, s. 15.4(c); 2017-57, s. 14.1(q).)

§ 143B-434.3: Repealed by Session Laws 2003-284, s. 12.6A.(a), effective on and after August 2, 2000.

§ 143B-434.4: Repealed by Session Laws 2005-276, s. 39.1(d), effective July 1, 2005.

§ 143B-435. Publications.

The Department of Commerce may also cause to be prepared for publication, from time to time, reports and statements, with illustrations, maps and other descriptions, which may adequately set forth the natural and material resources of the State and its industrial and commercial developments, with a view to furnishing information to educate the people with reference to the

material advantages of the State, to encourage and foster existing industries, and to present inducements for investment in new enterprises. Such information shall be published and distributed as the Department of Commerce may direct. The costs of publishing and distributing such information shall be paid from:

(1) State funds as other public documents; or

(2) Private funds received:

a. As donations, or

b. From the sale of appropriate advertising in such published information. (1925, c. 122, s. 11; 1973, c. 1262, s. 28; 1977, c. 198, ss. 20, 26; 1989, c. 751, s. 7(30); 1989 (Reg. Sess., 1990), c. 1066, s. 55; 1991 (Reg. Sess., 1992), c. 959, s. 55.)

§ 143B-435.1. Clawbacks.

(a) Clawback Defined. – For the purpose of this Article, a clawback is a requirement that all or part of an economic development incentive will be returned or forfeited if the recipient business does not fulfill its responsibilities under the incentive law, contract, or both.

(b) Findings. – The General Assembly finds that in order for a clawback to be effective, there must be monitoring and reporting regarding the business's performance of its responsibilities and a mechanism for obtaining repayment if the clawback requiring the return of previously disbursed funding is triggered. Clawback provisions are essential to protect the State's investment in a private business and ensure that the public benefits from the incentive will be secured.

(c) Catalog. – The Department of Commerce shall catalog all clawbacks in State and federal programs it administers, whether provided by statute, by rule, or under a contract. The catalog must include a description of each clawback, the program to which it applies, and a citation to its source. The Department shall publish the catalog on its Web site and update it every six months.

(d) Report. – By April 1 and October 1 of each year, the Department of Commerce shall report to the Revenue Laws Study Committee, the the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission on (i) all clawbacks that have been triggered under the One North Carolina Fund established pursuant to G.S. 143B-437.71, the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52, Job Maintenance and Capital Development Fund established pursuant to G.S. 143B-437.012, the Utility Account established pursuant to G.S. 143B-437.01, and the Site Infrastructure Fund established pursuant to G.S. 143B-437.02 and (ii) its progress on obtaining repayments. The report must include the name of each business, the event that triggered the clawback, and the

amount forfeited or to be repaid. (2007-515, s. 6; 2012-142, s. 13.4(b); 2013-360, s. 15.18(d); 2017-57, s. 14.1(s).)

§ 143B-436. Advertising of State resources and advantages.

It is hereby declared to be the duty of the Department of Commerce to map out and to carry into effect a systematic plan for the nationwide advertising of North Carolina, properly presenting, by the use of any available advertising media, the true facts concerning the State of North Carolina and all of its resources. (1937, c. 160; 1953, c. 808, s. 4; 1973, c. 1262, s. 86; 1977, c. 198, ss. 20, 26; 1989, c. 751, s. 7(31); 1991 (Reg. Sess., 1992), c. 959, s. 56.)

§ 143B-437. Investigation of impact of proposed new and expanding industry.

The Department of Commerce shall conduct an evaluation in conjunction with the Department of Environmental Quality of the effects on the State's natural and economic environment of any new or expanding industry or manufacturing plant locating in North Carolina. (1971, c. 824; 1973, c. 1262, ss. 28, 86; 1977, c. 198, ss. 19, 26; c. 771, s. 4; 1989, c. 727, s. 218(153); c. 751, s. 7(32); 1991 (Reg. Sess., 1992), c. 959, s. 57; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

§ 143B-437.01. Industrial Development Fund Utility Account.

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special account to be known as the Industrial Development Fund Utility Account ("Utility Account") to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the account:

(1) The funds shall be used for construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed buildings. To be eligible for funding, the water, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the job creation activity. To be eligible for funding, the sewer infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the job creation activity, even if the sewer infrastructure is located in a county other than the county in which the building is located.

(1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that are reasonably anticipated to result in the creation of new jobs. There shall be no maximum funding amount per new job to be created or per project.

(3) There shall be no local match requirement if the project is located in a county that has one of the 25 highest rankings under G.S. 143B-437.08.

(4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.

(5) No project subject to the Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, shall be funded unless the Secretary of Commerce finds that the proposed project will not have a significant adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environmental Quality that concludes, after consideration of avoidance and mitigation measures, that the proposed project will not have a significant adverse effect on the environment.

(6) The funds shall not be used for any retail, entertainment, or sports projects. The funds shall not be used for any nonmanufacturing project that does not meet the wage standard for the development tier area or zone in which the project is located. There is no wage standard for a development tier one area. If an urban progress zone or an agrarian growth zone is not in a development tier one area, then the wage standard for that zone is an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county in which the project is located. The wage standard for a development tier two area or a development tier three area is an average weekly wage that is at least equal to one hundred ten percent (110%) of the lesser of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county in which the project is located.

(7) Priority for the use of funds shall be given to eligible industries.

(a1) Definitions. – The following definitions apply in this section:

(1) Air courier services. – The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.

(2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

(2a) Company headquarters. – A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.

(3) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

(4) Economically distressed county. – A county that is defined as a development tier one or two area under G.S. 143B-437.08.

(5) Eligible industry. – A company headquarters or a person engaged in the business of air courier services, information technology and services, manufacturing, or warehousing and wholesale trade.

(6) Information technology and services. – An industry in one of the following, as defined by NAICS:

a. Data processing industry group 518.
b. Software publishers industry group 5112.
c. Computer systems design and related services industry group 5415.
d. An Internet activity included in industry group 519130.

(7) Major economic dislocation. – The actual or imminent loss of 500 or more manufacturing jobs in the county or of a number of manufacturing jobs equal to at least ten percent (10%) of the existing manufacturing workforce in the county.

(8) Manufacturing. – An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.

(9) Reserved.

(10) Warehousing. – An industry in warehousing and storage subsector 493 as defined by NAICS.

(11) Wholesale trade. – An industry in wholesale trade sector 42 as defined by NAICS.

(b) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5.

(b1) Repealed by Session Laws 2013-360, s. 15.18(a), effective July 1, 2013, and applicable to projects for which funds are initially provided on or after July 1, 2013.

(c), (c1) Repealed by Session Laws 2012-142, s. 13.4(c), effective July 1, 2012.

(d) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5. (1989, c. 751, s. 9(c); c. 754, s. 54; 1991 (Reg. Sess., 1992), c. 959, s. 60; 1993, c. 444, s. 1; 1996, 2nd Ex. Sess., c. 13, s. 3.5; 1997-456, s. 27; 1998-55, s. 6; 1999-360, s. 17; 2000-56, s. 3(b); 2002-172, ss. 2.2(a), (b); 2003-416, s. 2; 2005-276, s. 13.5; 2006-252, s. 2.4; 2007-323, s. 13.18(i); 2009-523, s. 1(a)-(c); 2010-31, s. 14.9; 2012-74, s. 4; 2012-142, s. 13.4(c); 2013-360, s. 15.18(a); 2015-241, s. 14.30(u); 2016-5, s. 5.5(c); 2017-102, s. 44; 2018-5, s. 15.2(b).)

§ 143B-437.02. Site infrastructure development.

(a) Findings. – The General Assembly finds that:

(1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.

(2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging; and the decline in the State's traditional industries, and the resulting adverse impact upon the State and its citizens, have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's industrial base and that inhibit the State's ability to sustain or attract new and expanding businesses.

(3) The economic condition of the State is not static and recent changes in the State's economic condition have created economic distress that requires the enactment of a new program as provided in this section that is designed to stimulate new economic activity and to create new jobs within the State.

(4) The enactment of this section is necessary to stimulate the economy, facilitate economic recovery, and create new jobs in North Carolina and this section will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the creation of new jobs, an enlargement of the overall tax base, an expansion and diversification of the State's industrial base, and an increase in revenue to the State and its political subdivisions.

(5) The purpose of this section is to stimulate economic activity and to create new jobs within the State.

(b) Fund. – The Site Infrastructure Development Fund is created as a restricted reserve in the Department of Commerce. Funds in the fund do not revert but remain available to the Department for these purposes. The Department may use the funds in the fund only for the following purposes:

(1) For site development in accordance with this section.

(2) To acquire options and hold options for the purchase of land in accordance with subsection (m) of this section.

(c) Definitions. – The definitions in G.S. 143B-437.51 apply in this section. In addition, the following definitions apply in this section:

(1) Department. – The Department of Commerce.

(2) Site development. – Any of the following:

a. A restricted grant or a forgivable loan made to a business to enable the business to acquire land, improve land, or both.

b. A grant to one or more State agencies or nonprofit corporations to enable the grantees to acquire land, improve land, or both and to lease the property to a business.

c. A grant to one or more local government units to enable the units to acquire land, improve land, or both and to lease the property to a business.

(d) Eligibility. – To be eligible for consideration for site development for a project, a business must meet both of the following conditions:

(1) The business will invest at least one hundred million dollars ($100,000,000) of private funds in the project.

(2) The project will employ at least 100 new employees.

(e) Health Insurance. – A business is eligible for consideration for site development under this section only if the business provides health insurance for all of the full-time employees of the project with respect to which the application is made. For the purposes of this subsection, a business provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a contract for site development under this section is in effect, the business must provide the Department of Commerce a certification that the business continues to provide health insurance for all full-time employees of the project governed by the contract. If the business ceases to provide health insurance to all full-time employees of the project,

Department shall provide for reimbursement of an appropriate portion of the site development funds provided to the business.

(f) Safety and Health Programs. – In order for a business to be eligible for consideration for site development under this section, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made. For the purposes of this subsection, "serious violation" has the same meaning as in G.S. 95-127.

(g) Environmental Impact. – A business is eligible for consideration for site development under this part only if the business certifies that, at the time of the application, there has not been a final determination unfavorable to the business with respect to an environmental disqualifying event. For the purposes of this section, a "final determination unfavorable to the business" occurs when there is no further opportunity for the business to seek administrative or judicial appeal, review, certiorari, or rehearing of the environmental disqualifying event and the disqualifying event has not been reversed or withdrawn.

(h) Selection. – The Department of Commerce shall administer the selection of projects to receive site development. The selection process shall include the following components:

(1) Criteria. – The Department of Commerce must develop criteria to be used to identify and evaluate eligible projects for possible site development.

(2) Initial evaluation. – The Department must evaluate major competitive projects to determine if site development is merited and to determine whether the project is eligible and appropriate for consideration for site development.

(3) Application. – The Department must require a business to submit an application in order for a project to be considered for site development. The Department must prescribe the form of the application, the application process, and the information to be provided, including all information necessary to evaluate the project in accordance with the applicable criteria.

(4) Committee. – The Department must submit to the Economic Investment Committee the applications for projects the Department considers eligible and appropriate for consideration for site development. In evaluating each application, the Committee must consider all of the factors set out in Section 2.1(b) of S.L. 2002-172.

(5) Findings. – In order to recommend a project for site development, the Committee must make all of the following findings:

a. The conditions for eligibility have been met.

b. Site development for the project is necessary to carry out the public purposes provided in subsection (a) of this section.

c. The project is consistent with the economic development goals of the State and of the area where it will be located.

d. The affected local governments have participated in recruitment and offered incentives in a manner appropriate to the project.

e. The price and nature of any real property to be acquired is appropriate to the project and not unreasonable or excessive.

f. Site development under this section is necessary for the completion of the project in this State.

(6) Recommendations. – If the Committee recommends a project for site development, it must recommend the amount of State funds to be committed, the preferred form and details of the State participation, and the performance criteria and safeguards to be required in order to protect the State's investment.

(i) Agreement. – Unless the Secretary of Commerce determines that the project is no longer eligible or appropriate for site development, the Department shall enter into an agreement to provide site development within available funds for a project recommended by the Committee. Each site development agreement is binding and constitutes a continuing contractual obligation of the State and the business. The site development agreement must include all of the performance criteria, remedies, and other safeguards recommended by the Committee or required by the Department to secure the State's investment. Each site development agreement must contain a provision prohibiting a business from receiving a payment or other benefit under the agreement at any time when the business has received a notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved. Nothing in this section constitutes or authorizes a guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.

The Department shall cooperate with the Department of Administration and the Attorney General's Office in preparing the documentation for the site development agreement. The Attorney General shall review the terms of all proposed agreements to be entered into under this section. To be effective against the State, an agreement entered into under this section must be signed personally by the Attorney General.

(j) Safeguards. – To ensure that public funds are used only to carry out the public purposes provided in this section, the Department shall require that each business that receives State-funded site development must agree to meet performance criteria to protect the State's investment and assure that the projected benefits of the project are secured. The performance criteria to be required shall include creation and maintenance of an appropriate level of employment and investment over the term of the agreement and any other criteria the Department considers appropriate. The agreement must require the business to repay or reimburse an appropriate portion of the State funds expended for the site development, based on the extent of any failure by the business to meet the performance criteria. The agreement must provide a method for securing these payments from the business, such as structuring the site development as a conditional grant, a forgivable loan, or a revocable lease.

(k) Monitoring and Reports. – The Department is responsible for monitoring compliance with the performance criteria under each site development agreement and for administering the repayment in case of default. The Department shall pay for the cost of this monitoring from funds appropriated to it for that purpose or for other economic development purposes.

On September 1 of each year until all funds have been expended, the Department shall report to the the chairs of the Senate Appropriations Committee on Agriculture, Natural,

and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee regarding the Site Infrastructure Development Program. This report shall include a listing of each agreement negotiated and entered into during the preceding year, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the site development incentive expected to be paid under the agreement during the current fiscal year. The report shall also include detailed information about any defaults and repayment during the preceding year and the information contained in the report required by G.S. 105-277.15A(g). The Department shall publish this report on its web site and shall make printed copies available upon request.

(*l*) Reserved for future codification purposes.

(m) Options. – The Department of Commerce may acquire options and hold options for the purchase of land for an anticipated industrial site if all of the following conditions are met:

(1) The options are necessary to provide a large, regional industrial site that cannot be assembled by local governments.

(2) The acquisition of the options is approved by the Committee. (2003-435, 2nd Ex. Sess., s. 1; 2004-124, s. 6.26(a), (b); 2009-451, s. 14.5(a); 2010-147, s. 1.5; 2013-130, s. 4; 2016-5, s. 5.5(e); 2017-57, s. 14.1(s).)

§ 143B-437.02A. The Film and Entertainment Grant Fund.

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special, nonreverting account to be known as the Film and Entertainment Grant Fund to provide funds to encourage the production of motion pictures, television shows, movies for television, productions intended for on-line distribution, and commercials and to develop the filmmaking industry within the State. The Department of Commerce shall adopt guidelines providing for the administration of the program. Those guidelines may provide for the Secretary to award the grant proceeds over a period of time, not to exceed three years. Those guidelines shall include the following provisions, which shall apply to each grant from the account:

(1) The funds are reserved for a production on which the production company has qualifying expenses of at least the following:

a. For a feature-length film:

1. Three million dollars ($3,000,000), if for theatrical viewing.

2. One million dollars ($1,000,000), if a movie for television.

b. For a television series, one million dollars ($1,000,000) per episode.

c. For a commercial for theatrical or television viewing or on-line distribution, two hundred fifty thousand dollars ($250,000).

(2) The funds are not used to provide a grant in excess of any of the following:

a. An amount more than twenty-five percent (25%) of the qualifying expenses for the production.

b. An amount more than seven million dollars ($7,000,000) for a feature-length film, more than twelve million dollars ($12,000,000) for a single season of a television series, or two hundred fifty thousand dollars ($250,000) for a commercial for theatrical or television viewing or on-line distribution.

(3) The funds are not used to provide a grant to more than one production company for a single production.

(4) The funds are not used to provide a grant for a production that meets one or more of the following:

a. It contains material that is "obscene," as defined in G.S. 14-190.1, or that is "harmful to minors," as defined in G.S. 14-190.13.

b. It has the primary purpose of political advertising, fundraising, or marketing, other than by commercial, a product, or service.

c. News programming, including weather, financial market, and current events reporting.

d. Live sporting event programming, including pre-event and post-event coverage and scripted sports entertainment. For purposes of this exception, a live sporting event is a scheduled sporting competition, game, or race that is originated solely by an amateur, collegiate, or professional organization, institution, or association for live or tape-delayed television or satellite broadcast. The term does not include commercial advertising, an episodic television series, a television pilot, a music video, a motion picture, or a documentary production in which sporting events are presented through archived historical footage or similar footage taken at least 30 days before it is used.

e. Radio productions.

f. It is a talk, game, or awards show or other gala event. For purposes of this exception, an awards show is television programming involving the filming of a ceremony in which individuals, groups, or organizations are given an award.

g. It fails to contain, in the end credits of the production, a statement that the production was "Filmed in North Carolina," a logo provided by the North Carolina Film Office, and an acknowledgement of the regional film office responsible for the geographic area in which the filming of the production occurred. Additionally, the production company will offer marketing opportunities to be evaluated by the North Carolina Film Office to ensure that they offer promotional value to the State.

(5) Priority for the use of funds shall be given to productions that are reasonably anticipated to maximize the benefit to the State, in consideration of at least the following factors:

a. Percentage of employees that are permanent residents in the State.

b. The extent to which the production features identifiable attractions or State locales in a manner that would be reasonably expected to induce visitation by nonresidents of the State to the attraction or locale.

c. The extent to which the production invests in permanent improvements to open public spaces, commercial districts, traditional downtown areas, public landmarks, residential areas, or similar properties or areas.

d. The extent to which the production will be filmed in an economically distressed county or area of the State.

e. The duration of production activities in the State.

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

(1) Department. – The Department of Commerce.

(2) Employee. – A person who is employed for consideration and whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes.

(3) Highly compensated individual. – An individual who directly or indirectly receives compensation in excess of one million dollars ($1,000,000) for personal services with respect to a single production. An individual receives compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.

(4) Loan-out company. – A personal service corporation that employs an individual who is hired by a film or digital media production company.

(5) Production. – Any of the following:

a. A motion picture intended for commercial distribution to a motion picture theater or directly to the consumer viewing market that has a running time of at least 75 minutes.

b. A television series or a commercial for theatrical or television viewing, made-for-television movie, or production intended for on-line distribution. For video and television series, a production is all of the episodes of the series produced for a single season.

(6) Production company. – Defined in G.S. 105-164.3.

(7) Qualifying expenses. – The sum of the amounts listed in this subdivision, substantiated pursuant to subsection (d) of this section, and spent in this State by a production company in connection with a production, less the amount paid in excess of one million dollars ($1,000,000) to a highly compensated individual:

a. Goods and services leased or purchased. For goods with a purchase price of twenty-five thousand dollars ($25,000) or more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed. Goods and services includes the costs of tangible and intangible property used for, and services performed primarily and customarily in, production, including preproduction and postproduction and other direct costs of producing the project in accordance with generally accepted entertainment industry practices. Goods and services exclude costs for development, marketing, and distribution; costs of financing for the production, of bonding related to the production, of production-related insurance coverage obtained on the production; and expenses for insurance coverage purchased from a related member.

b. Compensation and wages and payments on which withholding payments are remitted to the Department of Revenue under Article 4A

of Chapter 105 of the General Statutes. Payments made to a loan-out company for services provided in North Carolina shall be subject to gross income tax withholding at the applicable rate under the Article 4 of Chapter 105 of the General Statutes.

c. Employee fringe contributions, including health, pension, and welfare contributions.

d. Per diems, stipends, and living allowances paid for work being performed in this State.

(8) Related member. – Defined in G.S. 105-130.7A.

(9) Secretary. – The Secretary of Commerce.

(c) Application. – A production company shall apply to the Secretary for a grant on a form prescribed by the Secretary. The Secretary shall evaluate the applications to ensure the production's content is created for entertainment purposes. The application shall include all documentation and information the Secretary deems necessary to evaluate the grant application.

(d) Substantiation. – The Secretary shall work with the North Carolina Film Office to adopt guidelines to provide a process to verify the actual qualifying expenses of a certified production. The Secretary may not release grant funds until the substantiation process required by this subsection is complete and the final verified amount of qualified expenses is determined. The process shall require each of the following:

(1) The production company shall submit all the qualifying expenses for the production and data substantiating the qualifying expenses, including documentation on the net expenditure on equipment and other tangible personal property to an independent certified public accountant licensed in this State.

(2) The accountant shall conduct a compliance audit, at the certified production's expense, pursuant to guidelines established by the Secretary and submit the results as a report, along with the required substantiating data, to the production company and the North Carolina Film Office.

(3) The North Carolina Film Office shall review the report and advise the Department on the final verified amount of qualifying expenses made by the certified production.

(e) Report. – The Department shall provide to the Department of Revenue, and the Department of Revenue must include in the economic incentives report required by G.S. 105-256, the following information, itemized by production company:

(1) The location of sites used in a production for which a grant was awarded.

(2) The qualifying expenses, classified by whether the expenses were for goods, services, or compensation paid by the production company.

(3) The number of people employed in the State with respect to grants awarded, including the number of residents of the State employed.

(4) The total cost of the grants awarded.

(f) NC Film Office. – To claim a grant under this section, a production company must notify the Department of Commerce of its intent to apply for a grant. The notification must include the title of the production, the name of the production company, a financial contact for the production company, the proposed dates on which the production company

plans to begin filming the production, and any other information required by the Department.

(g) Guidelines. – The Department of Commerce shall develop guidelines related to the administration of the Film and Entertainment Grant Fund and to the selection of productions that will receive grants from the Fund. At least 20 days before the effective date of any guidelines or nontechnical amendments to the guidelines, the Department of Commerce shall publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. (2014-100, s. 15.14B(a); 2015-241, ss. 15.4(d), 15.25(a); 2017-212, s. 4.3; 2018-5, s. 15.4(a).)

§ 143B-437.03: Repealed by Session Laws 2014-18, s. 1.2(c), effective July 1, 2014.

§ 143B-437.04. Community development block grants.

(a) The Department of Commerce shall adopt guidelines for the awarding of Community Development Block Grants to ensure that:

(1) No local match is required for grants awarded for projects located in counties that have one of the 25 highest rankings under G.S. 143B-437.08.

(2) To the extent practicable, priority consideration for grants is given to projects located in counties that have met the conditions of subdivision (a)(1) of this section or in urban progress zones that have met the conditions of subsection (b) of this section.

(3) Priority consideration is given to projects located in areas 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. 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.

(b) In order to qualify for the benefits of this section, after an area is designated an urban progress zone under G.S. 143B-437.09, the governing body of the city in which the zone is located must adopt a strategy to improve the zone and establish an urban progress zone committee to oversee the strategy. The strategy and the committee must conform with requirements established by the Secretary of Commerce. (1996, 2nd Ex. Sess., c. 13, s. 3.6; 1997-456, s. 27; 1998-55, s. 3; 2006-252, s. 2.5; 2007-323, s. 13.18(h); 2011-396, s. 11.1; 2018-5, s. 15.2(e).)

§ 143B-437.05. Regional Development.

The Department of Commerce shall review the Economic Development Board's annual report on economic development to evaluate the progress of development in each of the economic regions defined by the Board in its Comprehensive Strategic Economic Development Plan. In its recruitment and development work, the Department shall strive for balance and equality among the economic regions and shall use its best efforts to locate new industries in the less developed areas of the State. (1996, 2nd Ex. Sess., c. 13, s. 3.10; 1997-456, s. 27.)

§ 143B-437.06: Repealed by Session Laws 2004-124, s. 13.6(c) effective July 1, 2004.

§ 143B-437.07. Economic development grant reporting.

(a) Report. – The Department of Commerce shall 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 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 shall include all of the following:

(1) A unique project identification number and a unique descriptor or title.

(2) The date of the award and the date of the award agreement.

(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 shall 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.

(4) The development tier designation of the county in which the site is located on the date the incentive is awarded.

(5) The NAICS six-digit code and NAICS category of business receiving the incentive. The term "NAICS" has the same meaning as defined in G.S. 105-164.3.

(6) The sources and dollar value of eligible State incentives by program name.

(7) The sources and dollar value of local government funds provided by any locality and the nature of the local funding. Examples of the nature of local funding include cash, fee-waivers, in-kind services, and donation of land, buildings, or other assets.

(8) The intended use of the incentive by any category or categories to which State law restricts or limits uses of incentive funds. If the use of the incentive funds is not restricted, then the intended purpose of the funds.

(9) The amount of incentive monies disbursed taken during the period.

(10) The amount of potential future liability under the applicable incentive program.

(11) The number, type, and wage level of jobs required to be created or retained to receive a disbursement of incentive monies.

(12) The actual full-time equivalent jobs employed by the recipient during the period.

(13) The projected cost per job created or retained, including State and local funds.

(14) Any amount recaptured from the business entity during the period for failure to satisfy the terms of the grant agreement.

(b) Online Posting/Written Submission. – The Department of Commerce shall post on its Internet Web site a summary of the report compiled in subsection (a) of this section.

The summary report shall include the information required by subdivisions (2), (9), (11), and (12) of subsection (a) of this section. By October 1 of each year, the Department of Commerce shall submit the written report required by subsection (a) of this section to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly.

(c) Economic Development Incentive. – An economic development incentive includes any grant from the following programs: Job Development Investment Grant Program; the Job Maintenance and Capital Development Fund; One North Carolina Fund; and the Utility Account. The State also incents economic development through the use of tax expenditures in the form of tax credits and refunds. The Department of Revenue shall report annually on these statutory economic development incentives, as required under G.S. 105-256.

(d) County Economic Growth Assessments and Assistance. – Beginning in 2018 and every five years thereafter, the Department of Commerce shall determine the statewide value for each of the development factors listed in G.S. 143B-437.08. The Department shall annually (i) compare the latest determined statewide values to each county's development factors, (ii) report to each county any areas of performance below that of the statewide value, and (iii) offer assistance to each county, upon request, regarding how to improve performance relative to the economic indicator identified. The Department shall collate the reports and submit them on or before April 1 of each year to the Joint Legislative Economic Development and Global Engagement Oversight Committee with a comparison of each county's performance for the previous year. The collated report shall also include a list of each county requesting assistance and the Department's response to the request. (2005-429, s. 1.3; 2011-145, s. 14.2(b); 2012-142, s. 13.4(d); 2013-360, s. 15.18(e); 2015-241, s. 15.10(a); 2017-57, s. 14.1(t); 2018-5, s. 15.2(f).)

§ 143B-437.08. Development tier designation.

(a) Tiers Defined. – A development tier one area is a county whose annual ranking is one of the 40 highest in the State. A development tier two area is a county whose annual ranking is one of the next 40 highest in the State. A development tier three area is a county that is not in a lower-numbered development tier.

(b) Development Factor. – Each year, on or before November 30, the Secretary of Commerce shall assign to each county in the State a development factor that is the sum of the following:

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the most recent 12 months for which data are available.

(2) The county's rank in a ranking of counties by median household income from highest to lowest, for the most recent 12 months for which data are available.

(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest, for the most recent 36 months for which data are available.

(4) The county's rank in a ranking of counties by adjusted assessed property value per capita as published by the Department of Public Instruction, from highest to lowest, for the most recent taxable year.

(c) Annual Ranking. – After computing the development factor as provided in this section, the Secretary of Commerce shall rank all the counties within the State according to their development factor from highest to lowest. The Secretary shall then identify all the areas of the State by development tier and publish this information. A development tier designation is effective only for the calendar year following the designation.

(d) Data. – In measuring rates of unemployment and median household income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population and population growth, the Secretary shall use the most recent estimates of population certified by the State Budget Officer. For the purposes of this section, population statistics do not include people incarcerated in federal or State prisons.

(e), (f) Repealed by Session Laws 2018-5, s. 15.2(a), effective June 12, 2018, and applicable to economic development awards made and related determinations occurring on or after January 1, 2019.

(g) Exception for Two-County Industrial Park. – An eligible two-county industrial park has the lower development tier designation of the designations of the two counties in which it is located if it meets all of the following conditions:

(1) It is located in two contiguous counties, one of which has a lower development tier designation than the other.

(2) At least one-third of the park is located in the county with the lower tier designation.

(3) It is owned by the two counties or a joint agency of the counties, is under contractual control of designated agencies working on behalf of both counties, or is subject to a development agreement between both counties and third-party owners.

(4) The county with the lower tier designation contributed at least the lesser of one-half of the cost of developing the park or a proportion of the cost of developing the park equal to the proportion of land in the park located in the county with the lower tier designation.

(5) Expired, effective July 1, 2012, pursuant to Session Laws 2009-524, s. 2.

(h) Exception for Certain Multijurisdictional Industrial Parks. – An eligible industrial park created by interlocal agreement under G.S. 158-7.4, and parcels of land located within the industrial park that are subsequently transferred and used for industrial or commercial purposes authorized for cities and counties under G.S. 158-7.1, have the lowest development tier designation of the designations of the counties in which they are located if all of the following conditions are satisfied:

(1) The industrial park is located, at one or more sites, in three or more contiguous counties.

(2) At least one of the counties in which the industrial park is located is a development tier one area.

(3) The industrial park is owned by three or more units of local government or a nonprofit corporation owned or controlled by three or more units of local government.

(4) In each county in which the industrial park is located, the park has at least 250 developable acres. A transfer of acreage that reduces the number of developable acres below 250 developable acres in a county does not affect an industrial park's eligibility under this subsection if the transfer is to an owner who uses or develops the acreage for industrial or commercial purposes authorized for cities and counties under G.S. 158-7.1. For the purposes of this subdivision, "developable acres" includes acreage that is owned directly by the industrial park or its owners or that is the subject of a development agreement between the industrial park or its owners and a third-party owner.

(5) The total population of all of the counties in which the industrial park is located is less than 200,000.

(6) In each county in which the industrial park is located, at least sixteen and eight-tenths percent (16.8%) of the population was Medicaid eligible for the 2003-2004 fiscal year based on 2003 population estimates.

(i) Expired, effective July 1, 2013, pursuant to Session Laws 2009-505, s. 2, as amended by Session Laws 2012-36, s. 1.

(j) Exception for Eco-Industrial Park. – An Eco-Industrial Park has a development tier one designation. An Eco-Industrial Park is an industrial park that the Secretary of Commerce has certified meets the following requirements:

(1) It has at least 100 developable acres.

(2) It is located in a county that is not required under G.S. 143-215.107A to perform motor vehicle emissions inspections.

(3) Each building located in the industrial park is constructed in accordance with energy-efficiency and water-use standards established in G.S. 143-135.37 for construction of a major facility.

(4) Each business located in the park is in a clean-industry sector according to the Toxic Release Inventory by the United States Environmental Protection Agency.

(k) Report. By November 30 of each year, the Secretary of Commerce shall submit a written report to the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Joint Legislative Economic Development and Global Engagement Oversight Committee on the tier rankings required by subsection (c) of this section, including a map of the State whereupon the tier ranking of each county is designated. (2006-252, s. 1.2; 2008-147, s. 1; 2009-505, s. 1; 2009-524, s. 1; 2010-147, s. 5.1; 2012-36, s. 1; 2012-142, s. 13.4(e); 2017-57, s. 14.1(t); 2018-5, s. 15.2(a).)

§ 143B-437.09. Urban progress zone designation.

(a) Urban Progress Zone Defined. – An urban progress zone is an area that meets all of the following conditions:

(1) It is comprised of part or all of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census.

(2) All of the area is located in whole within the primary corporate limits of a municipality with a population in excess of 10,000 according to the most recent annual population estimates certified by the State Budget Officer.

(3) Every census tract and census block group that comprises the area meets at least one of the following conditions:

a. It has a population that meets the poverty level threshold. The population of a census tract or census block group meets the poverty level threshold if more than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

b. It is located adjacent to a census tract or census block group whose population meets the poverty level threshold and at least fifty percent (50%) of the part of it that is included in the area is zoned as nonresidential. No more than thirty-five percent (35%) of the area of a zone may consist of census tracts or census block groups that satisfy this condition only.

c. It has a population that has a poverty level that is greater than the poverty level of the population of the State and a per capita income that is at least ten percent (10%) below the per capita income of the State according to the most recent federal decennial census, and it has experienced a major plant closing and layoff within the past 10 years. A census tract or census block group has experienced a major plant closing and layoff if one of its industries has closed one or more facilities in the census tract or census block group resulting in a layoff of at least 3,000 employees working in the census tract or census block group and if the number of employees laid off is greater than seven percent (7%) of the population of the municipality according to the most recent federal decennial census.

(b) Limitations. – No census tract or block group may be located in more than one urban progress zone. The total area of all zones within a municipality may not exceed fifteen percent (15%) of the total area of the municipality unless the smallest possible area in the municipality satisfying all of the conditions of subsection (a) of this section exceeds fifteen percent (15%) of the total area of the municipality. In the case of a municipality where the smallest possible area in the municipality satisfying all of the conditions of subsection (a) of this section exceeds fifteen percent (15%) of the total area of the municipality, the smallest possible area in the municipality satisfying all of the conditions of subsection (a) of this section may be designated as an urban poverty zone.

(c) Designation. – Upon application of a local government, the Secretary of Commerce shall make a written determination whether an area is an urban progress zone that satisfies the conditions and limitations of subsections (a) and (b) of this section. The application shall include all of the information listed in this subsection. A determination under this section is effective until December 31 of the year following the year in which the determination is made. The Department of Commerce shall publish annually a list of all urban progress zones with a description of their boundaries.

(1) A map showing the census tracts and block groups that would comprise the zone.
(2) A detailed description of the boundaries of the area that would comprise the zone.
(3) A zoning map for the municipality with the proposed zone clearly delineated upon it.
(4) A certification regarding the size of the proposed zone and the areas within the proposed zone zoned as nonresidential.
(5) Detailed census information on the municipality and the proposed zone.
(6) A resolution of the governing body of the municipality requesting the designation of the area as an urban progress zone.
(7) Any other material required by the Secretary of Commerce.

(d) Parcel of Property Partially in Urban Progress Zone. – For the purposes of this section, a parcel of property that is located partially within an urban progress zone is considered entirely within the zone if all of the following conditions are satisfied:

(1) At least fifty percent (50%) of the parcel is located within the zone.
(2) The parcel was in existence and under common ownership prior to the most recent federal decennial census.
(3) The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary. (2006-252, s. 1.2; 2007-515, s. 2.)

§ 143B-437.010. Agrarian growth zone designation.

(a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area that meets all of the following conditions:

(1) It is comprised of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census.
(2) All of the area is located in whole within a county that has no municipality with a population in excess of 10,000.
(3) Every census tract and census block group that comprises the area either has more than twenty percent (20%) of its population below the poverty level or is adjacent to another census tract or census block group in the zone that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.
(4) The zone as a whole has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

(b) Limitation and Designation. – The area of a county that is included in one or more agrarian growth zones shall not exceed five percent (5%) of the total area of the county. Upon application of a county, the Secretary of Commerce shall make a written determination whether an area is an agrarian growth zone that satisfies the conditions of subsection (a) of this section. The application shall include all of the information listed in this subsection. A determination under this section is effective until December 31 of the year following the year in which the determination is made. The Department of Commerce shall publish annually a list of all agrarian growth zones with a description of their boundaries.

(1) A map showing the census tracts and block groups that would comprise the zone.
(2) A detailed description of the boundaries of the area that would comprise the zone.
(3) A certification regarding the size of the proposed zone.
(4) Detailed census information on the county and the proposed zone.
(5) A resolution of the board of county commissioners requesting the designation of the area as an agrarian growth zone.
(6) Any other material required by the Secretary of Commerce.

(c) Parcel of Property Partially in Agrarian Growth Zone. – For the purposes of this section, a parcel of property that is located partially within an agrarian growth zone is considered entirely within the zone if all of the following conditions are satisfied:
(1) At least fifty percent (50%) of the parcel is located within the zone.
(2) The parcel was in existence and under common ownership prior to the most recent federal decennial census.
(3) The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary. (2006-252, s. 1.2; 2007-484, s. 33(a); 2007-515, s. 3; 2010-147, s. 1.2.)

§ 143B-437.011: Repealed by Session Laws 2010-31, s. 14.6(b), effective July 1, 2010.

§ 143B-437.012. Job Maintenance and Capital Development Fund.

(a) Findings. – The General Assembly finds that:
(1) It is the policy of the State of North Carolina to stimulate economic activity, to maintain high-paying jobs for the citizens of the State, and to encourage capital investment by encouraging and promoting the maintenance of existing business and industry within the State.
(2) The economic condition of the State is not static, and recent changes in the State's economic condition have created economic distress that requires the enactment of a new program as provided in this section that is designed to encourage the retention of significant numbers of high-paying jobs and the addition of further large-scale capital investment.
(3) The enactment of this section is necessary to stimulate the economy and maintain high-quality jobs in North Carolina, and this section will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the maintenance of high-quality jobs, an enlargement of the overall tax base, continued diversity in the State's industrial base, and an increase in revenue to the State's political subdivisions.
(4) The purpose of this section is to stimulate economic activity and to maintain high-paying jobs within the State while increasing the property tax base for local governments.
(5) The benefits that flow to the State from job maintenance and capital investment are many and include increased tax revenues related to the capital investment, increased corporate income and franchise taxes due to the placement of additional resources in the State, a better trained, highly skilled workforce, and

the continued receipt of personal income tax withholdings from workers who remain employed in high-paying jobs.

(b) Fund. – The Job Maintenance and Capital Development Fund is created as a restricted reserve in the Department of Commerce. Monies in the Fund do not revert but remain available to the Department for these purposes. The Department may use monies in the Fund only to encourage businesses to maintain high-paying jobs and make further capital investments in the State as provided in this section, and funds are hereby appropriated for these purposes in accordance with G.S. 143C-1-2.

(c) Definitions. – The definitions in G.S. 143B-437.51 apply in this section. In addition, as used in this section, the term "Department" means the Department of Commerce.

(d) Eligibility. – A business is eligible for consideration for a grant under this section if it satisfies the conditions of either subdivision (1), (1a), or (2) of this subsection and satisfies subdivision (4) of this subsection:

(1) The business is a major employer. A business is a major employer if the business meets the following requirements:

a. The Department certifies that the business has invested or intends to invest at least two hundred million dollars ($200,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a six-year period beginning with the time the investment commences.

b. The business employs at least 2,000 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 2,000 full-time employees or equivalent full-time contract employees at the project for the full term of the grant agreement.

c. The project is located in a development tier one area at the time the business applies for a grant.

(1a) The business previously received a grant as a major employer under this section and meets the following requirements:

a. The Department certifies that the business has invested or intends to invest at least one hundred fifty million dollars ($150,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a six-year period beginning with the time the investment commences. Amounts certified as invested under sub-subdivision a. of subdivision (1) of this subsection shall not be included in the amount required by this sub-subdivision.

b. The business employs at least 2,000 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made and the business agrees to maintain at least 2,000 full-time employees or equivalent full-time contract employees at the project for the full term of the grant agreement.

c. The project is at the same location as that for which a grant was previously awarded under subdivision (1) of this subsection.

(2) The business is a large manufacturing employer. A business is a large manufacturing employer if the business meets the following requirements:

a. The business is in manufacturing, as defined in G.S. 105-129.81, and is converting its manufacturing process to change the product it manufactures or is investing in its manufacturing process by enhancing pollution controls or transitioning the manufacturing process from using coal to using natural gas for the purpose of becoming more energy efficient or reducing emissions.

b. The Department certifies that the business has invested or intends to invest at least fifty million dollars ($50,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a five-year period beginning with the time the investment commences.

c. The business meets one of the following employment requirements:

1. If in a development tier one area, the business employs at least 320 full-time employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 320 full-time employees at the project for the full term of the grant.

2. If in a development tier two area with a population of less than 60,000 as of July 1, 2013, the business employs at least 800 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 800 full-time employees or equivalent full-time contract employees at the project for the full term of the grant.

(3) Repealed by Session Laws 2014-118, s. 1, effective July 1, 2014.

(4) All newly hired employees of the business must be citizens of the United States or have proper identification and documentation of their authorization to reside and work in the United States.

(e) Wage Standard. – A business is eligible for consideration for a grant under this section only if the business satisfies a wage standard at the project that is the subject of the agreement. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to one hundred forty percent (140%) of the average wage for all insured private employers in the county. The Department of Commerce shall annually publish the wage standard for each county. In making the wage calculation, the business shall include any jobs that were filled for at least 1,600 hours during the calendar year, regardless of whether the jobs are full-time positions or equivalent full-time contract positions. Each year that a grant agreement is in effect, the business shall provide the Department a certification that the business continues to satisfy the wage standard. If a business fails to satisfy the wage standard for a year, the business is not eligible for a grant payment for that year.

(f) Health Insurance. – A business is eligible for consideration for a grant under this section only if the business makes available health insurance for all of the full-time employees and equivalent full-time contract employees of the project with respect to which

the application is made. For the purposes of this subsection, a business makes available health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage under G.S. 58-50-125.

Each year that a grant agreement under this section is in effect, the business shall provide the Department a certification that the business continues to make available health insurance for all full-time employees of the project governed by the agreement. If a business fails to satisfy the requirements of this subsection, the business is not eligible for a grant payment for that year.

(g) Safety and Health Programs. – A business is eligible for consideration for a grant under this section only if the business has no citations under the Occupational Safety and Health Act that have become a final order within the last three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made. For the purposes of this subsection, "serious violation" has the same meaning as in G.S. 95-127.

(h) Environmental Impact. – A business is eligible for consideration for a grant under this section only if the business certifies that, at the time of the application, there has not been a final determination unfavorable to the business with respect to an environmental disqualifying event. For the purposes of this section, a "final determination unfavorable to the business" occurs when there is no further opportunity for the business to seek administrative or judicial appeal, review, certiorari, or rehearing of the environmental disqualifying event and the disqualifying event has not been reversed or withdrawn.

(i) Selection. – The Department shall administer the selection of projects to receive grants under this section. The selection process shall include the following components:

(1) Criteria. – The Department shall develop criteria to be used to identify and evaluate eligible projects for possible grants under this section.

(2) Initial evaluation. – The Department shall evaluate projects to determine if a grant under this section is merited and to determine whether the project is eligible and appropriate for consideration for a grant under this section.

(3) Application. – The Department shall require a business to submit an application in order for a project to be considered for a grant under this section. The Department shall prescribe the form of the application, the application process, and the information to be provided, including all information necessary to evaluate the project in accordance with the applicable criteria.

(4) Committee. – The Department shall submit to the Economic Investment Committee the applications for projects the Department considers eligible and appropriate for a grant under this section. The Committee shall evaluate applications to choose projects to receive a grant under this section. In evaluating each application, the Committee shall consider all criteria adopted by the Department under this section and, to the extent applicable, the factors set out in Section 2.1(b) of S.L. 2002-172.

(5) Findings. – The Committee shall make all of the following findings before recommending a project receive a grant under this section:

a. The conditions for eligibility have been met.

b. A grant under this section for the project is necessary to carry out the public purposes provided in subsection (a) of this section.

c. The project is consistent with the economic development goals of the State and of the area where it is located.

d. The affected local governments have participated in retention efforts and offered incentives in a manner appropriate to the project.

e. A grant under this section is necessary for the sustainability and maintenance of the project in this State.

(6) Recommendations. – If the Committee recommends a project for a grant under this section, it shall recommend the amount of State funds to be committed, the preferred form and details of the State participation, and the performance criteria and safeguards to be required in order to protect the State's investment.

(j) Agreement. – Unless the Secretary of Commerce determines that the project is no longer eligible or appropriate for a grant under this section, the Department shall enter into an agreement to provide a grant or grants for a project recommended by the Committee. Each grant agreement is binding and constitutes a continuing contractual obligation of the State and the business. The grant agreement shall include the performance criteria, remedies, and other safeguards recommended by the Committee or required by the Department.

Each grant agreement shall contain a provision prohibiting a business from receiving a payment or other benefit under the agreement at any time when the business has received a notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved. Each grant agreement for a business that is a major employer under subdivision (1) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level at the project that is the subject of the agreement that is the lesser of the level it had at the time it applied for a grant under this section or that it had at the time that the investment required under subsection (d) of this section began. For the purposes of this subsection, the employment level includes full-time employees and equivalent full-time contract employees. The agreement shall further specify that the amount of a grant shall be reduced in proportion to the extent the business fails to maintain employment at this level and that the business shall not be eligible for a grant in any year in which its employment level is less than eighty percent (80%) of that required.

Each grant agreement for a business that is a large manufacturing employer under subdivision (2) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level required under that subdivision at the project that is the subject of the grant. The agreement shall further specify that the business is not eligible for a grant in any year in which the business fails to maintain the employment level.

A grant agreement may obligate the State to make a series of grant payments over a period of up to 10 years. Nothing in this section constitutes or authorizes a guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.

The Department shall cooperate with the Attorney General's office in preparing the documentation for the grant agreement. The Attorney General shall review the terms of all

proposed agreements to be entered into under this section. To be effective against the State, an agreement entered into under this section shall be signed personally by the Attorney General.

(k) Safeguards. – To ensure that public funds are used only to carry out the public purposes provided in this section, the Department shall require that each business that receives a grant under this section shall agree to meet performance criteria to protect the State's investment and ensure that the projected benefits of the project are secured. The performance criteria to be required shall include maintenance of an appropriate level of employment at specified levels of compensation, maintenance of health insurance for all full-time employees, investment of a specified amount over the term of the agreement, and any other criteria the Department considers appropriate. The agreement shall require the business to repay or reimburse an appropriate portion of the grant based on the extent of any failure by the business to meet the performance criteria. The agreement shall require the business to repay all amounts received under the agreement and to forfeit any future grant payments if the business fails to satisfy the investment eligibility requirement of subdivision (d)(1) or (d)(2) of this section. The use of contract employees shall not be used to reduce compensation at the project that is the subject of the agreement.

(*l*) Calculation of Grant Amounts. – The Committee shall consider the following factors in determining the amount of a grant that would be appropriate, but is not necessarily limited to these factors:

(1) Ninety-five percent (95%) of the privilege and sales and use taxes paid by the business on machinery and equipment installed at the project that is the subject of the agreement.

(2) Ninety-five percent (95%) of the sales and use taxes paid by the business on building materials used to construct, renovate, or repair facilities at the project that is the subject of the agreement.

(3) Ninety-five percent (95%) of the additional income and franchise taxes that are not offset by tax credits. For the purposes of this subdivision, "additional income and franchise taxes" are the additional taxes that would be due because of the investment in machinery and equipment and real property at the project that is the subject of the agreement during the investment period specified in subsection (d) of this section.

(4) Ninety-five percent (95%) of the sales and use taxes paid on electricity and the excise tax paid on piped natural gas.

(5) One hundred percent (100%) of worker training expenses, including wages paid for on-the-job training, associated with the project that is the subject of the agreement.

(6) One hundred percent (100%) of any State permitting fees associated with the capital expansion at the project that is the subject of the agreement.

(m) Monitoring and Reports. – The Department is responsible for monitoring compliance with the performance criteria under each grant agreement and for administering the repayment in case of default. The Department shall pay for the cost of this monitoring from funds appropriated to it for that purpose or for other economic development purposes.

On September 1 of each year until all funds have been expended, the Department shall report to the the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee regarding the Job Maintenance and Capital Development Fund. This report shall include a listing of each grant awarded and each agreement entered into under this section during the preceding year, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the grant expected to be paid under the agreement during the current fiscal year. The report shall also include detailed information about any defaults and repayment during the preceding year. The Department shall publish this report on its Web site and shall make printed copies available upon request.

(n) Limitations. – The Department may enter into no more than six agreements under this section. The total aggregate cost of all agreements entered into under this section may not exceed one hundred thirty-nine million dollars ($139,000,000). The total annual cost of an agreement entered into under this section may not exceed six million dollars ($6,000,000). (2007-552, 1st Ex. Sess., s. 1; 2008-187, s. 26(a); 2009-451, s. 14.5(b); 2009-520, s. 1; 2010-95, ss. 37(a), 38(a); 2010-147, s. 1.6; 2013-360, s. 15.18(c); 2014-118, s. 1; 2016-5, s. 5.5(d); 2017-57, ss. 14.1(s), 15.14(a).)

§ 143B-437.013. Port enhancement zone designation.

(a) Port Enhancement Zone Defined. – A port enhancement zone is an area that meets all of the following conditions:

(1) It is comprised of part or all of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census.

(2) All of the area is located within 25 miles of a State port and is capable of being used to enhance port operations.

(3) Every census tract and census block group that comprises the area has at least eleven percent (11%) of households with incomes of fifteen thousand dollars ($15,000) or less.

(b) Limitations and Designation. – The area of a county that is included in one or more port enhancement zones shall not exceed five percent (5%) of the total area of the county. Upon application of a county, the Secretary of Commerce shall make a written determination whether an area is a port enhancement zone that satisfies the conditions of subsection (a) of this section. The application shall include all of the information listed in this subsection. A determination under this section is effective until December 31 of the year following the year in which the determination is made. The Department of Commerce shall publish annually a list of all port enhancement zones with a description of their boundaries.

(1) A map showing the census tracts and block groups that would comprise the zone.

(2) A detailed description of the boundaries of the area that would comprise the zone.

(3) A certification regarding the size of the proposed zone.
(4) Detailed census information on the county and the proposed zone.
(5) A resolution of the board of county commissioners requesting the designation of the area as a port enhancement zone.
(6) Any other material required by the Secretary of Commerce. (2011-302, s. 5; 2012-74, s. 6(a); 2012-187, s. 15.2(a).)

§ 143B-437.020. Natural gas and propane gas for agricultural projects.

(a) Definitions. –
(1) Agriculture. – Activities defined in G.S. 106-581.1, whether performed on or off the farm.
(2) Repealed by Session Laws 2014-100, s. 15.13(a), effective July 1, 2014.
(3) Eligible project. – A discrete and specific economic development project for an agricultural operation or agricultural processing facility that requests natural gas or propane gas service. A project intended for the purpose of commercial resale of natural gas or propane gas shall not be an eligible project.
(4) Excess infrastructure costs. – Any project carrying costs incurred by a natural gas local distribution company to provide new or expanded natural gas service to an eligible project that exceed the income the infrastructure generates for the local natural gas distribution company, including any standard rates, special contract rates, minimum margin agreements, and contributions in aid of construction collected by the natural gas local distribution company.
(5) Project carrying costs. – All costs, including depreciation, taxes, operation and maintenance expenses, and, for a natural gas local distribution company, a return on investment equal to the rate of return approved by the Utilities Commission in the natural gas local distribution company's most recent general rate case under G.S. 62-133.
(6) Secretary. – The Secretary of Commerce.

(a1) Establishment. – The Expanded Gas Products Service to Agriculture Fund is established as a special revenue fund in the Department of Commerce.

(b) Facilitation of New and Expanded Natural Gas Service to Agricultural Projects. – The Secretary may disburse moneys in the Expanded Gas Products Service to Agriculture Fund for the following purposes:
(1) To allow the owner of an eligible project to pay for excess infrastructure costs associated with the eligible project.
(2) To allow the owner of an eligible project to pay for cost-effective alternatives that would reduce excess infrastructure costs, including:
a. Relocating equipment that uses natural gas to a different location on the property nearer existing natural gas lines to reduce or eliminate the project carrying costs.
b. Adding supplemental uses of natural gas to increase annual volume throughput and enhance the feasibility of new natural gas service, including fuel for tractors and equipment, greenhouses, plant or animal production, feed grain drying, and natural gas powered irrigation pumps.

(c) Facilitation of New and Expanded Propane Gas Service to Agricultural Production. – The Secretary may disburse moneys in the Expanded Gas Products Service to Agriculture Fund to allow the owner of an eligible project to pay for cost-effective alternatives that would do any of the following:

(1) Reduce infrastructure costs.
(2) Increase energy efficiency or reduce energy consumption.
(3) Reduce energy costs.
(4) Enhance the feasibility of the project or the provision of propane gas service by adding supplemental uses of propane gas to increase annual volume throughput, including (i) to convert or repower tractors, trucks, vehicles, and mowers to use propane gas, (ii) to provide propane gas powered tractors, equipment, appliances, irrigation pumps, and dryers to service agricultural production facilities or operations, or (iii) to provide a dispensing station for the project owner's use.

(d) Use of Funds. – Disbursements made pursuant to subsection (b) or (c) of this section shall be paid directly to the owner of the eligible project.

(e) Termination. – Disbursements made pursuant to subsection (b) of this section shall terminate when there are no longer excess infrastructure costs.

(f) Forfeiture. – An owner of an eligible project who receives a disbursement pursuant to subsection (b) or (c) of this section forfeits the amount disbursed if the owner fails to maintain business operations for a period of at least five years from the date of initial utilization of the disbursement. An owner that forfeits amounts disbursed under this section is liable for the amount disbursed plus interest at the rate established under G.S. 105-241.21, computed from the date of the disbursement.

(g) Allocation of Funds. – The Secretary shall transfer from the Utility Account to the Expanded Gas Products Service to Agriculture Fund at least five million dollars ($5,000,000) per biennium, as defined in G.S. 143C-1-1. If funds appropriated for the Job Development Investment Grant Program, the One North Carolina Fund, or a combination of these programs remain unexpended and unencumbered at the end of the fiscal year, those unexpended and unencumbered funds shall be used to reimburse the Utility Account for transfers made during the fiscal year pursuant to this section, notwithstanding job creation or other statutory requirements otherwise applicable to the programs or funds.

(h) Mechanism not Exclusive. – The utilization of funds in accordance with subsections (b) or (c) of this section is intended to supplement other available mechanisms for the extension of service to new or expanding customers and may be used in conjunction with special contract arrangements, minimum margin agreements, and contributions in aid of construction.

(i) Reporting Requirement. – The Secretary shall publish a report each quarter on the program, including a list of the eligible projects that have applied for funding, a list of the eligible projects that have received funding, the amount of funds allocated to the program, and the amount of funds allocated to eligible projects. The Secretary must make the report available to the public and must submit the report to the Joint Legislative Commission on Energy Policy.

(j) The Department of Commerce shall develop guidelines related to the administration of the Expanded Gas Products Service to Agriculture Fund and to the selection of projects to receive allocations from the Fund. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, a technical amendment is either of the following:

(1) An amendment that corrects a spelling or grammatical error.

(2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment. (2013-367, s. 1; 2014-100, s. 15.13(a); 2015-263, s. 30; 2016-113, s. 15.)

§ 143B-437.021. (Expires July 1, 2021) Natural gas economic development infrastructure.

(a) Purpose and Definitions. – The purpose of this section is to provide eligibility criteria for projects that require natural gas service infrastructure. Costs of natural gas service infrastructure for projects the Department determines are eligible projects under this section may be recovered by natural gas local distribution companies with approval of the North Carolina Utilities Commission under G.S. 62-133.15. The definitions used in G.S. 143B-437.01 apply in this section. In addition, as used in this section, the term "Department" means the Department of Commerce.

(b) Eligibility. – An eligible project is an economic development project that the Department determines satisfies all of the following conditions:

(1) The eligible project will provide opportunities for natural gas usage, jobs, and other economic development benefits in addition to those provided by the project.

(2) The Department certifies that the business has invested or intends to invest at least two hundred million dollars ($200,000,000) of private funds in improvements to real property and additions to tangible personal property in the project.

(3) The business employs or intends to employ at least 1,500 full-time employees or equivalent full-time contract employees at the project at the time the application is made and the business agrees to maintain at least 1,500 full-time employees or equivalent full-time contract employees at the project.

(c) Wage Standard. – A project may be considered an eligible project under this section only if the project is undertaken by a business that satisfies a wage standard at the project. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to one hundred and ten percent (110%) of the average wage for all insured private employers in the county. The Department of Commerce shall annually publish the wage standard for each county. In making the wage calculation, the business shall include

any jobs that were filled for at least 1,600 hours during the calendar year, regardless of whether the jobs are full-time positions or equivalent full-time contract positions. Each year that a rate adjustment surcharge mechanism under G.S. 62-133.15 is in effect, the business shall provide the Department a certification that the business continues to satisfy the wage standard.

(d) Health Insurance. – A project may be considered an eligible project under this section only if the project is undertaken by a business that makes available health insurance for all of the full-time employees and equivalent full-time contract employees of the project with respect to which the application is made. For the purposes of this subsection, a business makes available health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage.

Each year that a rate adjustment surcharge mechanism under G.S. 62-133.15 is in effect, the business shall provide the Department a certification that the business continues to make available health insurance for all full-time employees of the project governed by the agreement.

(e) Safety and Health Programs. – A project may be considered an eligible project under this section only if the project is undertaken by a business that has no citations under the Occupational Safety and Health Act that have become a final order within the last three years for willful serious violations or for failing to abate serious violations with respect to the location for which the eligible project is located. For the purposes of this subsection, "serious violation" has the same meaning as in G.S. 95-127.

(f) Environmental Impact. – A project may be considered an eligible project under this section only if the project is undertaken by a business that certifies that, at the time of the application, the business satisfies the environmental impact standard under G.S. 105-129.83.

(g) Limitations. – No more than three eligible projects are authorized under this section. (2016-118, s. 2.)

Part 2A. Community Development Council.

§ 143B-437.1. Community Development Council – creation; powers and duties.

There is hereby created the Community Development Council to be located in the Department of Commerce. The Community Development Council shall have the following functions and duties:

(1) To advise the Secretary of Commerce with respect to promoting and assisting in the orderly development of North Carolina counties and communities.

(2) To advise the Secretary of Commerce with respect to the type and effectiveness of planning and management services provided to local government.

(3), (4) Repealed by Session Laws 1977, c. 198, s. 13.

(5) The Council shall consider and advise the Secretary of Commerce upon any matter the Secretary may refer to it. (1973, c. 1262, s. 48; 1977, c. 198, ss. 13, 14; c. 771, ss. 4, 8; 1989, c. 727, ss. 199, 200; c. 751, ss. 7(33), 8(19); 1991 (Reg. Sess., 1992), c. 959, s. 58.)

§ 143B-437.2. Community Development Council – members; chairman; selection; removal; compensation; quorum; services.

(a) The Community Development Council shall consist of 11 members appointed by the Governor. The composition of the Council shall be as follows: one member who shall be a local government official, one member who shall be the Executive Secretary of the League of Municipalities, one member who shall be the Executive Secretary of the County Commissioners Association, one member who shall represent industry, one member who shall represent labor, and six members at large.

(b) The Governor shall designate one member of the Council to serve as Chairman at the pleasure of the Governor.

(c) The initial members of the Council other than those members serving in an ex officio capacity shall be appointed to serve for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(d) The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

(e) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) A majority of the Council shall constitute a quorum for the transaction of business.

(g) All clerical and other services required by the Council shall be supplied by the Secretary of Commerce. (1973, c. 1262, s. 49; 1977, c. 198, s. 14; c. 771, ss. 4, 9; 1989, c. 727, ss. 199, 201; c. 751, s. 8(20); 1991 (Reg. Sess., 1992), c. 959, s. 59.)

§ 143B-437.3. Community Development Council – meetings.

The Community Development Council shall meet at least semiannually and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least a majority of the members. (1973, c. 1262, s. 50; 1977, c. 198, s. 14; 1989, c. 727, s. 199.)

Part 2B. NC Green Business Fund.

§ 143B-437.4. NC Green Business Fund and grant program.

(a) Fund. – The NC Green Business Fund is established as a special revenue fund in the Department of Commerce, and the Department shall be responsible for administering the Fund.

(b) Purposes. – Moneys in the NC Green Business Fund shall be allocated pursuant to this subsection. The Department of Commerce shall make grants from the Fund to private businesses with less than 100 employees, nonprofit organizations, local governments, and State agencies to encourage the expansion of small to medium size businesses with less than 100 employees to help grow a green economy in the State. Moneys in the NC Green Business Fund shall be used for projects that will focus on the following three priority areas listed in this subsection. In selecting between projects that are within a priority area, a project that is located in an Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project that is not located in a certified Eco-Industrial Park. The priority areas are:

(1) To encourage the development of the biofuels industry in the State. The Department of Commerce may make grants available to maximize development, production, distribution, retail infrastructure, and consumer purchase of biofuels in North Carolina, including grants to enhance biofuels workforce development.

(2) To encourage the development of the green building industry in the State. The Department of Commerce may make grants available to assist in the development and growth of a market for environmentally conscious and energy efficient green building processes. Grants may support the installation, certification, or distribution of green building materials; energy audits; and marketing and sales of green building technology in North Carolina, including grants to enhance workforce development for green building processes.

(3) To attract and leverage private-sector investments and entrepreneurial growth in environmentally conscious clean technology and renewable energy products and businesses, including grants to enhance workforce development in such businesses.

(c) Cap and Matching Funds. – The Department of Commerce may set a cap on a grant from the NC Green Business Fund and may require a private business to provide matching funds for a grant from the Fund. A grant to a project located in an Eco-Industrial Park certified under G.S. 143B-437.08 is not subject to a cap or a requirement to provide matching funds. (2007-323, s. 13.2(a); 2010-147, s. 5.2.)

§ 143B-437.5. Green Business Fund Advisory Committee.

The Department of Commerce may establish an advisory committee to assist in the development of the specific selection criteria and the grant-making process of the NC Green Business Fund. (2007-323, s. 13.2(a).)

§ 143B-437.6. Agreements required.

Funds may be disbursed from the NC Green Business Fund only in accordance with agreements entered into between the Department of Commerce and an eligible grantee. Each agreement must contain the following provisions:

(1) A description of the acceptable uses of grant proceeds. The agreement may limit the use of funds to specific purposes or may allow the funds to be used for any lawful purposes.

(2) A provision allowing the Department of Commerce to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this Part.

(3) A provision establishing the method for determining compliance with the agreement.

(4) A provision establishing a schedule for disbursement of funds under the agreement.

(5) A provision requiring recapture of grant funds if a grantee subsequently fails to comply with the terms of the agreement.

(6) Any other provision the State finds necessary to ensure the proper use of State funds. (2007-323, s. 13.2(a).)

§ 143B-437.7. Program guidelines.

The Department of Commerce shall develop guidelines related to the administration of the NC Green Business Fund and to the selection of projects to receive allocations from the Fund, including project evaluation measures. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, a technical amendment is either of the following:

(1) An amendment that corrects a spelling or grammatical error.

(2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment. (2007-323, s. 13.2(a).)

§ 143B-437.8. Reports.

Grants made to non-State entities through the NC Green Business Fund shall be subject to the oversight and reporting requirements of G.S. 143C-6-23. The Department of Commerce shall publish a report on the commitment, disbursement, and use of funds allocated from the NC Green Business Fund at the end of each fiscal year. The report is due no later than September 1 and must be submitted to the following:

(1) Repealed by Session Laws 2017-57, s. 14.1(z), effective July 1, 2017.

(2) The chairs of the House of Representatives and Senate Finance Committees.

(3) The chairs of the House of Representatives and Senate Appropriations Committees.

(4) The Fiscal Research Division of the General Assembly. (2007-323, s. 13.2(a); 2017-57, s. 14.1(z).)

§ 143B-437.9. Reserved for future codification purposes.

§ 143B-437.10: Recodified as G.S. 143B-437.010 by Session Laws 2007-484, s.33(a), effective July 1, 2007.

§ 143B-437.11: Recodified as G.S. 143B-437.012 by Session Laws 2008-187, s. 26(a), effective August 7, 2008.

§ 143B-437.13. Reserved for future codification purposes.

Part 2C. Energy Loan Fund.

§§ 143B-437.14 through 143B-437.16: Recodified as Part 32 of Article 7 of Chapter 143B, G.S. 143B-344.42 through G.S. 143B-344.44, by Session Laws 2013-360, s. 15.22(b), effective July 1, 2013.

§ 143B-437.17. Reserved for future codification purposes.

§ 143B-437.18. Reserved for future codification purposes.

§ 143B-437.19. Reserved for future codification purposes.

Part 2D. North Carolina Rural Redevelopment Authority.

§ 143B-437.20: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.21: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.22: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.23: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.24. Reserved for future codification purposes.

§ 143B-437.25. Reserved for future codification purposes.

§ 143B-437.26: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.27: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.28: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.29: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.30: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.31: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.32: Repealed by Session Laws 2008-134, s. 73(a).

§ 143B-437.33: Repealed by Session Laws 2008-134, s. 73(a).

§§ 143B-437.34 through 143B-437.39. Reserved for future codification purposes.

Part 2E. North Carolina Rural Internet Access Authority

(Repealed effective December 31, 2003).

§§ 143B-437.40 through 143B-437.43: Repealed by Session Laws 2000-149, s. 5, as amended by Session Laws 2003-425, s. 3, effective December 31, 2003.

Part 2F.

E-NC Initiative.

§§ 143B-437.44 through 143B-437.47: Repealed by Session Laws 2003-425, s. 4, as amended by Session Laws 2006-66, s. 12.3(a), effective December 31, 2011.

§ 143B-437.48: Reserved for future codification purposes.

§ 143B-437.49: Reserved for future codification purposes.

Part 2G. Job Development Investment Grant Program.

§ 143B-437.50. Legislative findings and purpose.

The General Assembly finds that:

(1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.

(2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging; and the decline in the State's traditional industries, and the resulting adverse impact upon the State and its citizens, have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's industrial base and that inhibit the State's ability to sustain or attract new and expanding businesses.

(3) The economic condition of the State is not static and recent changes in the State's economic condition have created economic distress that requires a reevaluation of certain existing State programs and the enactment of a new program as provided in this Part that are designed to stimulate new economic activity and to create new jobs within the State.

(4) The enactment of this Part is necessary to stimulate the economy, facilitate economic recovery, and create new jobs in North Carolina; and this Part will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the creation of new jobs, an enlargement of the overall tax base, an expansion and diversification of the State's industrial base, and an increase in revenue to the State and its political subdivisions.

(5) The purpose of this Part is to stimulate economic activity and to create new jobs within the State.

(6) It is not the intent of the General Assembly that grants provided through this Part be used as venture capital funds, business incubator funds, or business start-up funds or to otherwise fund the initial capitalization needs of new businesses.

(7) Nothing in this Part shall be construed to constitute a guarantee or assumption by the State of any debt of any business or to authorize the taxing power or the full faith and credit of the State to be pledged. (2002-172, s. 2.1(a); 2003-416, s. 2.)

§ 143B-437.51. Definitions.

The following definitions apply in this Part:

(1) Agreement. – A community economic development agreement under G.S. 143B-437.57.

(2) Base period. – The period of time set by the Committee during which new employees are to be hired for the positions on which the grant is based.

(3) Business. – A corporation, sole proprietorship, cooperative association, partnership, S corporation, limited liability company, nonprofit corporation, or other form of business organization, located either within or outside this State.

(4) Committee. – The Economic Investment Committee established pursuant to G.S. 143B-437.54.

(4a) Development tier. – The classification assigned to an area pursuant to G.S. 143B-437.08.

(5) Eligible position. – A position created by a business and filled by a new full-time employee in this State during the base period. For purposes of high-yield projects and transformative projects, (i) positions created in the year the business achieves the minimum requirements set forth in this section may be considered eligible positions even if created outside the base period and (ii) in a year other than during the base period, an eligible position must be filled for at least 30 weeks of the applicable grant year.

(5a) Expansion position. – A position created by a business and filled by a new full-time employee in this State for a transformative project in any year in which the business receives the enhanced percentage of the withholdings of eligible positions pursuant to G.S. 143B-437.56(a1).

(6) Full-time employee. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, who is not a worker with an H-1B visa or with H-1B status, and who is determined by the Committee to be employed in a permanent position according to criteria it develops in consultation with the Attorney General. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

(6a) High-yield project. – A project for which the agreement requires that a business invest at least five hundred million dollars ($500,000,000) in private funds and create at least 1,750 eligible positions.

(7) New employee. – A full-time employee who represents a net increase in the number of the business's employees statewide.

(8) Overdue tax debt. – Defined in G.S. 105-243.1.

(9) Related member. – Defined in G.S. 105-130.7A.

(9a) Transformative project. – A project for which the agreement requires that a business invest at least one billion dollars ($1,000,000,000) in private funds and create at least 3,000 eligible positions.

(10) Withholdings. – The amount withheld by a business from the wages of employees in eligible positions and, if applicable, expansion positions under Article 4A of Chapter 105 of the General Statutes. (2002-172, s. 2.1(a); 2003-416, s. 2; 2003-435, 2nd Ex. Sess., s. 2.1; 2006-168, s. 1.1; 2006-252, s. 2.6; 2006-264, s. 69(a); 2015-259, s. 1(a); 2015-264, s. 91(a); 2017-57, s. 15.15A(a); 2018-5, s. 15.1(a).)

§ 143B-437.52. Job Development Investment Grant Program.

(a) Program. – There is established the Job Development Investment Grant Program to be administered by the Economic Investment Committee. In order to foster job creation and investment in the economy of this State, the Committee may enter into agreements with businesses to provide grants in accordance with the provisions of this Part. The Committee, in consultation with the Attorney General, shall develop criteria to be used in determining whether the conditions of this section are satisfied and whether the project described in the application is otherwise consistent with the purposes of this Part. Before entering into an agreement, the Committee must find that all the following conditions are met:

(1) The project proposed by the business will create, during the term of the agreement, a net increase in employment in this State by the business.

(2) The project will benefit the people of this State by increasing opportunities for employment and by strengthening this State's economy by, for example, providing worker training opportunities, constructing and enhancing critical infrastructure, increasing development in strategically important industries, or increasing the State and local tax base.

(3) The project is consistent with economic development goals for the State and for the area where it will be located.

(4) A grant under this Part is necessary for the completion of the project in this State.

(5) The total benefits of the project to the State outweigh its costs and render the grant appropriate for the project.

(6) For a project located in a development tier three area, the affected local governments have participated in recruitment and offered incentives in a manner appropriate to the project.

(b) Priority. – In selecting between applicants, a project that is located in an Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project that is not located in a certified Eco-Industrial Park.

(c) Award Limitations. – The following limitations apply to grants awarded under this Part:

(1) Maximum liability. – The maximum amount of total annual liability for grants awarded in any single calendar year under this Part, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is thirty-five million dollars ($35,000,000) for a year in which no grants are awarded for a high-yield project and is forty-five million dollars ($45,000,000) for a year in which a grant is awarded for a high-yield project. No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during a single calendar year, could cause the State's potential total annual liability for grants awarded in a single calendar year to exceed the applicable amount. The Department shall make every effort to ensure that the average percentage of withholdings of eligible positions for grants awarded under this Part does not exceed the average of the range provided in

G.S. 143B-437.56(a). The limitation in this subdivision does not apply to transformative projects.

(2) Semiannual commitment limitations. – Of the amount authorized in subdivision (1) of this subsection, no more than fifty percent (50%), excluding roll-over amounts, may be awarded in any single calendar semiannual period. A roll-over amount is any amount from a previous semiannual period in the same calendar year that was not awarded as a grant. The limitation of this subdivision does not apply to a grant awarded to a high-yield or transformative project.

(3) Geographic limitations. – Of the amount authorized in subdivision (1) of this subsection, no more than twenty million dollars ($20,000,000) may be used for projects located in counties with total employment of 500,000 or more and five million dollars ($5,000,000) is reserved for projects located in counties with an annual ranking pursuant to G.S. 143B-437.08 in the highest fifty percent (50%) of the remaining counties. In measuring total employment, the Secretary shall use the latest available data published by the Quarterly Census of Employment and Wages program. The limitations of this subdivision do not apply to a grant awarded to a high-yield or transformative project.

(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate that the increase or maintenance of employment is measured at the level of a division or another operating unit of a business, rather than at the business level, if both of the following conditions are met:

(1) The Committee makes an explicit finding that the designation is necessary to secure the project in this State.

(2) The agreement contains terms to ensure that the business does not create eligible positions by transferring or shifting to the project existing positions from another project of the business or a related member of the business. (2002-172, s. 2.1(a); 2003-416, s. 2; 2003-435, 2nd Ex. Sess., s. 2.2; 2004-124, ss. 32G.1(b), 32G.1(c), 32G.1(e); 2006-168, s. 1.2; 2006-264, s. 69(b); 2009-394, s. 1; 2010-147, s. 5.3; 2012-142, s. 13.6(g); 2013-360, s. 15.19(a); 2015-259, s. 1(b); 2015-264, s. 91(a); 2017-57, s. 15.15A(b); 2018-5, s. 15.1(b).)

§ 143B-437.53. Eligible projects.

(a) Minimum Number of Eligible Positions. – A business may apply to the Committee for a grant for any project that creates the minimum number of eligible positions as follows:

Development Tier Area	Number of Eligible Positions
Tier One	10
Tier Two	20
Tier Three	50

(b) Ineligible Businesses. – A project that consists solely of retail facilities is not eligible for a grant under this Part. If a project consists of both retail facilities and nonretail facilities, only the portion of the project consisting of nonretail facilities is eligible for a grant, and only the withholdings from employees in eligible positions that are employed

exclusively in the portion of the project that represents nonretail facilities may be used to determine the amount of the grant. If a warehouse facility is part of a retail facility and supplies only that retail facility, the warehouse facility is not eligible for a grant. For the purposes of this Part, catalog distribution centers are not retail facilities.

A project that consists of a professional or semiprofessional sports team or club, other than a professional motorsports racing team, is not eligible for a grant under this Part.

(c) Health Insurance. – A business is eligible for a grant under this Part only if the business provides health insurance for all of the applicable full-time employees of the project with respect to which the grant is made. For the purposes of this subsection, an applicable full-time employee is one who earns from the business less than one hundred fifty thousand dollars ($150,000) in taxable compensation on an annualized basis or three and one-half times the annualized average State wage for all insured private employers in the State employing between 250 and 1,000 employees, whichever is greater. For the purposes of this subsection, a business provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a business receives a grant under this Part, the business must provide with the submission required under G.S. 143B-437.58 a certification that the business continues to provide health insurance, as required by this subsection, for all applicable full-time employees of the project with respect to which the grant is made. If the business ceases to provide the required health insurance, the Committee shall amend or terminate the agreement as provided in G.S. 143B-437.59.

(d) Repealed by Session Laws 2003-435, 2nd Ex. Sess., s. 2.3, effective December 16, 2003.

(e) Safety and Health Programs. – In order for a business to be eligible for a grant under this Part, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made. For the purposes of this subsection, "serious violation" has the same meaning as in G.S. 95-127. (2002-172, s. 2.1(a); 2003-416, s. 2; 2003-435, Ex. Sess., s. 2.3; 2005-241, s. 5; 2006-168, s. 1.3; 2006-252, s. 2.7; 2015-259, s. 1(c); 2015-264, s. 91(a); 2016-94, s. 15.7(a).)

§ 143B-437.54. Economic Investment Committee established.

(a) Membership. – The Economic Investment Committee is established. The Committee consists of the following members:

(1) The Secretary of Commerce.
(2) The Secretary of Revenue.
(3) The Director of the Office of State Budget and Management.
(4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
(5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

The members of the Committee appointed by the General Assembly may not be members of the General Assembly. The members of the Committee appointed by the General Assembly serve two-year terms that begin upon appointment.

(b) Decision Required. – The Committee may act only upon a decision of three of its five members.

(c) Conflict of Interest. – It is unlawful for a current or former member of the Committee to, while serving on the Committee or within two years after the end of service on the Committee, provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that is awarded a grant under this Part or under G.S. 143B-437.02 while the member is serving on the Committee. Violation of this subsection is a Class 1 misdemeanor. In addition to the penalties imposed under G.S. 15A-1340.23, the court shall also make a finding as to what compensation was received by the defendant for services in violation of this section and shall order the defendant to forfeit that compensation.

If a person is convicted under this section, the person shall not provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that was awarded a grant under this Part or under G.S. 143B-437.02 while the member was serving on the Committee until two years after the person's conviction under this section.

(d) Public Notice. – At least 20 days before the effective date of any criteria or nontechnical amendments to criteria, the Committee must publish the proposed criteria on the Department of Commerce's web site and provide notice to persons who have requested notice of proposed criteria. In addition, the Committee must accept oral and written comments on the proposed criteria during the 15 business days beginning on the first day that the Committee has completed these notifications. For the purpose of this subsection, a technical amendment is either of the following:

(1) An amendment that corrects a spelling or grammatical error.

(2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment.

(e) Sunshine. – Meetings of the Committee are subject to the open meetings requirements of Article 33C of Chapter 143 of the General Statutes. All documents of the Committee, including applications for grants, are public records governed by Chapter 132 of the General Statutes and any applicable provisions of the General Statutes protecting confidential information. (2002-172, s. 2.1(a); 2003-416, ss. 2, 25; 2003-435, 2nd Ex. Sess., ss. 1.4, 2.4.)

§ 143B-437.55. Applications; fees; reports; study.

(a) Application. – A business shall apply, under oath, to the Committee for a grant on a form prescribed by the Committee that includes at least all of the following:

(1) The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site or sites.

(2) The names and addresses of the principals or management of the business, the nature of the business, and the form of business organization under which it is operated.

(3) The financial statements of the business prepared by a certified public accountant and any other financial information the Committee considers necessary.

(4) The number of eligible positions proposed to be created for the project and the salaries for these positions.

(5) An estimate of the total withholdings.

(6) Certification that the business will provide health insurance to full-time employees of the project as required by G.S. 143B-437.53(c).

(7) Information concerning other locations, including locations in other states and countries, being considered for the project and the nature of any benefits that would accrue to the business if the project were to be located in one of those locations.

(8) Information concerning any other State or local government incentives for which the business is applying or that it has an expectation of receiving.

(9) Any other information necessary for the Committee to evaluate the application.

A business may apply, in one consolidated application in a form and manner determined by the Committee, for a grant that may include performance by related members of the business who may qualify under this Part.

The Committee will consider an application by a business for a grant that includes performance of its related members only if the related members for whom the application is submitted assign to the business any claim of right the related members may have under this Part to apply for grants individually during the term of the agreement and agree to cooperate with the business in providing to the Committee all the information required for the initial application and the agreement, and any other information the Committee may require for the purposes of this Part. The applicant business is responsible for providing to the Committee all the information required under this Part.

If a business applies for a grant that includes performance by its related members, the related members included in the application may be permitted to meet the qualifications for a grant collectively by participating in a project that meets the requirements of this Part. The amount of a grant may be calculated under the terms of this Part as if the related members were all collectively one business entity. Any conditions for a grant, other than the number of eligible positions created, apply to each related member who is listed in the application as participating in the project. The grant awarded shall be paid to the approved grantee business only. A grant received under this Part by a business may be apportioned to the related members in a manner determined by the business. In order for an agreement to be executed, each related member included in the application must sign the agreement and agree to abide by its terms.

(b) Application Fee. – When filing an application under this section, the business must pay the Committee a fee of (i) ten thousand dollars ($10,000) if the project is either a high-yield project or transformative project, regardless of location in the State, or is located in a development tier three area, (ii) five thousand dollars ($5,000) if the project is located in a development tier two area, or (iii) one thousand dollars ($1,000) if the project is located in a development tier one area. The fee is due at the time the application is filed. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited. Within 30 days of receipt of an application under this section but prior to any award being made, the Department of Commerce shall notify each governing body of an area where a submitted application proposes locating a project of the information listed in

this subsection, provided that the governing body agrees, in writing, to any confidentiality requirements imposed by the Department under G.S. 132-6(d). The information required by this subsection includes all of the following:

(1) The estimated amount of the grant anticipated to be awarded to the applicant for the project.

(2) Any economic impact data submitted with the application or prepared by the Department.

(3) Any economic impact estimated by the Department to result from the project.

(c) Annual Reports. – The Committee shall publish a report on the Job Development Investment Grant Program on or before April 30 of each year. The Committee shall submit the report electronically to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include the following:

(1) A listing of each grant awarded during the preceding calendar year, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, the term of the grant, the percentage of withholdings used to determine the amount of the grant, the annual maximum State liability under the grant, and the maximum total lifetime State liability under the grant.

(2) An update on the status of projects under grants awarded before the preceding calendar year.

(3) The number and development tier area of eligible positions to be created by projects with respect to which grants have been awarded.

(3a) A listing of the employment level for all businesses receiving a grant and any changes in those levels from the level of the next preceding year.

(4) The wage levels of all eligible positions to be created by projects with respect to which grants have been awarded, aggregated and listed in increments of ten thousand dollars ($10,000) or other appropriate increments.

(5) The amount of new income tax revenue received from withholdings related to the projects for which grants have been awarded.

(6) For the first annual report after adoption of the criteria developed by the Committee, in consultation with the Attorney General, to implement this Part, a copy of such criteria, and, for subsequent reports, identification of any changes in those criteria from the previous calendar year.

(7) The number of awards made to new businesses and the number of awards made to existing, expanding businesses in the preceding calendar year.

(8) The environmental impact of businesses that have received grants under the program.

(9) The geographic distribution of grants, by number and amount, awarded under the program.

(10) Repealed by Session Laws 2009-394, s. 2, effective July 31, 2009.

(11) A listing of all businesses making an application under this Part and an explanation of whether each business ultimately located the project in this State

regardless of whether the business was awarded a grant for the project under this Part.

(11a) A listing, itemized by development tier, of the number of offers that have been calculated, estimated, or extended but were not accepted and the total award value of the offers.

(12) Repealed by Session Laws 2006-168, s. 1.4, effective July 27, 2006.

(13) The total amount transferred to the Utility Account under this Part during the preceding year.

(d) Repealed by Session Laws 2012-142, s. 13.4(f), effective July 1, 2012.

(e) Study. – The Committee shall conduct a study to determine the minimum funding level required to implement the Job Development Investment Grant Program successfully. The Committee shall report the results of this study to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than April 1 of each year. (2002-172, s. 2.1(a); 2003-416, s. 2; 2005-429, s. 2.1; 2006-168, s. 1.4; 2006-252, s. 2.8; 2006-264, s. 69(c); 2009-394, s. 2; 2010-31, s. 14.8; 2012-142, s. 13.4(f); 2013-360, ss. 15.18(f), 15.19(b), 15.20(a); 2015-259, s. 1(d); 2015-264, s. 91(a); 2018-5, s. 15.1(c).)

§ 143B-437.56. Calculation of minimum and maximum grants; factors considered.

(a) Subject to the provisions of subsections (a1) and (d) of this section, the amount of the grant awarded in each case shall be a percentage of the withholdings of eligible positions for a period of years. The percentage shall be no more than eighty percent (80%) for a development tier one area and no more than seventy-five percent (75%) for any other area. If the project will be located in more than one area designation, the location with the highest area designation determines the maximum percentage to be used. The percentage used to determine the amount of the grant shall be based on criteria developed by the Committee, in consultation with the Attorney General, after considering at least the following:

(1) The number of eligible positions to be created.

(2) The expected duration of those positions.

(3) The type of contribution the business can make to the long-term growth of the State's economy.

(4) The amount of other financial assistance the project will receive from the State or local governments.

(5) The total dollar investment the business is making in the project.

(6) Whether the project utilizes existing infrastructure and resources in the community.

(7) Whether the project is located in a development zone.

(8) The number of eligible positions that would be filled by residents of a development zone.

(9) The extent to which the project will mitigate unemployment in the State and locality.

(a1) Notwithstanding the percentage specified by subsection (a) of this section, the amount of the grant awarded for a high-yield or transformative project shall be enhanced as provided in this subsection if the applicable conditions of this subsection are met. A business receiving an enhanced percentage of withholdings under this subsection that fails to maintain the minimum job creation requirement or meet all terms of the agreement will be disqualified from receiving the enhanced percentage and will have the applicable percentage set forth in subsection (a) of this section applied in the year in which the failure occurs and all remaining years of the grant term. [The enhanced percentages are as follows:]

(1) If the project is a high-yield project, the business has met the investment and job creation requirements, and, for three consecutive years, the business has met all terms of the agreement, the amount of the grant awarded shall be no more than one hundred percent (100%) of the withholdings of eligible positions for each year the business maintains the minimum job creation requirement and meets all terms of the agreement. Ninety percent (90%) of the annual grant approved for disbursement shall be payable to the business, and ten percent (10%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61.

(2) If the project is a transformative project and the business has met the investment and job creation requirements and all terms of the agreement, the amount of the grant awarded shall be no more than one hundred percent (100%) of the withholdings of eligible and expansion positions for each year the business maintains the minimum job creation requirement and meets all terms of the agreement. Ninety percent (90%) of the annual grant approved for disbursement shall be payable to the business, and ten percent (10%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61.

(b) The term of the grant shall not exceed the duration listed in this subsection. The first grant payment must be made within six years after the date on which the grant was awarded. For projects other than transformative projects, the number of years in the base period for which grant payments may be made shall not exceed five years. For transformative projects, the number of years in the base period for which grant payments may be made shall not exceed 10 years. Maximum durations are as follows:

(1) For high-yield projects in which the business receives the enhanced percentage pursuant to subsection (a1) of this section, 20 years starting with the first year a grant payment is made. If a business is disqualified from the enhanced percentage in one of the first 12 years, the term of the grant shall not exceed 12 years starting with the first year a grant payment is made. If a business is disqualified from receiving the enhanced percentage after the first 12 years, the term of the grant ends in the year the disqualification occurs.

(1a) For transformative projects in which the business receives the enhanced percentage pursuant to subsection (a1) of this section, the base period plus 30 years starting with the first year a grant payment is made. If a business is disqualified from the enhanced percentage in one of the first 12 years, the term of the grant shall not exceed 12 years starting with the first year a grant payment is made. If a business is disqualified from receiving the enhanced percentage

after the first 12 years, the term of the grant ends in the year the disqualification occurs.

(2) For all other projects, 12 years starting with the first year a grant payment is made.

(c) Except as provided in subsection (a1) of this section, the grant may be based only on eligible positions created during the base period.

(d) For any eligible position that is located in a development tier three area, seventy-five percent (75%) of the annual grant approved for disbursement shall be payable to the business, and twenty-five percent (25%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. For any eligible position that is located in a development tier two area, ninety percent (90%) of the annual grant approved for disbursement shall be payable to the business, and ten percent (10%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. A position is located in the development tier area that has been assigned to the county in which the project is located at the time the application is filed with the Committee. This subsection does not apply to a high-yield or transformative project in years in which the business receives the enhanced percentage pursuant to subsection (a1) of this section.

(e) A business that is receiving any other grant by operation of State law may not receive an amount as a grant pursuant to this Part that, when combined with any other grants, exceeds the applicable maximum percentage of the withholdings of the business, as provided in subsections (a) and (a1) of this section, unless the Committee makes an explicit finding that the additional grant is necessary to secure the project.

(f) For projects other than transformative projects, the amount of a grant associated with any specific eligible position, including any amount transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed six thousand five hundred dollars ($6,500) in any year. (2002-172, s. 2.1(a); 2003-416, s. 2; 2003-435, 2nd Ex. Sess., s. 2.5; 2006-168, s. 1.5; 2006-252, s. 2.9(a), (b); 2006-264, s. 69(d); 2015-259, s. 1(e); 2015-264, s. 91(a); 2017-57, s. 15.15A(c); 2017-102, s. 24.1; 2018-5, s. 15.1(d).)

§ 143B-437.56A. Multilocation projects.

(a) Except as provided in subsection (b) of this section, if a project will be located in more than one development tier area, the location with the highest area designation determines the standards applicable under this Part to the project.

(b) For purposes of G.S. 143B-437.56(d), if a project will be located in more than one development tier area, the location with the lowest area designation determines the percentage of the annual grant approved for disbursement payable to the Utility Account pursuant to G.S. 143B-437.61 if (i) the project will have at least one location in a development tier three area, (ii) the project will have at least one location in a development tier one or two area, and (iii) at least sixty-six percent (66%) of the number of eligible positions created or the total benefits of the project to the State, as calculated pursuant to G.S. 143B-437.52, or both are located in the lowest area designation. (2016-94, s. 15.7(b).)

§ 143B-437.57. Community economic development agreement.

(a) Terms. – Each community economic development agreement shall include at least the following:

(1) A detailed description of the proposed project that will result in job creation and the number of new employees to be hired during the base period.

(2) The term of the grant and the criteria used to determine the first year for which the grant may be claimed.

(3) The number of eligible positions that are subjects of the grant and a description of those positions and the location of those positions.

(4) The amount of the grant based on a percentage of withholdings.

(5) A method for determining the number of new employees hired during a grant year.

(6) A method for the business to report annually to the Committee the number of eligible positions and, if applicable, expansion positions for which the grant is to be made.

(7) A requirement that the business report to the Committee annually the aggregate amount of withholdings during the grant year.

(8) A provision permitting an audit of the payroll records of the business by the Committee from time to time as the Committee considers necessary.

(9) A provision that requires the Committee to reduce the amount or term of a grant pursuant to G.S. 143B-437.59.

(10) A provision that requires the business to maintain operations at the project location or another location approved by the Committee for at least one hundred fifty percent (150%) of the term of the grant and a provision to require the Committee to recapture an appropriate portion of the grant if the business does not remain at the site for the required term.

(11) A provision that requires the business to maintain employment levels in this State at the greater of the level of employment on the date of the application or the level of employment on the date of the award.

(12) A provision establishing the conditions under which the grant agreement may be terminated, in addition to those under G.S. 143B-437.59, and under which grant funds may be recaptured by the Committee.

(13) A provision stating that unless the agreement is terminated pursuant to G.S. 143B-437.59, the agreement, including any amendments pursuant to G.S. 143B-437.59, is binding and constitutes a continuing contractual obligation of the State and the business.

(14) A provision setting out any allowed variation in the terms of the agreement that will not subject the business to grant reduction, amendment, or termination of the agreement under G.S. 143B-437.59.

(14a) If applicable, a provision for transformative projects setting out any allowed variation in the terms of the agreement that will result in a grant increase to the business for expansion positions. Grant increases for expansion positions may not include workers employed in North Carolina who fill expansion positions with the business as a result of a merger or acquisition occurring during the term of the agreement.

(15) A provision that prohibits the business from manipulating or attempting to manipulate employee withholdings with the purpose of increasing the amount

of the grant and that requires the Committee to terminate the agreement and take action to recapture grant funds if the Committee finds that the business has manipulated or attempted to manipulate withholdings with the purpose of increasing the amount of the grant.

(16) A provision requiring that the business engage in fair employment practices as required by State and federal law and a provision encouraging the business to use small contractors, minority contractors, physically handicapped contractors, and women contractors whenever practicable in the conduct of its business.

(17) A provision encouraging the business to hire North Carolina residents.

(18) A provision encouraging the business to use the North Carolina State Ports.

(19) A provision stating that the State is not obligated to make any annual grant payment unless and until the State has received withholdings from the business in an amount that exceeds the amount of the grant payment.

(20) A provision describing the manner in which the amount of a grant will be measured and administered to ensure compliance with the provisions of G.S. 143B-437.52(c).

(21) A provision stating that any recapture of a grant and any reduction in the amount of the grant or the term of the agreement must, at a minimum, be proportional to the failure to comply measured relative to the condition or criterion with respect to which the failure occurred.

(22) A provision stating that any disputes over interpretation of the agreement shall be submitted to binding arbitration.

(23) For projects other than transformative projects, a provision stating that the amount of a grant associated with any specific eligible position, including any amount transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed six thousand five hundred dollars ($6,500) in any year.

(24) A provision stating that the business agrees to submit to an audit at any time that the Committee requires one.

(25) A provision encouraging the business to contract with small businesses headquartered in the State for goods and services.

(b) Approval of Attorney General. – The Attorney General shall review the terms of all proposed agreements entered into by the Committee. To be effective against the State, an agreement entered into under this Part must be signed personally by the Attorney General.

(c) Agreement Binding. – A community economic development agreement is a binding obligation of the State and is not subject to State funds being appropriated by the General Assembly. (2002-172, s. 2.1(a); 2003-416, s. 2; 2004-124, ss. 32G.1(f), 32G.1(g); 2006-168, s. 1.6; 2006-264, s. 69(e); 2009-394, s. 3; 2015-259, s. 1(f); 2015-264, s. 91(a); 2018-5, s. 15.1(e).)

§ 143B-437.58. Grant recipient to submit records.

(a) No later than March 1 of each year, for the preceding grant year, every business that is awarded a grant under this Part shall submit to the Department of Revenue an annual payroll report showing withholdings as a condition of its continuation in the grant program and identifying eligible positions that have been created during the base period that remain

filled at the end of each year of the grant. Annual reports submitted to the Department of Revenue shall include social security numbers of individual employees identified in the reports. Upon request of the Committee, the business shall also submit a copy of its State and federal tax returns to the Department of Revenue. The Committee may inspect the information submitted to the Department of Revenue pursuant to this section at the Department of Revenue for purposes of award verification and calculation. Payroll and tax information, including social security numbers of individual employees and State and federal tax returns, submitted under this subsection is tax information subject to G.S. 105-259. Aggregated payroll or withholding tax information submitted or derived under this subsection is not tax information subject to G.S. 105-259. When making a submission under this section, the business must pay the Department of Revenue a fee of the greater of two thousand five hundred dollars ($2,500) or three one-hundredths of one percent (.03%) of an amount equal to the grant less the maximum amount to be transferred pursuant to G.S. 143B-437.61. The fee is due at the time the submission is made. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited.

(b) The Committee may require any information that it considers necessary to effectuate the provisions of this Part.

(c) The Committee may require any business receiving a grant to submit to an audit at any time.

(d) The reporting procedures of this section are in lieu of any other general reporting requirements relating to private entities that receive State funds. (2002-172, s. 2.1(a); 2003-416, s. 2; 2004-124, s. 32G.1(d); 2006-168, s. 1.7; 2006-264, s. 69(f); 2009-394, s. 4; 2013-360, s. 15.21(a); 2018-5, s. 15.1(f).)

§ 143B-437.59. Failure to comply with agreement.

(a) If the business receiving a grant fails to meet or comply with any condition or requirement set forth in an agreement or with criteria developed by the Committee in consultation with the Attorney General, the Committee shall reduce the amount of the grant or the term of the agreement, may terminate the agreement, or both. The reduction in the amount or the term must, at a minimum, be proportional to the failure to comply measured relative to the condition or criterion with respect to which the failure occurred. The Committee may reduce the amount or term of a grant by formally approving a motion to reduce such grant in accordance with program policies adopted by the Committee for the treatment of failures by businesses to meet or comply with a condition or requirement set forth in the grant agreement, and it shall not be necessary to execute an amendment to the applicable grant agreement. The Committee shall notify any such affected business of the reduction to its grant payment, reflected in any such motion.

(b) If a business fails to maintain employment at the levels stipulated in the agreement or otherwise fails to comply with any condition of the agreement for any two consecutive years:

(1) If the business is still within the base period established by the Committee, the Committee shall withhold the grant payment for any consecutive year after the second consecutive year remaining in the base period in which the business fails to comply with any condition of the agreement, and the Committee may extend the base period for up to 24 additional months. Under no circumstances may the Committee extend the base period by more than a total of 24 months. In no event shall the term of the grant be extended beyond the date set by the Committee at the time the Committee awarded the grant.

(2) If the business is no longer within the base period established by the Committee, the Committee shall terminate the agreement.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if the Committee finds that the business has manipulated or attempted to manipulate employee withholdings with the purpose of increasing the amount of a grant, the Committee shall immediately terminate the agreement and take action to recapture any grant funds disbursed in any year in which the Committee finds the business manipulated or attempted to manipulate employee withholdings with the purpose of increasing the amount of the grant. (2002-172, s. 2.1(a); 2003-416, s. 2; 2006-168, s. 1.8; 2009-394, s. 5; 2010-91, s. 8.)

§ 143B-437.60. Disbursement of grant.

A business may not receive an annual disbursement of a grant if, at the time of disbursement, the business has received a notice of an overdue tax debt and that overdue tax debt has not been satisfied or otherwise resolved. A business may receive an annual disbursement of a grant only after the Committee has certified that there are no outstanding overdue tax debts and that the business has met the terms and conditions of the agreement. No amount shall be disbursed to a business as a grant under this Part in any year until the Secretary of Revenue has certified to the Committee (i) that there are no outstanding overdue tax debts of the business and (ii) the amount of withholdings received in that year by the Department of Revenue from the business. A business that has met the terms of the agreement shall make an annual certification of this to the Committee. The Committee shall require the business to provide any necessary evidence of compliance to verify that the terms of the agreement have been met. The Committee shall certify the grant amount for which the business is eligible under the agreement and the grant amount for which the business would be eligible under the agreement without regard to G.S. 143B-437.56(d). The Department of Commerce shall remit a check to the business in the amount of the certified grant amount within 90 days of receiving the certification of the Committee. (2002-172, s. 2.1(a); 2003-416, s. 2; 2006-168, s. 1.9.)

§ 143B-437.61. Transfer to Industrial Development Fund Utility Account.

At the time the Department of Commerce remits a check to a business under G.S. 143B-437.60, the Department of Commerce shall transfer to the Utility Account an amount equal to the amount certified by the Committee as the difference between the amount of the grant and the amount of the grant for which the business would be eligible without regard to G.S. 143B-437.56(d). (2002-172, s. 2.1(a); 2003-416, s. 2; 2006-168, s. 1.10; 2013-360, s. 15.18(g).)

§ 143B-437.62. Expiration.

The authority of the Committee to award new grants expires January 1, 2021. (2002-172, s. 2.1(a); 2003-416, s. 2; 2004-124, s. 32G.1(a); 2005-241, s. 3; 2006-168, s. 1.11; 2009-394, s. 6; 2015-259, s. 1(g); 2015-264, s. 91(a); 2017-57, s. 15.15(a).)

§ 143B-437.63. JDIG Program cash flow requirements.

Notwithstanding any other provision of law, grants made through the Job Development Investment Grant Program, including amounts transferred pursuant to G.S. 143B-437.61, shall be budgeted and funded on a cash flow basis. The Department of Commerce shall disburse funds in an amount sufficient to satisfy grant obligations and amounts to be transferred pursuant to G.S. 143B-437.61 to be paid during the fiscal year. It is the intent of the General Assembly to appropriate funds annually to the JDIG Program established in this Part in amounts sufficient to meet the anticipated cash requirements for each fiscal year. (2004-124, s. 6.12(b); 2009-445, s. 40; 2009-570, s. 22; 2016-94, s. 15.2(a).)

§ 143B-437.64: Reserved for future codification purposes.

§ 143B-437.65: Reserved for future codification purposes.

§ 143B-437.66: Reserved for future codification purposes.

§ 143B-437.67: Reserved for future codification purposes.

§ 143B-437.68: Reserved for future codification purposes.

§ 143B-437.69: Reserved for future codification purposes.

Part 2H. One North Carolina Fund.

§ 143B-437.70. Legislative findings and purpose.

The General Assembly finds that:

(1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the retention and expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.

(2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging; and the decline in the State's traditional industries, and the resulting adverse impact upon the State and its citizens, have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's industrial base and that inhibit the State's ability to sustain or attract new and expanding businesses.

(3) The purpose of this Part is to stimulate economic activity and to create new jobs within the State.

(4) The enactment of this Part will maintain consistency and accountability in a key economic development program and will ensure that the program benefits the State and its citizens.

(5) Nothing in this Part shall be construed to constitute a guarantee or assumption by the State of any debt of any business or to authorize the taxing power or the full faith and credit of the State to be pledged. (2004-88, s. 1(d).)

§ 143B-437.71. One North Carolina Fund established as a special revenue fund.

(a) Establishment. – The One North Carolina Fund is established as a special revenue fund in the Department of Commerce.

(b) Purposes. – Moneys in the One North Carolina Fund may only be allocated pursuant to this subsection. Moneys may be allocated to local governments for use in connection with securing commitments for the recruitment, expansion, or retention of new and existing businesses and to the One North Carolina Small Business Account created pursuant to subsection (c) of this section in an amount not to exceed three million dollars ($3,000,000). Moneys in the One North Carolina Fund allocated to local governments shall be used for the following purposes only:

(1) Installation or purchase of equipment.

(2) Structural repairs, improvements, or renovations to existing buildings to be used for expansion.

(3) Construction of or improvements to new or existing water, sewer, gas, or electric utility distribution lines or equipment for existing buildings.

(4) Construction of or improvements to new or existing water, sewer, gas, or electric utility distribution lines or equipment for new or proposed buildings to be used for manufacturing and industrial operations.

(5) Any other purposes specifically provided by an act of the General Assembly.

(b1) Awards. – The amounts committed in Governor's Letters issued in a single fiscal biennium may not exceed twenty-eight million dollars ($28,000,000).

(c) There is created in the One North Carolina Fund a special account, the One North Carolina Small Business Account, to be used for the North Carolina SBIR/STTR Incentive Program and the North Carolina SBIR/STTR Matching Funds Program, as specified in Part 2I of Article 10 of Chapter 143B of the General Statutes. (2004-88, s. 1(d); 2005-276, s. 13.14(a); 2006-162, s. 19; 2012-142, s. 13.6(b); 2013-360, s. 15.16A.)

§ 143B-437.72. Agreements required; disbursement of funds.

(a) Agreements Required. – Funds may be disbursed from the One North Carolina Fund only in accordance with agreements entered into between the State and one or more local governments and between the local government and a grantee business.

(b) Company Performance Agreements. – An agreement between a local government and a grantee business must contain the following provisions:

(1) A commitment to create or retain a specified number of jobs within a specified salary range at a specific location and commitments regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained.

(2) A commitment to provide proof satisfactory to the local government and the State of new jobs created or existing jobs retained and the salary level of those jobs.

(3) A provision that funds received under the agreement may be used only for a purpose specified in G.S. 143B-437.71(b).

(4) A provision allowing the State or the local government to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this Part.

(5) A provision establishing the method for determining compliance with the agreement.

(6) A provision establishing a schedule for disbursement of funds under the agreement that allows disbursement of funds only in proportion to the amount of performance completed under the agreement.

(6a) A provision establishing that a business that has completed performance and become entitled to a final disbursement of funds under the agreement must timely request, in writing to the Secretary of Commerce, a disbursement of funds within not more than one year from the date of completed performance or forfeit the disbursement.

(6b) A provision establishing that a business that anticipates becoming entitled to a disbursement of funds under the agreement shall notify the Secretary of Commerce of the potential payment no later than March 1 of the fiscal year preceding the fiscal year in which the performance is anticipated to be completed.

(7) A provision requiring recapture of grant funds if a business subsequently fails to comply with the terms of the agreement.

(8) Any other provision the State or the local government finds necessary to ensure the proper use of State or local funds.

(c) Local Government Grant Agreement. – An agreement between the State and one or more local governments shall contain the following provisions:

(1) A commitment on the part of the local government to match the funds allocated by the State, as provided in this subdivision. A local match may include cash, fee waivers, in-kind services, the donation of assets, the provision of infrastructure, or a combination of these.

a. For a local government in a development tier one area, as defined in G.S. 143B-437.08, the State shall provide no more than three dollars ($3.00) for every one dollar ($1.00) provided by the local government.

b. For a local government in a development tier two area, as defined in G.S. 143B-437.08, the State shall provide no more than two dollars ($2.00) for every one dollar ($1.00) provided by the local government.

c. For a local government in a development tier three area, as defined in G.S. 143B-437.08, the State shall provide no more than one dollar ($1.00) for every one dollar ($1.00) provided by the local government.

(2) A provision requiring the local government to recapture any funds to which the local government is entitled under the company performance agreement.

(3) A provision requiring the local government to reimburse the State for any funds improperly disbursed or funds recaptured by the local government.

(4) A provision allowing the State access to all records possessed by the local government necessary to ensure compliance with the company performance agreement and with the requirements of this Part.

(5) A provision establishing a schedule for the disbursement of funds from the One North Carolina Fund to the local government that reflects the disbursement schedule established in the company performance agreement.

(6) Any other provision the State finds necessary to ensure the proper use of State funds.

(d) Disbursement of Funds. – Funds may be disbursed from the One North Carolina Fund to the local government only after the local government has demonstrated that the business has complied with the terms of the company performance agreement. The State shall disburse funds allocated under the One North Carolina Fund to a local government in accordance with the disbursement schedule established in the local government grant agreement. (2004-88, s. 1(d); 2012-142, s. 13.6(c); 2015-259, s. 2(a).)

§ 143B-437.73. Program guidelines.

The Department of Commerce, in conjunction with the Governor's Office, shall develop guidelines related to the administration of the One North Carolina Fund and to the selection of projects to receive allocations from the Fund. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, a technical amendment is either of the following:

(1) An amendment that corrects a spelling or grammatical error.

(2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment. (2004-88, s. 1(d).)

§ 143B-437.74. Reports; study.

(a) Reports. – The Department of Commerce shall publish a report on the use of funds in the One North Carolina Fund at the end of each fiscal quarter. The report shall contain information on the commitment, disbursement, and use of funds allocated under the One North Carolina Fund. The report is due no later than one month after the end of the fiscal quarter and shall be submitted to the following:

(1) The chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources.

(1a) The House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources.

(2) The chairs of the House of Representatives and Senate Finance Committees.

(3) The chairs of the House of Representatives and Senate Appropriations Committees.

(4) The Fiscal Research Division of the General Assembly.

(5) The Joint Legislative Economic Development and Global Engagement Oversight Committee.

(b) Study. – The Department of Commerce shall conduct a study to determine the minimum funding level required to implement the One North Carolina Fund successfully. The Department shall report the results of this study to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than April 1 of each year. (2004-88, s. 1(d); 2012-142, s. 13.6(d); 2017-57, s. 14.1(aa).)

§ 143B-437.75. Cash flow requirements.

Notwithstanding any other provision of law, moneys allocated from the One North Carolina Fund shall be budgeted and funded on a cash flow basis. The Department of Commerce shall disburse funds in an amount sufficient to satisfy Fund allocations to be transferred pursuant to G.S. 143B-437.72 to be paid during the fiscal year. It is the intent of the General Assembly to appropriate funds annually to the One North Carolina Fund established in this Part in amounts sufficient to meet the anticipated cash requirements for each fiscal year. (2012-142, s. 13.6(e); 2016-94, s. 15.2(b).)

§ 143B-437.76. Reserved for future codification purposes.

§ 143B-437.77. Reserved for future codification purposes.

§ 143B-437.78. Reserved for future codification purposes.

§ 143B-437.79. Reserved for future codification purposes.

Part 2I. One North Carolina Small Business Program.

§ 143B-437.80. North Carolina SBIR/STTR Incentive Program.

(a) Program. – There is established the North Carolina SBIR/STTR Incentive Program to be administered by the North Carolina Board of Science, Technology, and Innovation. In order to foster job creation and economic development in the State, the Board may provide grants to eligible businesses to offset costs associated with applying to the United States Small Business Administration for Small Business Innovative Research (SBIR) grants or Small Business Technology Transfer Research (STTR) grants. The grants shall be paid from the One North Carolina Small Business Account established in G.S. 143B-437.71.

(b) Eligibility. – In order to be eligible for a grant under this section, a business must satisfy all of the following conditions:

(1) The business must be a for-profit, North Carolina-based business. For the purposes of this section, a North Carolina-based business is one that has its principal place of business in this State.

(2) The business must have submitted a qualified SBIR/STTR Phase I proposal to a participating federal agency in response to a specific federal solicitation.
(3) The business must satisfy all federal SBIR/STTR requirements.
(4) The business shall not receive concurrent funding support from other sources that duplicates the purpose of this section.
(5) The business must certify that at least fifty-one percent (51%) of the research described in the federal SBIR/STTR Phase I proposal will be conducted in this State and that the business will remain a North Carolina-based business for the duration of the SBIR/STTR Phase I project.
(6) The business must demonstrate its ability to conduct research in its SBIR/STTR Phase I proposal.

(c) Grant. – The North Carolina Board of Science, Technology, and Innovation may award grants to reimburse an eligible business for up to fifty percent (50%) of the costs of preparing and submitting a SBIR/STTR Phase I proposal, up to a maximum of three thousand dollars ($3,000). A business may receive only one grant under this section per year. A business may receive only one grant under this section with respect to each federal proposal submission. Costs that may be reimbursed include costs incurred directly related to preparation and submission of the grant such as word processing services, proposal consulting fees, project-related supplies, literature searches, rental of space or equipment related to the proposal preparation, and salaries of individuals involved with the preparation of the proposals. Costs that shall not be reimbursed include travel expenses, large equipment purchases, facility or leasehold improvements, and legal fees.

(d) Application. – A business shall apply, under oath, to the North Carolina Board of Science, Technology, and Innovation for a grant under this section on a form prescribed by the Board that includes at least all of the following:
(1) The name of the business, the form of business organization under which it is operated, and the names and addresses of the principals or management of the business.
(2) An acknowledgement of receipt of the Phase I proposal by the relevant federal agency.
(3) An itemized statement of the costs that may be reimbursed.
(4) Any other information necessary for the Board to evaluate the application. (2005-276, s. 13.14(b); 2014-18, s. 2.2.)

§ 143B-437.81. North Carolina SBIR/STTR Matching Funds Program.

(a) Program. – There is established the North Carolina SBIR/STTR Matching Funds Program to be administered by the North Carolina Board of Science, Technology, and Innovation. In order to foster job creation and economic development in the State, the Board may provide grants to eligible businesses to match funds received by a business as a SBIR or STTR Phase I award and to encourage businesses to apply for Phase II awards.

(b) Eligibility. – In order to be eligible for a grant under this section, a business must satisfy all of the following conditions:
(1) The business must be a for-profit, North Carolina-based business. For the purposes of this section, a North Carolina-based business is one that has its principal place of business in this State.

(2) The business must have received a SBIR/STTR Phase I award from a participating federal agency in response to a specific federal solicitation. To receive the full match, the business must also have submitted a final Phase I report, demonstrated that the sponsoring agency has interest in the Phase II proposal, and submitted a Phase II proposal to the agency.

(3) The business must satisfy all federal SBIR/STTR requirements.

(4) The business shall not receive concurrent funding support from other sources that duplicates the purpose of this section.

(5) The business must certify that at least fifty-one percent (51%) of the research described in the federal SBIR/STTR Phase II proposal will be conducted in this State and that the business will remain a North Carolina-based business for the duration of the SBIR/STTR Phase II project.

(6) The business must demonstrate its ability to conduct research in its SBIR/STTR Phase II proposal.

(c) Grant. – The North Carolina Board of Science, Technology, and Innovation may award grants to match the funds received by a business through a SBIR/STTR Phase I proposal up to a maximum of one hundred thousand dollars ($100,000). Seventy-five percent (75%) of the total grant shall be remitted to the business upon receipt of the SBIR/STTR Phase I award and application for funds under this section. Twenty-five percent (25%) of the total grant shall be remitted to the business upon submission by the business of the Phase II application to the funding agency and acceptance of the Phase I report by the funding agency. A business may receive only one grant under this section per year. A business may receive only one grant under this section with respect to each federal proposal submission. Over its lifetime, a business may receive a maximum of five awards under this section.

(d) Application. – A business shall apply, under oath, to the North Carolina Board of Science, Technology, and Innovation for a grant under this section on a form prescribed by the Board that includes at least all of the following:

(1) The name of the business, the form of business organization under which it is operated, and the names and addresses of the principals or management of the business.

(2) An acknowledgement of receipt of the Phase I report and Phase II proposal by the relevant federal agency.

(3) Any other information necessary for the Board to evaluate the application. (2005-276, s. 13.14(b); 2014-18, s. 2.3.)

§ 143B-437.82. Program guidelines.

The Department of Commerce shall develop guidelines related to the administration of the One North Carolina Small Business Program. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, a technical amendment is either of the following:

(1) An amendment that corrects a spelling or grammatical error.
(2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment. (2005-276, s. 13.14(b).)

§ 143B-437.83. Reports.

The Department of Commerce shall publish a report on the use of funds in the One North Carolina Small Business Account on September 1 of each year until all funds have been expended. The report shall contain information on the disbursement and use of funds allocated under the One North Carolina Small Business Program. The report must be submitted to the following:

(1) Repealed by Session Laws 2017-57, s. 14.1(z), effective July 1, 2017.
(2) The chairs of the House of Representatives and Senate Finance Committees.
(3) The chairs of the House of Representatives and Senate Appropriations Committees.
(4) The Fiscal Research Division of the General Assembly. (2005-276, s. 13.14(b); 2009-451, s. 14.5(c); 2017-57, s. 14.1(z).)

§ 143B-437.84. Reserved for future codification purposes.

§ 143B-437.85. Reserved for future codification purposes.

§ 143B-437.86. Reserved for future codification purposes.

§ 143B-437.87. Reserved for future codification purposes.

§ 143B-437.88. Reserved for future codification purposes.

§ 143B-437.89. Reserved for future codification purposes.

Part 2J. Wine and Grape Growers Council.

§ 143B-437.90: Recodified as Article 62A of Chapter 106, G.S. 106-755.1 and G.S. 106-755.2, by Session Laws 2012-142, s. 13.9A(b), effective July 1, 2012.

§ 143B-437.91: Recodified as Article 62A of Chapter 106, G.S. 106-755.1 and G.S. 106-755.2, by Session Laws 2012-142, s. 13.9A(b), effective July 1, 2012.

§ 143B-437.92. Reserved for future codification purposes.

§ 143B-437.93. Reserved for future codification purposes.

§ 143B-437.94. Reserved for future codification purposes.

§ 143B-437.95. Reserved for future codification purposes.

§ 143B-437.96. Reserved for future codification purposes.

§ 143B-437.97. Reserved for future codification purposes.

§ 143B-437.98. Reserved for future codification purposes.

§ 143B-437.99. Reserved for future codification purposes.

Part 2K. North Carolina Certified Retirement Community Program.

§ 143B-437.100. North Carolina Certified Retirement Community Program – creation; powers and duties.

(a) Program. – There is established the North Carolina Certified Retirement Community Program as part of the North Carolina Department of Commerce. The Department shall coordinate the development and planning of the North Carolina Certified Retirement Community Program with other State and local groups interested in participating in and promoting the North Carolina Certified Retirement Community Program. The Department shall adopt administrative rules to implement the provisions of this Part. For purposes of this Part, "Department" means the North Carolina Department of Commerce, and "Program" means the North Carolina Certified Retirement Community Program.

(b) Purpose. – The purpose of the Program is to encourage retirees and those planning to retire to make their homes in North Carolina. In order to further this purpose, the Department shall engage in the following activities:

(1) Promote the State as a retirement destination to retirees and those persons and families who are planning retirement both in and outside of North Carolina.
(2) Assist North Carolina communities in their efforts to market themselves as retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle.
(3) Assist in the development of retirement communities and continuing care facilities under Article 64 of Chapter 58 of the General Statutes in order to promote economic development and a potential workforce to enrich North Carolina communities.
(4) Encourage mature market travel and tourism to North Carolina to evaluate future retirement desirability and to visit those who have chosen to retire in North Carolina.

(c) Factors. – The Department shall identify factors that are of interest to retirees or potential retirees in order to inform them of the benefits of living in North Carolina. These factors shall be used to develop a scoring system to determine whether an applicant will qualify as a North Carolina certified retirement community and may include the following:

(1) North Carolina's State and local tax structure.
(2) Housing opportunities and cost.
(3) Climate.
(4) Personal safety.
(5) Working opportunities.

(6) Health care and continuing care services.
(7) Transportation.
(8) Continuing education.
(9) Leisure living.
(10) Recreation.
(11) The performing arts.
(12) Festivals and events.
(13) Sports.
(14) Other services and facilities necessary to enable persons to age in the community with a minimum of restrictions.

(d) Certification. – The Department shall establish criteria for qualifying as a North Carolina certified retirement community. To be eligible to obtain certification as a North Carolina certified retirement community, the community shall meet each of the following requirements:

(1) Be located within 50 miles of a hospital and of emergency medical services.
(2) Take steps to gain the support of churches, clubs, businesses, media, and other entities whose participation will increase the Program's success in attracting retirees or potential retirees.
(3) Establish a retiree attraction committee. The retiree attraction committee shall fulfill or create subcommittees to fulfill each of the following:
    a. Conduct a retiree desirability assessment analyzing the community with respect to each of the factors identified by the Department and submit a report of the analysis to the Department.
    b. Send a representative of the retirement attraction committee to attend State training meetings conducted by the Department during the certification process.
    c. Raise funds necessary to run the Program, organize special events, and promote and coordinate the Program with local entities.
    d. Establish a community image, evaluate target markets, and develop a marketing and public relations plan designed to accomplish the purpose of the Program.
    e. Develop a system that identifies and makes contact with existing and prospective retirees, that provides tour guides when prospects visit the community, and that responds to inquiries, logs contacts made, invites prospects to special community events, and maintains continual contact with prospects until the prospect makes a retirement location decision.
(4) Remit an annual fee to the Department, or the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431.01, equal to the lesser of three thousand dollars ($3,000) or the product of fifty cents (50¢) multiplied by the population of the community, as determined by the most recent census.
(5) Submit the completed marketing and public relations plan designed to accomplish the purpose of the Program to the Department.
(6) Submit a long-term plan outlining the steps the community will undertake to maintain or improve its desirability as a destination for retirees, including corrections to any services or facilities identified in the retiree desirability assessment. (2008-188, s. 1; 2011-145, s. 14.3C; 2018-5, s. 15.7(a).)

§ 143B-437.101. North Carolina Certified Retirement Community Program – administration.

(a) Administration and Support. – Upon being certified as a North Carolina certified retirement community, the Department shall provide the following assistance to the community:

(1) Assistance in the training of local Program staff and volunteers.
(2) Ongoing oversight and guidance in marketing and updating on national retirement trends.
(3) Inclusion in the State's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the Department's Web site.
(4) Eligibility for State financial assistance for brochures, support material, and advertising.
(5) An annual evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.

(b) Expiration. – A community's certification under this section expires on the fifth anniversary of the date the initial certification is issued. To be considered for recertification by the Department, an applicant community shall submit the following:

(1) A completed new application in accordance with the requirements of this Part.
(2) Data demonstrating the success or failure of the community's efforts to market and promote itself as a desirable location for retirees and potential retirees.
(3) The annual fee required by G.S. 143B-437.100(d)(4). (2008-188, s. 1; 2011-145, s. 14.3C; 2018-5, s. 15.7(b).)

Part 3. Labor Force Development.

§ 143B-438: Repealed by Session Laws 1981, c. 380, s. 1.

Part 3A. Employment and Training Act of 1985.

§§ 143B-438.1 through 143B-438.6. Repealed by Session Laws 1999-237. s. 16.15(a).

§ 143B-438.7. Reserved for future codification purposes.

§ 143B-438.8. Reserved for future codification purposes.

§ 143B-438.9. Reserved for future codification purposes.

Part 3B. Workforce Development.

§ 143B-438.10. NCWorks Commission.

(a) Creation and Duties. – There is created within the Department of Commerce the NCWorks Commission (hereinafter "Commission"). The Commission shall have the following powers and duties:

(1) To develop strategies to produce a skilled, competitive workforce that meets the needs of the State's changing economy.

(2) To advise the Governor, the General Assembly, State and local agencies, and the business sector regarding policies and programs to enhance the State's workforce by submitting annually a comprehensive report on workforce development initiatives in the State.

(3) To coordinate and develop strategies for cooperation between the academic, governmental, and business sectors.

(4) To establish, develop, and provide ongoing oversight of the "One-Stop Delivery System" for employment and training services in the State.

(5) To develop a unified State plan for workforce training and development.

(6) To review and evaluate the plans and programs of agencies, boards, and organizations operating federally funded or State-funded workforce development programs for effectiveness, duplication, fiscal accountability, and coordination.

(7) To develop and continuously improve performance measures to assess the effectiveness of workforce training and employment in the State. The Commission shall assess and report on the performance of workforce development programs administered by the Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, the Department of Administration, and the Department of Public Instruction in a manner that addresses at least all of the following:

a. Actual performance and costs of State and local workforce development programs.

b. Expected performance levels for State and local workforce development programs based on attainment of program goals and objectives.

c. Program outcomes, levels of employer participation, and satisfaction with employment and training services.

d. Information already tracked through the common follow-up information management system created pursuant to G.S. 96-32, such as demographics, program enrollment, and program completion.

(7a) To issue annual reports that, at a minimum, include the information listed in sub-subdivisions a. through d. of subdivision (7) of this section on the performance of workforce development programs administered by the entities listed in that subdivision. The first annual report shall be delivered to the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee by January 15, 2014.

(8) To submit to the Governor and to the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee by April 1, 2000, and biennially thereafter, a comprehensive Workforce Development Plan that shall include at least the following:

a. Goals and objectives for the biennium.

b. An assessment of current workforce programs and policies.
c. An assessment of the delivery of employment and training services to special populations, such as youth and dislocated workers.
d. Recommendations for policy, program, or funding changes.

(9) To serve as the State's Workforce Investment Board for purposes of the federal Workforce Innovation and Opportunity Act.

(10) To take the lead role in developing the memorandum of understanding for workforce development programs with the Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, and the Department of Administration. The memorandum of understanding must be reviewed at least every five years.

(11) To coordinate the activities of workforce development work groups formed under this Part.

(12) To collaborate with the Department of Commerce on the common follow-up information management system.

(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. – The Commission shall consist of 33 members appointed as follows:

(1) By virtue of their offices, the following persons, or their designees, shall serve on the Commission:
a. The Governor.
b. The Secretary of the Department of Administration.
c. The Secretary of the Department of Commerce.
d. The Secretary of the Department of Health and Human Services.
e. The Superintendent of Public Instruction.
f. The President of the Community Colleges System Office.
g. The President of The University of North Carolina system.

(2) Pursuant to the provisions of section 101 of the Workforce Innovation and Opportunity Act, the Governor shall appoint 26 members as follows:
a. Seventeen members representing business and industry in the State.
b. Seven members representing the workforce in the State.
c. One member representing local elected city officials in the State.
d. One member representing local elected county officials in the State.

(3) Repealed by Session Laws 2015-241, s. 15.11(a), effective July 1, 2015.

(b1) Terms. – The persons listed in subdivision (1) of subsection (b) of this section shall serve on the Commission while they hold their respective offices. The terms of the members appointed by the Governor pursuant to subdivision (2) of subsection (b) of this

section shall be for four years, except as provided in this subsection. The terms shall be staggered and shall begin on November 1 and expire on October 31. Upon the expiration of the term of each member in subdivision (2) of subsection (b) of this section, the Governor shall fill the vacancy by reappointing the member or appointing another person of like qualification to serve a four-year term. If a vacancy occurs for any reason other than the expiration of the member's term, the Governor shall appoint a person of like qualification to serve for the remainder of the unexpired term.

In order to provide for staggered terms, six persons appointed to the positions designated in sub-subdivision a. of subdivision (2) of subsection (b) of this section and three persons appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b) of this section shall be appointed for initial terms ending on October 31, 2019. Five persons appointed to the positions designated in sub-subdivision a. of subdivision (2) of subsection (b) of this section, two persons appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b) of this section, and one person appointed to the position designated in sub-subdivision c. of subdivision (2) of subsection (b) of this section shall be appointed for initial terms ending on October 31, 2017. Six persons appointed to the positions designated in sub-subdivision a. of subdivision (2) of subsection (b) of this section, two persons appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b) of this section, and one person appointed to the position designated in sub-subdivision d. of subdivision (2) of subsection (b) of this section shall be appointed for initial terms ending on October 31, 2016.

(c) Appointment of Chair; Meetings. – The Governor shall appoint the Chair of the Commission from among the business and industry members, and that person shall serve at the pleasure of the Governor. The Commission shall meet at least quarterly upon the call of the Chair.

(d) Staff; Funding. – The clerical and professional staff to the Commission shall be provided by the Department of Commerce. Funding for the Commission shall derive from State and federal resources as allowable and from the partner agencies to the Commission. Members of the Commission shall receive necessary travel and subsistence in accordance with State law.

(e) Agency Cooperation; Reporting. – Each State agency, department, institution, local political subdivision of the State, and any other State-supported entity identified by or subject to review by the Commission in carrying out its duties under subdivision (6) of subsection (a) of this section must participate fully in the development of performance measures for workforce development programs and shall provide to the Commission all data and information available to or within the agency or entity's possession that is requested by the Commission for its review. Further, each agency or entity required to report information and data to the Commission under this section shall maintain true and accurate records of the information and data requested by the Commission. The records shall be open to the Commission's inspection and copying at reasonable times and as often as necessary.

(f) Confidentiality. – At the request of the Commission, each agency or entity subject to this section shall provide it with sworn or unsworn reports with respect to persons

employed or trained by the agency or entity, as deemed necessary by the Commission to carry out its duties pursuant to this section. The information obtained from an agency or entity pursuant to this subsection (i) is not a public record subject to the provisions of Chapter 132 of the General Statutes and (ii) shall be held by the Commission as confidential, unless it is released in a manner that protects the identity and privacy of individual persons and employers referenced in the information.

(g) Advisory Work Group. – The Commission shall appoint an Advisory Work Group composed of representatives from the State and local entities engaged in workforce development activities to assist the Commission with the development of performance measures. (1999-237, s. 16.15(b); 2011-401, s. 1.7; 2012-131, s. 1(a); 2015-241, s. 15.11(a); 2017-57, s. 14.1(q).)

§ 143B-438.11. Local Workforce Development Boards.

(a) Duties. – Local Workforce Development Boards shall have the following powers and duties:

(1) To develop policy and act as the governing body for local workforce development.

(2) To provide planning, oversight, and evaluation of local workforce development programs, including the local One-Stop Delivery System.

(3) To provide advice regarding workforce policy and programs to local elected officials, employers, education and employment training agencies, and citizens.

(4) To develop a local plan in coordination with the appropriate community partners to address the workforce development needs of the service area.

(5) To develop linkages with economic development efforts and activities in the service area and promote cooperation and coordination among public organizations, education agencies, and private businesses.

(6) To review local agency plans and grant applications for workforce development programs for coordination and achievement of local goals and needs.

(7) To serve as the Workforce Investment Board for the designated substate area for the purpose of the federal Workforce Innovation and Opportunity Act.

(7a) To designate through a competitive selection process, by no later than July 1, 2014, the providers of adult and dislocated worker services authorized in the Workforce Innovation and Opportunity Act.

(8) To provide the appropriate guidance and information to Workforce Innovation and Opportunity Act consumers to ensure that they are prepared and positioned to make informed choices in selecting a training provider. Each local Workforce Development Board shall ensure that consumer choice is properly maintained in the one-stop centers and that consumers are provided the full array of public and private training provider information.

(9) To provide coordinated regional workforce development planning and labor market data sharing.

(10) To comply with the performance accountability measures established by the NCWorks Commission pursuant to section 116 of the Workforce Innovation and Opportunity Act.

(11) To comply with the fiscal control and fund accounting procedures established by the NCWorks Commission pursuant to section 184 of the Workforce Innovation and Opportunity Act.

(b) Members. – Members of local Workforce Development Boards shall be appointed by local elected officials in accordance with criteria established by the Governor and with provisions of the federal Workforce Innovation and Opportunity Act. The local Workforce Development Boards shall have a majority of business members and shall also include representation of workforce and education providers, labor organizations, community-based organizations, and economic development boards as determined by local elected officials. The Chairs of the local Workforce Development Boards shall be selected from among the business members.

(c) Assistance. – The NCWorks Commission and the Department of Commerce shall provide programmatic, technical, and other assistance to any local Workforce Development Board that realigns its service area with the boundaries of a local regional council of governments established pursuant to G.S. 160A-470. (1999-237, s. 16.15(b); 2010-31, s. 14.4; 2012-131, s. 3(a); 2013-330, s. 1; 2015-241, s. 15.11(c).)

§ 143B-438.12. Federal Program Administration.

(a) Federal Workforce Innovation and Opportunity Act. – In accordance with the federal Workforce Innovation and Opportunity Act, the NCWorks Commission shall develop a Four-Year Unified State Plan to be submitted to the U.S. Secretary of Labor. The Unified State Plan shall describe the State's strategic vision and goals for preparing an educated and skilled workforce as required in section 102 of the federal Workforce Innovation and Opportunity Act.

(b) Other Workforce Grant Applications. – The NCWorks Commission may submit grant applications for workforce development initiatives and may manage the initiatives and demonstration projects. (1999-237, s. 16.15(b); 2015-241, s. 15.11(g).)

§ 143B-438.13. Employment and Training Grant Program.

(a) Employment and Training Grant Program. – There is established in the Department of Commerce, Division of Workforce Solutions, an Employment and Training Grant Program. Grant funds shall be allocated to local Workforce Development Boards for the purposes of enabling recipient agencies to implement local employment and training programs in accordance with existing resources, local needs, local goals, and selected training occupations. The State program of workforce performance standards shall be used to measure grant program outcomes.

(b) Use of Grant Funds. – Local agencies may use funds received under this section for the purpose of providing services, such as training, education, placement, and supportive services. Local agencies may use grant funds to provide services only to individuals who are (i) 18 years of age or older and meet the federal Workforce Innovation and Opportunity Act, title I adult eligibility definitions, or meet the federal Workforce Innovation and Opportunity Act, title I dislocated worker eligibility definitions, or (ii)

incumbent workers with annual family incomes at or below two hundred percent (200%) of poverty guidelines established by the federal Department of Health and Human Services.

(c) Allocation of Grants. – The Department of Commerce may reserve and allocate up to ten percent (10%) of the funds available to the Employment and Training Grant Program for State and local administrative costs to implement the Program. The Division of Workforce Solutions shall allocate employment and training grant funds to local Workforce Development Boards serving federal Workforce Innovation and Opportunity Act local workforce development areas based on the following formula:

(1) One-half of the funds shall be allocated on the basis of the relative share of the local workforce development area's share of federal Workforce Innovation and Opportunity Act, title I adult funds as compared to the total of all local areas adult shares under the federal Workforce Innovation and Opportunity Act, title I.

(2) One-half of the funds shall be allocated on the basis of the relative share of the local workforce development area's share of federal Workforce Innovation and Opportunity Act, title I dislocated worker funds as compared to the total of all local areas dislocated worker shares under the federal Workforce Innovation and Opportunity Act, title I.

(3) Local workforce development area adult and dislocated shares shall be calculated using the current year's allocations to local areas under the federal Workforce Innovation and Opportunity Act, title I.

(d) Repealed by Session Laws 2009-451, s. 14.5(d), effective July 1, 2009.

(e) Nonreverting Funds. – Funds appropriated to the Department of Commerce for the Employment and Training Grant Program that are not expended at the end of the fiscal year shall not revert to the General Fund, but shall remain available to the Department for the purposes established in this section. (1999-237, s. 16.15(b); 2009-451, s. 14.5(d); 2015-241, s. 15.11(h).)

§ 143B-438.14. "No Adult Left Behind" Initiative.

(a) The NCWorks Commission, acting as the lead agency, with the cooperation of other participating agencies, including the Department of Labor, the Department of Commerce, the Employment Security Commission, the North Carolina Community College System, The University of North Carolina, and the North Carolina Independent Colleges and Universities shall initiate the "No Adult Left Behind" Initiative (Initiative) geared toward achievement of major statewide workforce development goals. The Initiative may also include community-based nonprofit organizations that provide services or assistance in the areas of worker training, workforce development, and transitioning North Carolinians between industries in the current global labor market.

(b) The first goal of the Initiative is to increase dramatically to forty percent (40%) the percentage of North Carolinians who earn associate degrees, other two-year educational credentials, and baccalaureate degrees. Specific fields of study may be selected for the most intense efforts. The NCWorks Commission shall, as the lead agency along with the North Carolina Community College System and The University of North Carolina as key cooperating institutions, do all of the following:

(1) Collaborate to provide model evening-weekend certificate and degree programs designed specifically for working adults and other nontraditional students.
(2) Work together to promote systemic changes designed to increase access and foster success among adult workers and other nontraditional students.
(3) Make it a priority to provide model evening-weekend certificate and degree programs in high-demand disciplines, occupations, and fields closely linked to economic development or that are the focus of public initiatives.

(c) The NCWorks Commission and the other lead participating institutions may enter into contracts with other qualified organizations, especially community-based nonprofits, to carry out components of the Initiative set forth in subsection (b) of this section.

(d) The NCWorks Commission shall submit to the Governor and to the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee by May 1, 2012, and annually thereafter, details of its implementation of this section that shall include at least the following:
(1) Goals, objectives, and accomplishments for the year toward implementation of this section.
(2) An assessment of current adult educational programs to expand economic opportunities for adult workers as outlined by this section.
(3) Recommendations for policy, program, or funding changes to effectuate the workforce development, adult education, and economic development goals set forth in this section. (2011-327, ss. 2, 3(a)-(c); 2015-241, s. 15.11(i); 2017-57, s. 14.1(q).)

Part 3C. Trade Jobs for Success.

§§ 143B-438.15 through 143B-438.17: Repealed by Session Laws 2015-241, s. 15.12, effective July 1, 2015.

Part 4. Credit Union Commission.

§ 143B-439. Credit Union Commission.

(a) There shall be created in the Department of Commerce a Credit Union Commission which shall consist of seven members. The members of the Credit Union Commission shall elect one of its members to serve as chairman of the Commission to serve for a term to be specified by the Commission. On the initial Commission three members shall be appointed by the Governor for terms of two years and three members shall be appointed by the Governor for terms of four years. Thereafter all members of the Commission shall be appointed by the Governor for terms of four years. The Governor shall appoint the seventh member for the same term and in the same manner as the other six members are appointed. In the event of a vacancy on the Commission the Governor shall appoint a successor to serve for the remainder of the term. Three members of the Commission shall be persons who have had three years' or more experience as a credit union director or in management of state-chartered credit unions. At least four members shall be appointed as representatives of the borrowing public and may be members of a credit union but shall not be

employees of, or directors of any financial institution or have any interest in any financial institution other than as a result of being a depositor or borrower. No two persons on the Commission shall be residents of the same senatorial district. No person on the Commission shall be on a board of directors or employed by another type of financial institution. The Commission shall meet at least every six months, or more often upon the call of the chairman of the Credit Union Commission or any three members of the Commission. A majority of the members of the Commission shall constitute a quorum. The members of the Commission shall be reimbursed for expenses incurred in the performance of their duties under this Chapter as prescribed in G.S. 138-5. In the event that the composition of the Commission on April 30, 1979, does not conform to that prescribed in the preceding sentences, such composition shall be corrected thereafter by appropriate appointments as terms expire and as vacancies occur in the Commission; provided that no person shall serve on the Commission for more than two complete consecutive terms.

(b) The relationship between the Secretary of Commerce and the Credit Union Commission shall be as defined for a Type II transfer under this Chapter.

(c) The Credit Union Commission is hereby vested with full power and authority to review, approve, or modify any action taken by the Administrator of Credit Unions in the exercise of all powers, duties, and functions vested by law in or exercised by the Administrator of Credit Unions under the credit union laws of this State.

An appeal may be taken to the Commission from any finding, ruling, order, decision or the final action of the Administrator by any credit union which feels aggrieved thereby. Notice of such appeal shall be filed with the chairman of the Commission within 30 days after such finding, ruling, order, decision or other action, and a copy served upon the Administrator. Such notice shall contain a brief statement of the pertinent facts upon which such appeal is grounded. The Commission shall fix a date, time and place for hearing said appeal, and shall notify the credit union or its attorney of record thereof at least 30 days prior to the date of said hearing. (1971, c. 864, s. 17; 1973, cc. 97, 1254; 1975, c. 709, ss. 4-6; 1977, c. 198, s. 26; 1979, c. 478, s. 3; 1989, c. 751, ss. 7(36), 8(22); 1991 (Reg. Sess., 1992), c. 959, s. 63.)

Part 5. North Carolina Board of Science and Technology.

§§ 143B-440 through 143B-441: Recodified as §§ 143B-426.30, 143B-426.31 by Session Laws 1985, c. 757, s. 179(c).

Part 6. North Carolina Science and Technology Research Center.

§ 143B-442. Creation of Center.

There is hereby created the "North Carolina Science and Technology Research Center" at the Research Triangle. (1963, c. 846, s. 1; 1967, c. 69; 1977, c. 198, s. 26.)

§ 143B-443. Administration by Department of Commerce.

The activities of the North Carolina Science and Technology Research Center will be administered by the Department of Commerce. (1963, c. 846, s. 2; 1967, c. 69; 1977, c. 198, ss. 3, 4, 26; 1979, c. 668, s. 3; 1989, c. 751, s. 7(37); 1991 (Reg. Sess., 1992), c. 959, s. 64.)

§ 143B-444. Acceptance of funds.

The North Carolina Science and Technology Research Center is authorized and empowered to accept funds from private sources and from governmental and institutional agencies to be used for

construction, operation and maintenance of the Center. (1963, c. 846, s. 4; 1967, c. 69; 1977, c. 198, s. 26.)

§ 143B-445. Applicability of Executive Budget Act.

The North Carolina Science and Technology Research Center is subject to the provisions of Article 1, Chapter 143, of the General Statutes of North Carolina. (1963, c. 846, s. 5; 1967, c. 69; 1977, c. 198, s. 26.)

Part 7. North Carolina National Park, Parkway and Forests Development Council.

§§ 143B-446 through 143B-447.1: Recodified as §§ 143B-324.1 through 143B-324.3 by Session Laws 1997-443, s. 15.36(b).

Part 8. Energy Division.

§§ 143B-448 through 143B-450.1: Repealed by Session Laws 2000-140, s. 76.

Part 9. Navigation and Pilotage Commissions.

§ 143B-451. Navigation and pilotage commissions.

The Board of Commissioners of Navigation and Pilotage for the Cape Fear River as provided for by G.S. 76-1, and the Board of Commissioners of Navigation and Pilotage for Old Topsail Inlet and Beaufort Bar as provided for by G.S. 76-59 are hereby transferred to the Department of Commerce. All powers, duties and authority of the Board of Commissioners of Navigation and Pilotage for the Cape Fear River and Bar and the Board of Commissioners of Navigation and Pilotage for Old Topsail Inlet and Beaufort Bar, as provided for in Chapter 76 of the General Statutes, shall continue to vest in the boards, as now provided by statute, independently of the direction, supervision, and control of the Secretary of Commerce. The commissions shall report their activity to the Governor through the Secretary of Commerce. The appointment to the boards shall continue to be made in the manner as provided by Chapter 76 of the General Statutes. (1975, c. 716, s. 1; 1977, c. 65, s. 4; c. 198, s. 26; 1989, c. 751, s. 8(24); 1991 (Reg. Sess., 1992), c. 959, s. 69.)

Part 10. North Carolina State Ports Authority.

§§ 143B-452 through 143B-467: Recodified as Article 20 of Chapter 136, G.S. 136-260 through G.S. 136-275, by Session Laws 2011-145, s. 14.6(b), effective July 1, 2011.

§ 143B-468: Reserved for future codification purposes.

Part 11. North Carolina Ports Railway Commission.

§§ 143B-469 through 143B-469.3: Repealed.

§ 143B-469.1. Repealed by Session Laws 2002-126, s. 6.6(a)-(f).

§ 143B-469.2. Repealed by Session Laws 2002-126, s. 6.6(a)-(f).

§ 143B-469.3. Repealed by Session Laws 2002-126 s. 6.6(a)-(f).

Part 11A. North Carolina Hazardous Waste Treatment Commission.

§§ 143B-470 through 143B-470.6: Repealed by Session Laws 1989, c. 168, s. 2(a).

Part 12. North Carolina Technological Development Authority.

§§ 143B-471 through 143B-471.5: Repealed by Session Laws 1991, c. 689, s. 154.1(f).

Part 13. Mutual Burial Associations.

§§ 143B-472 through 143B-472.1: Repealed by Session Laws 1997-313, s. 2.

§§ 143B-472.2 through 143B-472.29: Recodified as present G.S. 90-210.80 through 90-210.107 in Article 13E of Chapter 90, by Session Laws 2003-420, s. 17(b), effective October 1, 2003.

Part 14. Business Energy Improvement Program.

§§ 143B-472.30 through 143B-472.34: Repealed by Session Laws 2000-140, s. 76.

Part 15. Main Street Solutions.

§ 143B-472.35. Establishment of fund; use of funds; application for grants; disbursal; repayment; inspections; rules; reports.

(a) A fund to be known as the Main Street Solutions Fund is established in the Department of Commerce. This Fund shall be administered by the Department of Commerce. The Department of Commerce shall be responsible for receipt and disbursement of all funds as provided in this section. Interest earnings shall be credited to the Main Street Solutions Fund.

(a1) The Main Street Solutions Fund is a reimbursable, matching grant program. The Department of Commerce and the North Carolina Main Street Center are authorized to award grants from the Main Street Solutions Fund totaling not more than two hundred thousand dollars ($200,000) to each eligible local government. Funds from eligible local governments, main street organizations, downtown organizations, downtown economic development organizations, and sources other than the State or federal government must be committed to match the amount of any grant from the Main Street Solutions Fund on the basis of a minimum of two non-State dollars ($2.00) for every one dollar ($1.00) provided by the State from the Main Street Solutions Fund.

(a2) Definitions. – For purposes of this section, the following definitions shall apply:

(1) Active North Carolina main street community. – A community in a Tier 1, 2, or 3 county that has been selected by the Department of Commerce to participate in the Main Street Program or the Small Town Main Street Program and that meets the reporting and eligibility requirements of the respective Program.

(2) Designated downtown area. – A designated area within a community that is considered the primary, traditional downtown business district of the community.

(3) Designated micropolitan. – A geographic entity containing an urban core and having a population of between 10,000 and 50,000 people, according to the most recent federal decennial census.

(4) Downtown economic development organization. – An agency that is part of a public-private partnership intended to develop and recruit business opportunities or to undertake economic development projects that will create jobs.

(5) Downtown organization. – An agency that is part of a public-private partnership on the local level and whose core mission is to revitalize a traditional downtown business district.

(6) Eligible local government. – A municipal government that is located in a designated micropolitan or an active North Carolina main street community.

(7) Historic properties. – Properties that have been designated as historically significant by the National Register of Historic Places or a local historic properties commission.

(8) Interlocal small business economic development project. – A project or group of projects in a cluster of communities or counties or in a region that share a common economic development strategy for small business growth and job creation.

(9) Main Street Center. – The agency within the North Carolina Department of Commerce which receives applications and makes decisions with respect to Main Street Solutions Fund grant applications from eligible local governments.

(10) Main Street Organization. – An agency working in a public-private partnership on the local level, guided by a professional downtown manager, board of directors, or revitalization committee, and charged with administering the local Main Street Program initiative and facilitating revitalization initiatives in the traditional downtown business district through appropriate design, promotion, and economic restructuring activities.

(11) Main Street Program. – The program developed by the National Trust for Historic Preservation to promote downtown revitalization through economic development within the context of historic preservation.

(12) Mixed-use centers. – Areas zoned and developed for a mix of uses, including retail, service, professional, governmental, institutional, and residential.

(13) Private investment. – A project or group of projects in a designated downtown area that will spur private investment and improve property. A project must be owned and maintained by a private entity and must provide a direct benefit to small businesses.

(14) Public improvements and public infrastructure. – The improvement of property or infrastructure that is owned and maintained by a city or county.

(15) Revolving loan programs for private investment. – A property redevelopment or small business assistance fund that is administered on the local level and that may be used to stabilize or appropriately redevelop properties located in the downtown area in connection with private investment or that may be used to

provide necessary operating capital for small business creation or expansion in connection with private investment in a designated downtown area.

(16) Small business. – An independently owned and operated business with less than 100 employees and with annual revenues of less than six million dollars ($6,000,000).

(17) Small Town Main Street Program. – A program based upon the Main Street Program developed by the National Trust for Historic Preservation to promote downtown revitalization through economic development within the context of historic preservation. The purpose of the Small Town Main Street Program is to provide guidance to local communities that have a population of less than 7,500 and do not have a downtown manager.

(18) Tier 1, 2, or 3 counties. – North Carolina counties annually ranked by the Department of Commerce based upon the counties' economic well-being and assigned a Tier designation. The 40 most distressed counties are designated as Tier 1, the next 40 as Tier 2, and the 20 least distressed as Tier 3.

(a3) The purpose of the Main Street Program is to provide economic development planning assistance and coordinated grant support to designated micropolitans located in Tier 2 and 3 counties and to active North Carolina main street communities. To achieve the purposes of the Main Street Program, the Main Street Center shall develop criteria for community participation and shall provide technical assistance and strategic planning support to eligible local governments. Local governments, in collaboration with a main street organization, downtown organization, or downtown economic development organization, and the small businesses that will directly benefit from these funds may apply for grants from the Main Street Solutions Fund as provided in this section.

(a4) The Secretary of Commerce, through the Main Street Center, shall award grants from the Main Street Solutions Fund to eligible designated micropolitans and active North Carolina main street communities. Grant funds awarded from the Main Street Solutions Fund shall be used as provided by the provisions of this section and any rules or regulations adopted by the Secretary of Commerce.

(b) Funds in the Main Street Solutions Fund shall be available only to designated micropolitans in Tier 2 and 3 counties and to active North Carolina main street communities in the State. Funds in the Main Street Solutions Fund shall be used for any of the following eligible activities:

(1) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(1a) Downtown economic development initiatives that do any of the following:

a. Encourage the development or redevelopment of traditional downtown areas by increasing the capacity for mixed-use centers of activity within downtown core areas. Funds may be used to support the rehabilitation of properties, utility infrastructure improvements, new construction, and the development or redevelopment of parking lots or facilities. Projects under this sub-subdivision must foster private investment and provide direct benefit to small business retention, expansion, or recruitment.

b. Attract and leverage private-sector investments and entrepreneurial growth in downtown areas through strategic planning efforts, market

studies, and downtown master plans in association with direct benefit to small business retention, expansion, or recruitment.

c. Attract and stimulate the growth of business professionals and entrepreneurs within downtown core areas.

d. Establish revolving loan programs for private investment and small business assistance in downtown historic properties.

e. Encourage public improvement projects that are necessary to create or stimulate private investment in the designated downtown area and provide a direct benefit to small businesses.

(2) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(2a) Historic preservation initiatives outside of downtown core areas that enhance: (i) community economic development and small business retention, expansion, or recruitment; and (ii) regional or community job creation.

(3) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(3a) Public improvements and public infrastructure outside of downtown core areas that are consistent with sound municipal planning and that support community economic development, small business retention, expansion, or recruitment, and regional or community job creation.

(4) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(4a) Interlocal small business economic development projects designed to enhance regional economic growth and job creation.

(5)-(7) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(c) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(c1) The application shall include each of the following:

(1) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(1a) The proposed activities for which the funds are to be used and the projected cost of the project.

(2) The amount of grant funds requested for these activities.

(3) Projections of the dollar amount of public and private investment that are expected to occur in the designated micropolitan or designated downtown area as a direct result of the proposed activities.

(4) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(5) An explanation of the nature of the private investment in the designated micropolitan or designated downtown area that will result from the proposed activities.

(6) Projections of the time needed to complete the proposed activities.

(7) Projections of the time needed to realize the private investment that is expected to result from the proposed activities.

(8) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(9) Any additional or supplemental information requested by the Division.

(d) A local government whose application is denied may file a new or amended application.

(e) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(f) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.

(g) (1) A local government that has been selected to receive a grant shall use the full amount of the grant for the activities that were approved pursuant to the

provisions of this section. Funds are deemed used if the local government is legally committed to spend the funds on the approved activities.

(2) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(3) A local government that fails to satisfy the condition set forth in subdivision (1) of this subsection shall lose any funds that have not been used within three years of being selected. These unused funds shall be credited to the Main Street Solutions Fund. A local government that fails to satisfy the conditions set forth in subdivision (1) of this subsection may file a new application.

(4) Any funds repaid or credited to the Main Street Solutions Fund pursuant to subdivision (3) of this subsection shall be available to other applicants as long as the Main Street Solutions Fund is in effect.

(h) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.

(i) After a project financed pursuant to this section has been completed, the local government shall report the actual cost of the project to the Department of Commerce.

(j) Inspection of a project for which a grant has been awarded may be performed by personnel of the Department of Commerce. No person may be approved to perform inspections who is an officer or employee of the unit of local government to which the grant was made or who is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the construction of any project for which the grant was made.

(k) The Department of Commerce may adopt, modify, and repeal rules establishing the procedures to be followed in the administration of this section and regulations interpreting and applying the provisions of this section, as provided in the Administrative Procedure Act.

(*l*) The Department of Commerce and local governments that have been selected to receive a grant from the Main Street Solutions Fund shall prepare and file on or before September 1 of each year with the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee and the Fiscal Research Division a consolidated report for the preceding fiscal year concerning the allocation of grants authorized by this section.

The portion of the annual report prepared by the Department of Commerce shall set forth for the preceding fiscal year itemized and total allocations from the Main Street Solutions Fund for grants. The Department of Commerce shall also prepare a summary report of all allocations made from the fund for each fiscal year; the total funds received and allocations made and the total unallocated funds in the Fund.

The portion of the report prepared by the local government shall include each of the following:

(1) The total amount of public and private funds that was committed and the amount that was invested in the designated micropolitan or designated downtown area during the preceding fiscal year.

(2) Repealed by Session Laws 2010-31, s. 14.6A, effective July 1, 2010.

(3) The total amount of grants received from the Main Street Solutions Fund during the preceding fiscal year.

(4) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.

(5) A description of how the grant funds and funds from public and private investors were used during the preceding fiscal year.

(6) Details regarding the types of private investment created or stimulated, the dates of this activity, the amount of public money involved, and any other pertinent information, including any jobs created, businesses started, and number of jobs retained due to the approved activities.

(m) The Department of Commerce may annually use up to seventy-five thousand dollars ($75,000) of the funds in the Main Street Solutions Fund for expenses related to the administration of the Fund. (1989, c. 751, s. 9(c); c. 754, ss. 40(b)-(m); 1991, c. 689, s. 140(a); 1991 (Reg. Sess., 1992), c. 959, s. 72; 1993, c. 553, ss. 50, 51; 1997-456, s. 27; 2009-451, s. 14.10; 2010-31, s. 14.6A; 2015-241, s. 15.4(e); 2017-57, s. 14.1(s).)

§§ 143B-472.36 through 143B-472.39. Reserved for future codification purposes.

Part 16. Information Technology Related State Government Functions.

§§ 143B-472.40 through 143B-472.67: Repealed by Session Laws 2000-174, s. 1.

§ 143B-472.68. Reserved for future codification purposes.

§ 143B-472.69. Reserved for future codification purposes.

Part 17. Electronic Procurement in Government.

§ 143B-472.70: Recodified as § 143-48.3 by Session Laws 2000-140, s. 5.95(a).

§§ 143B-472.71 through 143B-472.79: Reserved for future codification purposes.

Part 18. North Carolina Board of Science, Technology, and Innovation.

§ 143B-472.80. North Carolina Board of Science, Technology, and Innovation; creation; powers and duties.

The North Carolina Board of Science, Technology, and Innovation of the Department of Commerce is created. The Board has the following powers and duties:

(1) To identify, and to support and foster the identification of, important research needs of both public and private agencies, institutions and organizations in North Carolina that relate to the State's economic growth and development;

(2) To make recommendations concerning policies, procedures, organizational structures and financial requirements that will promote effective use of scientific and technological resources in fulfilling the research needs identified and that will promote the economic growth and development of North Carolina;

(3) To allocate funds available to the Board to support research projects, to purchase research equipment and supplies, to construct or modify research facilities, to employ consultants, and for other purposes necessary or appropriate in discharging the duties of the Board;

(4) To advise and make recommendations to the Governor, the General Assembly, the Secretary of Commerce, and any North Carolina nonprofit corporation with which the Department of Commerce contracts pursuant to G.S. 143B-431.01 on the role of science, technology, and innovation in the economic growth and development of North Carolina.

(5) Repealed by Session Laws 2009-451, s. 14.5(g), effective July 1, 2009. (1973, c. 1262, s. 77; 1977, c. 198, ss. 2, 26; 1979, c. 668, s. 1; 1985, c. 757, s. 179(a), (c); 2001-424, s. 7.6; 2001-486, s. 2.21; 2003-210, s. 1; 2005-276, s. 13.15; 2005-345, s. 25; 2009-451, s. 14.5(g); 2014-18, s. 2.1.)

§ 143B-472.81. North Carolina Board of Science, Technology, and Innovation; membership; organization; compensation; staff services.

(a) The North Carolina Board of Science, Technology, and Innovation consists of the Governor, the Secretary of Commerce, and 23 members appointed as follows: the Governor shall appoint one member from the University of North Carolina at Chapel Hill, one member from North Carolina State University at Raleigh, and two members from other components of the University of North Carolina, one of which shall be from a historically black college or university, all nominated by the President of the University of North Carolina; one member from Duke University, nominated by the President of Duke University; one member from a private college or university, other than Duke University, in North Carolina, nominated by the President of the Association of Private Colleges and Universities; one member of the North Carolina Community College System; one member representing K-12 public education; six members from private industry in North Carolina; and seven at-large members. Two members shall be appointed by the General Assembly, one shall be appointed upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. The nominating authority for any vacancy on the Board among members appointed by the Governor shall submit to the Governor two nominations for each position to be filled, and the persons so nominated shall represent different disciplines.

(b) Members appointed to the Board by the General Assembly shall serve for two-year terms beginning 1 July of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. The two members from public agencies shall serve for terms expiring at the end of the term of the Governor appointing them. The other 13 members appointed to the Board by the Governor shall serve for four-year terms, and until their successors are appointed and qualified. Of those 13 members, six shall serve for terms that expire on 30 June of years that follow by one year those years that are evenly divisible by four, and seven shall serve for terms that expire on 30 June of years that follow by three years those years that are evenly divisible by four. Any appointment to fill a vacancy on the Board created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(c) The Governor or the Governor's designee shall serve as chair of the Board. The vice-chair and the secretary of the Board shall be designated by the Governor or the Governor's designee from among the members of the Board.

(d) The Governor may remove any member of the Board from office in accordance with the provisions of G.S. 143B-16.

(e) Members of the Board who are employees of State agencies or institutions shall receive subsistence and travel allowances authorized by G.S. 138-6. Legislative members of the Board shall receive subsistence and travel allowances authorized by G.S. 120-3.1.

(f) A majority of the Board constitutes a quorum for the transaction of business.

(g) The Secretary of Commerce shall provide all clerical and other services required by the Board. (1979, c. 668, s. 1; 1981 (Reg. Sess., 1982), c. 1191, ss. 44-46; 1985, c. 757, s. 179(b), (c); 1989, c. 751, s. 8(17); 1991, c. 573, s. 1; 1995, c. 490, s. 46; 2001-424, s. 7.6; 2001-486, s. 2.21; 2014-18, s. 2.1.)

§ 143B-472.82. Reserved for future codification purposes.

§ 143B-472.83. Reserved for future codification purposes.

§ 143B-472.84. Reserved for future codification purposes.

Part 19. Small Business Contractor Act. (Expired).

§§ 143B-472.85 through 143B-472.97: Expired.

§ 143B-472.98. Reserved for future codification purposes.

§ 143B-472.99. Reserved for future codification purposes.

Part 20. Small Business Contractor Act.

§§ 143B-472.100 through 143B-472.112: Repealed by Session Laws 2014-120, s. 1(a), effective September 18, 2014.

§ 143B-472.113. Reserved for future codification purposes.

§ 143B-472.114. Reserved for future codification purposes.

§ 143B-472.115. Reserved for future codification purposes.

§ 143B-472.116. Reserved for future codification purposes.

§ 143B-472.117. Reserved for future codification purposes.

§ 143B-472.118. Reserved for future codification purposes.

§ 143B-472.119. Reserved for future codification purposes.

§ 143B-472.120. Reserved for future codification purposes.

Part 21. North Carolina Energy Assistance Act for Low-Income Persons.

§§ 143B-472.121 through 143B-472.123: Recodified as Part 34 of Article 7 of Chapter 143B, G.S. 143B-344.48 through G.S. 143B-344.50, by Session Laws 2013-360, s. 15.22(j), effective July 1, 2013.

§ 143B-472.124: Reserved for future codification purposes.

§ 143B-472.125: Reserved for future codification purposes.

Part 22. Rural Economic Development Division.

§ 143B-472.126. Rural Economic Development Division created.

There is hereby created in the Department of Commerce a division to be known as the Rural Economic Development Division. The Secretary shall appoint an Assistant Secretary to administer this Division, who shall be subject to the direction and supervision of the Secretary. The Assistant Secretary, subject to the approval of the Secretary, shall select a professional staff of qualified and competent employees to assist in the administration of the duties and responsibilities prescribed in this Part. (2013-360, s. 15.10(a).)

§ 143B-472.127. Programs administered.

(a) The Rural Economic Development Division shall be responsible for administering the program whereby economic development grants or loans are awarded by the Rural Infrastructure Authority as provided in G.S. 143B-472.128 to local government units. The Rural Infrastructure Authority shall, in awarding economic development grants or loans under the provisions of this subsection, give priority to local government units of the counties that have one of the 80 highest rankings under G.S. 143B-437.08. The funds available for grants or loans under this program may be used as follows:

(1) To construct critical water and wastewater facilities or to provide other infrastructure needs, including, but not limited to, natural gas, broadband, and rail to sites where these facilities will generate private job-creating investment. The grants under this subdivision shall not be subject to the provisions of G.S. 143-355.4.

(2) To provide matching grants or loans to local government units located in either (i) a development tier one or tier two area or (ii) a rural census tract in 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.

(3) Recipients of grant funds under this Part shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The cash match shall come from local resources and may not be derived from other State or federal grant funds.

(4) In awarding grants under this Part, preference shall be given to a project involving a resident company. For purposes of this Part, the term "resident company" means a company that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State. An application for a project that serves an economically distressed area shall have priority over a project that does not. A grant to assist with water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

(5) Under no circumstances shall a grant for a project be awarded in excess of twelve thousand five hundred dollars ($12,500) per projected job created or saved.

(b) In addition to the duties under subsection (a) of this section, the Rural Economic Development Division shall also be responsible for (i) administering the program whereby local government units are awarded funds by the Rural Infrastructure Authority from the Utility Account under G.S. 143B-437.01 and (ii) administering the program whereby local government units are awarded funds by the Rural Infrastructure Authority for economic development projects from community development block grant funds.

(c) The Rural Economic Development Division may make recommendations to the Rural Infrastructure Authority as to any matters related to the administration of the programs under subsections (a) and (b) of this section. (2013-360, s. 15.10(a); 2013-363, s. 5.13(a); 2014-90, s. 6; 2014-100, s. 15.10; 2018-5, s. 15.2(c).)

§ 143B-472.128. Rural Infrastructure Authority created; powers.

(a) Creation. – The Rural Infrastructure Authority is created within the Department of Commerce.

(b) Membership. – The Authority shall consist of 16 members who shall be appointed as follows:

(1) The Secretary of Commerce, who shall serve as a nonvoting ex officio member, except in the case of a tie.

(2) Five members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and they shall each represent a Tier 1 or Tier 2 county.

(3) Five members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and they shall each represent a Tier 1 or Tier 2 county.

(4) Five members appointed by the Governor, and they shall each represent a Tier 1 or Tier 2 county.

(c) Terms. – Members shall serve for a term of three years, except for initial terms as provided in this section. No member of the Authority shall serve for more than two consecutive terms, but a person who has been a member for two consecutive terms may be reappointed after being off the Authority for a period of at least three years. An initial term

that is two years or less shall not be counted in determining the limitation on consecutive terms. Initial terms shall commence on July 1, 2013.

In order to provide for staggered terms, two persons appointed to the positions designated in subdivision (b)(2) of this section, one person appointed to the positions designated in subdivision (b)(3) of this section, and two persons appointed to the positions designated in subdivision (b)(4) of this section shall be appointed for initial terms ending on June 30, 2014. One person appointed to the positions designated in subdivision (b)(2) of this section, two persons appointed to the positions designated in subdivision (b)(3) of this section, and two persons appointed to the positions designated in subdivision (b)(4) of this section shall be appointed for initial terms ending on June 30, 2015. Two persons appointed to the positions designated in subdivision (b)(2) of this section, two persons appointed to the positions designated in subdivision (b)(3) of this section, and one person appointed to the positions designated in subdivision (b)(4) of this section shall be appointed for initial terms ending on June 30, 2016.

(d) Officers. – The Authority members shall select from among the membership of the Authority a person to serve as chair and vice-chair. The chair and vice-chair shall each serve for a term of one year, but may be re-elected to serve successive terms.

(e) Compensation. – Authority members shall receive no salary as a result of serving on the Authority, but are entitled to per diem and allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) Meetings. – The Secretary shall convene the first meeting of the Authority within 30 days after the appointment of Authority members under subsection (b) of this section. Meetings shall be held as necessary as determined by the Authority.

(g) Quorum. – A majority of the members of the Authority constitutes a quorum for the transaction of business. A vacancy in the membership of the Authority does not impair the right of the quorum to exercise all rights and to perform all duties of the Authority.

(h) Vacancies. – A vacancy on the Authority shall be filled in the same manner in which the original appointment was made, and the term of the member filling the vacancy shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(i) Removal. – Members may be removed in accordance with G.S. 143B-13. A member who misses three consecutive meetings of the Authority may be removed for nonfeasance.

(j) Powers and Duties. – The Authority has the following powers and duties:

(1) To receive and review applications from local government units for grants or loans authorized under G.S. 143B-472.127.

(2) To award grants or loans as provided in G.S. 143B-472.127. In awarding grants or loans under G.S. 143B-472.127(a), priority shall be given to local government units of the counties that have one of the 80 highest rankings under G.S. 143B-437.08.

(3) To formulate policies and priorities for grant and loan making under G.S. 143B-472.127, which shall include, among other things, providing for (i) at least four grant application cycles during each fiscal year, (ii) the timely distribution of grants and loans so as to allow local government units to

undertake infrastructure and other projects authorized under this Part without undue delay, and (iii) the use of federal funds first instead of General Fund appropriations where the project meets federal requirements or guidelines.

(4) To establish a threshold amount for emergency grants and loans that may be awarded by the Assistant Secretary without the prior approval of the Authority. Any emergency grants or loans awarded by the Assistant Secretary pursuant to this subdivision shall meet the requirements of G.S. 143B-472.127(a) or (b), and shall comply with policies and procedures adopted by the Authority. The Assistant Secretary shall, as soon as practicable, inform the Authority of any emergency grants or loans made under this subdivision, including the name of the local government unit to which the grant or loan was made, the amount of the grant or loan, and the project for which the grant or loan was requested.

(5) To determine ways in which the Rural Economic Development Division can aid local government units in meeting the costs for preliminary project planning needed for making an application for a grant or loan under G.S. 143B-472.127.

(6) To determine ways in which the Rural Economic Development Division can effectively disseminate information to local government units about the availability of grants or loans under G.S. 143B-472.127, the application and review process, and any other information that may be deemed useful to local government units in obtaining grants or loans.

(7) To review from time to time the effectiveness of the grant or loan programs under G.S. 143B-472.127 and to determine ways in which the programs may be improved to better serve local government units.

(8) No later than September 1 of each year, to submit a report to the Senate Appropriations Committee on Natural and Economic Resources, the House Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division that details all of the following:

a. Total number of awards made in the previous fiscal year.

b. Geographic display of awards made.

c. Total number of jobs created in the previous fiscal year.

d. Recommended policy changes that would benefit economic development in rural areas of the State. (2013-360, s. 15.10(a); 2013-363, s. 5.13(b); 2018-5, s. 15.2(d).)

§ 143B-472.129: Reserved for future codification purposes.

§ 143B-472.130: Reserved for future codification purposes.

§ 143B-472.131: Reserved for future codification purposes.

§ 143B-472.132: Reserved for future codification purposes.

§ 143B-472.133: Reserved for future codification purposes.

§ 143B-472.134: Reserved for future codification purposes.

Article 11.

Department of Crime Control and Public Safety.

Part 1. General Provisions.

§ 143B-473: Repealed by Session Laws 2011-145, s. 19.1(u), as amended by Session Laws 2011-391, s. 43(h), effective January 1, 2012.

§ 143B-474: Repealed by Session Laws 2011-145, s. 19.1(u), as amended by Session Laws 2011-391, s. 43(h), effective January 1, 2012.

§ 143B-475: Repealed by Session Laws 2011-145, s. 19.1(u), as amended by Session Laws 2011-391, s. 43(h), effective January 1, 2012.

§ 143B-475.1: Recodified as § 143B-262.4 by Session Laws 2001-487, s. 91(a).

§ 143B-475.2: Repealed by Session Laws 2010-31, s. 17.1(b), effective July 1, 2010.

§ 143B-476: Repealed by Session Laws 2011-145, s. 19.1(u), as amended by Session Laws 2011-391, s. 43(h), effective January 1, 2012.

Part 2. Crime Control Division.

§ 143B-477: Recodified as G.S. 143B-1103, effective January 1, 2012.

Part 3. Governor's Crime Commission.

§§ 143B-478 through 143B-480: Recodified as G.S. 143B-1100 through G.S. 143B-1102, effective January 1, 2012.

Part 3A. Assistance Program for Victims of Rape and Sex Offenses.

§ 143B-480.1: Recodified as G.S. 143B-1200, effective January 1, 2012.

§ 143B-480.2: Repealed by Session Laws 2009-354, s. 1(a), effective July 27, 2009.

§ 143B-480.3: Recodified as G.S. 143B-1201, effective January 1, 2012.

Part 4. State Fire Commission.

§§ 143B-481 through 143B-485. Recodified as §§ 58-27.30 to 58-27.34 by Session Laws 1985, c. 757, s. 167(b), effective July 15, 1985.

§§ 143B-486 through 143B-489. Reserved for future codification purposes.

Part 5. Civil Air Patrol.

§§ 143B-490 through 143B-492: Recodified as G.S. 143B-1030 through G.S. 143B-1032, effective January 1, 2012.

§§ 143B-493 through 143B-494. Reserved for future codification purposes.

Part 5A. North Carolina Center for Missing Persons.

§§ 143B-495 through 143B-499.8: Recodified as G.S. 143B-1010 through G.S. 143B-1022, effective January 1, 2012.

Part 6. Community Penalties Program.

§§ 143B-500 through 143B-507: Recodified as Article 61 of Subchapter XIII of Chapter 7A, §§ 7A-770 to 7A-777, by Session Laws 1991, c. 566, s. 2.

Part 7. Law Enforcement Support Services Division.

§ 143B-508: Repealed by Session Laws 2011-145, s. 19.1(u), as amended by Session Laws 2011-391, s. 43(h), effective January 1, 2012.

§ 143B-508.1: Repealed by Session Laws 2011-145, s. 19.1(u), as amended by Session Laws 2011-391, s. 43(h), effective January 1, 2012.

Part 8. Emergency Management Division.

§ 143B-509: Recodified as G.S. 143B-1000, effective January 1, 2012.

Part 9. State Capitol Police Division.

§ 143B-509.1: Recodified as G.S. 143B-900, effective January 1, 2012.

§ 143B-510: Reserved for future codification purposes.

Article 12.

Department of Juvenile Justice and Delinquency Prevention.

§§ 143B-511 through 143B-549: Recodified as G.S. 143B-800 through 143B-851 by Session Laws 2011-145, s. 19.1(t), effective January 1, 2012.

§ 143B-550: Recodified as G.S. 143B-1104 by Session Laws 2011-145, s. 19.1(s), effective January 1, 2012.

§§ 143B-551 through 143B-555. Reserved for future codification purposes.

Part 7. State Advisory Council on Juvenile Justice and Delinquency Prevention.

§ 143B-556: Repealed by Laws 2008-118, s. 3.12(a), effective July 1, 2008.

§ 143B-557: Repealed by Laws 2008-118, s. 3.12(a), effective July 1, 2008.

Article 13.

Department of Public Safety.

Part 1. General Provisions.

§ 143B-600. Organization.

(a) There is established the Department of Public Safety. The head of the Department of Public Safety is the Secretary of Public Safety, who shall be known as the Secretary.

(b) The powers and duties of the deputy secretaries, commissioners, directors, and the divisions of the Department shall be subject to the direction and control of the Secretary of Public Safety, except that the powers and duties of the following agencies shall be exercised independently of the Secretary in accordance with the following statutes:

(1) The North Carolina Alcoholic Beverage Control Commission, in accordance with G.S. 18B-200.

(2) The State Bureau of Investigation, in accordance with G.S. 143B-915. (2011-145, s. 19.1(b); 2011-183, s. 127(c); 2011-195, s. 1(d); 2011-260, s. 6(c); 2011-391, s. 43(a); 2012-83, ss. 8, 64; 2012-168, s. 5(b); 2013-289, s. 2; 2013-360, s. 16D.7(a); 2014-100, s. 15.2A(e); 2016-94, s. 17A.3.)

§ 143B-601. Powers and duties of the Department of Public Safety.

It shall be the duty of the Department of Public Safety to do all of the following:

(1) Provide assigned law enforcement and emergency services to protect the public against crime and against natural and man-made disasters.

(2) To plan and direct a coordinated effort by the law enforcement agencies of State government and to ensure maximum cooperation between State and local law enforcement agencies in the fight against crime.

(3) To prepare annually, in consultation with the Judicial Department and the Department of Justice, a State plan for the State's criminal justice system.

(4) To serve as the State's chief coordinating agency to control crime, to ensure the safety of the public, and to ensure an effective and efficient State criminal justice system.

(5) To have charge of investigations of criminal matters particularly set forth in this Article and of such other crimes and areas of concern in the criminal justice system as the Governor may direct.

(6) To regularly patrol the highways of the State and enforce all laws and regulations respecting travel and the use of vehicles upon the highways of the State and all laws for the protection of the highways of the State.

(7) To provide North Carolina National Guard troops trained by the State to federal standards.

(8) To ensure the preparation, coordination, and currency of military and civil preparedness plans and the effective conduct of emergency operations by all participating agencies to sustain life and prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes.

(9) To develop a plan for a coordinated and integrated electronic communications system for State government and cooperating local agencies, including coordination and integration of existing electronic communications systems.

(10) To carry out the relevant provisions of Part 2 of this Article, Chapter 148 of the General Statutes, Chapter 15 of the General Statutes, Chapter 15A of the General Statutes, and other provisions of the General Statutes governing the provision of necessary custody, supervision, and treatment to control and rehabilitate criminal offenders and thereby reduce the rate and cost of crime and delinquency.

(11) To carry out the relevant provisions of Part 3 of this Article, Chapter 7B of the General Statutes, and other provisions of the General Statutes governing juvenile justice and the prevention of delinquent acts by juveniles.

(12) To provide central storage and management of evidence according to the provisions of Article 13 of Chapter 15A of the General Statutes and create and maintain a databank of statewide storage locations of postconviction evidence or other similar programs.

(13) To provide central storage and management of rape kits according to the federal Violence Against Women and Department of Justice Reauthorization Act of 2005 with specific protections against release of names of victims providing anonymous or "Jane Doe" rape kits without victim consent.

(14) To provide for the storage and management of evidence. (2011-145, s. 19.1(b); 2011-183, s. 127(c); 2011-195, s. 1(d); 2011-391, s. 43(b); 2012-83, s. 65.)

§ 143B-602. Powers and duties of the Secretary of Public Safety.

The Secretary of Public Safety shall have the powers and duties as are conferred on the Secretary by this Article, delegated to the Secretary by the Governor, and conferred on the Secretary by the Constitution and laws of this State. These powers and duties include the following:

(1) Provision of assistance to other agencies. – The Secretary, through appropriate subunits of the Department, shall, at the request of the Governor, provide assistance to State and local law enforcement agencies, district attorneys, and judges when called upon by them and so directed.

(2) Coordination of government subunits emergencies. – In the event that the Governor, in the exercise of the Governor's constitutional and statutory responsibilities, shall deem it necessary to utilize the services of more than one subunit of State government to provide protection to the people from natural or man-made disasters or emergencies, including, but not limited to, wars, insurrections, riots, civil disturbances, or accidents, the Secretary, under the direction of the Governor, shall serve as the chief coordinating officer for the State between the respective subunits so utilized.

(3) Allocation of State resources during emergencies. – Whenever the Secretary exercises the authority provided in subdivision (2) of this section, the Secretary shall be authorized to utilize and allocate all available State resources as are reasonably necessary to cope with the emergency or disaster, including directing of personnel and functions of State agencies or units thereof for the purpose of performing or facilitating the initial response to the disaster or emergency. Following the initial response, the Secretary, in consultation with the heads of the State agencies which have or appear to have the responsibility for dealing with the emergency or disaster, shall designate one or more lead agencies to be responsible for subsequent phases of the response to the emergency or disaster. Pending an opportunity to consult with the heads of such agencies, the Secretary may make interim lead agencies designations.

(4) Reporting of emergencies to the Secretary. – Every department of State government is required to report to the Secretary, by the fastest means practicable, all natural or man-made disasters or emergencies, including, but not limited to, wars, insurrections, riots, civil disturbances, or accidents which appear likely to require the utilization of the services of more than one subunit of State government.

(5) Rule making. – The Secretary is authorized to adopt rules and procedures for the implementation of this section.

(6) Powers of Governor and Council of State not superseded. – Nothing contained in this section shall be construed to supersede or modify those powers granted to the Governor or the Council of State to declare and react to a state of disaster as provided in Chapter 166A of the General Statutes, the Constitution, or elsewhere.

(7) Reporting required prior to grant awards. – Prior to any notification of proposed grant awards to State agencies for use in pursuing the objectives of the Governor's Crime Commission pursuant to sub-subdivisions a. through g. of subdivision (8) of this section, the Secretary shall report to the Senate and House of Representatives Appropriations Committees for review of the proposed grant awards.

(8) Other powers and duties. – The Secretary has the following additional powers and duties:

a. Accepting gifts, bequests, devises, grants, matching funds, and other considerations from private or governmental sources for use in promoting the work of the Governor's Crime Commission.

b. Making grants for use in pursuing the objectives of the Governor's Crime Commission.

c. Adopting rules as may be required by the federal government for federal grants-in-aid for criminal justice purposes and to implement and carry out the regulatory and enforcement duties assigned to the Department of Public Safety as provided by the various commercial vehicle, oversize/overweight, motor carrier safety, motor fuel, and mobile and manufactured home statutes.

d. Ascertaining the State's duties concerning grants to the State by the Law Enforcement Assistance Administration of the United States

Department of Justice, and developing and administering a plan to ensure that the State fulfills its duties.

e. Administering the Assistance Program for Victims of Rape and Sex Offenses.

f. Appointing, with the Governor's approval, a special police officer to serve as Chief of the State Capitol Police Division.

g. Appointing an employee of the Division of Administration to be the central point of contact for any federal surplus property or purchasing programs.

h. Being responsible for federal and State liaison activities, victim services, the Victim Services Warehouse, and the storage and management of evidence and other contents housed in the warehouse, and public affairs. (2011-145, s. 19.1(b); 2013-289, s. 3; 2015-241, s. 16A.7(g); 2017-57, s. 16B.10(d).)

§ 143B-602.1. Annual report on trooper training reimbursement agreements.

By January 1, 2021, and annually thereafter, the Secretary shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the following:

(1) The implementation of the trooper training reimbursement agreements required under G.S. 20-185.1.

(2) The amount of reimbursements received from individuals who did not remain employed as State Troopers for 36 months after completing training and the amount of reimbursements received from other law enforcement agencies, as required under G.S. 20-185.1(d).

(3) Program outcomes, including the turnover rate for individuals employed as State Troopers on and after the date the Department of Public Safety implemented the trooper training reimbursement agreements. (2018-5, s. 35.25(h); 2018-97, s. 8.1(c).)

§ 143B-603. LiDAR Reserve.

The "LiDAR Reserve" is established in the Department of Public Safety. Funds in the LiDAR Reserve shall only be used for LiDAR topographical mapping of the State. (2014-100, s. 15.12(a).)

§ 143B-604. State Reentry Council Collaborative.

(a) The Secretary shall establish the State Reentry Council Collaborative (SRCC). The SRCC shall include up to two representatives from each of the following:

(1) The Division of Motor Vehicles.

(2) The Department of Health and Human Services.

(3) The Administrative Office of the Courts.

(4) The North Carolina Community College System.

(5) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(6) A nonprofit entity that provides reentry services or reentry programs.

(7) Any other agency that the Secretary deems relevant.

(b) The Secretary, or the Secretary's designee, shall chair the SRCC which shall meet at least quarterly upon the call of the chair. The SRCC shall study the needs of ex-offenders who have been recently released from a correctional institution and to increase the effectiveness of local reentry councils.

(c) Beginning November 1, 2017, and annually thereafter, the SRCC shall report its findings and recommendations to the Joint Legislative Oversight Committee on Justice and Public Safety. (2017-57, s. 16C.10; 2017-186, s. 3(a).)

Part 1A. Division of Adult Correction and Juvenile Justice.

§ 143B-630. Creation of Division of Adult Correction and Juvenile Justice; powers.

There is hereby created and established a division to be known as the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Division shall have the power and duty to implement Parts 2 and 3 of this Article and shall have such other powers and duties as are set forth in this Chapter and are prescribed by the Secretary of the Department of Public Safety. (2017-186, s. 1(a).)

Part 2. Division of Adult Correction.

Subpart A. General Provisions

§ 143B-700: Repealed by Session Laws 2017-186, s. 1(c), effective December 1, 2017.

§ 143B-701. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – duties.

It shall be the duty of the Division to provide the necessary custody, supervision, and treatment to control and rehabilitate criminal offenders and thereby to reduce the rate and cost of crime and delinquency. (1973, c. 1262, s. 3; 1999-423, s. 7; 2011-145, s. 19.1(h), (s); 2017-186, s. 1(d).)

§ 143B-702. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – rules and regulations.

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall adopt rules and regulations related to the conduct, supervision, rights and privileges of persons in its custody or under its supervision. Such rules and regulations shall be filed with and published by the office of the Attorney General and shall be made available by the Division for public inspection. The rules and regulations shall include a description of the organization of the Division. A description or copy of all forms and instructions used by the Division, except those relating solely to matters of internal management, shall also be filed with the office of the Attorney General. (1975, c. 721, s. 2; 2011-145, s. 19.1(h), (s); 2017-186, s. 1(e).)

§ 143B-703. Repair or replacement of personal property.

(a) The Secretary of Public Safety may adopt rules governing repair or replacement of personal property items excluding private passenger vehicles that belong to employees

of State facilities within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and that are damaged or stolen by inmates of the State facilities provided that the item is determined by the Secretary to be damaged or stolen on or off facility grounds during the performance of employment and necessary for the employee to have in his possession to perform his assigned duty.

(b) Reimbursement for items damaged or stolen shall not be granted in instances in which the employee is determined to be negligent or otherwise at fault for the damage or loss of the property. Negligence shall be determined by the superintendent of the facility.

(c) The superintendent of the facility shall determine if the person seeking reimbursement has made a good faith effort to recover the loss from all other non-State sources and has failed before reimbursement is granted.

(d) Reimbursement shall be limited to the amount specified in the rules and shall not exceed a maximum of two hundred dollars ($200.00) per incident. No employee shall receive more than five hundred dollars ($500.00) per year in reimbursement. Reimbursement is subject to the availability of funds.

(e) The Secretary of Public Safety shall establish by rule an appeals process consistent with Chapter 150B of the General Statutes. (1987, c. 639, s. 1; 1989, c. 189, s. 2; 2011-145, ss. 19.1(h), (i), (s); 2017-186, s. 1(f).)

§ 143B-704. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – functions with respect to adults.

(a) The functions of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall include all functions of the executive branch of the State in relation to corrections and the rehabilitation of adult offenders, including detention, parole, and aftercare supervision, and further including those prescribed powers, duties, and functions enumerated in the laws of this State.

(b) All such functions, powers, duties, and obligations heretofore vested in the Department of Social Rehabilitation and Control and any agency enumerated in Article 14 of Chapter 143A of the General Statutes and laws of this State are hereby transferred to and vested in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:

(1) The State Department of Correction and Commission of Correction,
(2) Repealed by Session Laws 1999-423, s. 8, effective July 1, 1999.
(3) The State Probation Commission,
(4) The State Board of Paroles,
(5) The Interstate Agreement on Detainers, and
(6) The Uniform Act for Out-of-State Parolee Supervision.

(c) Repealed by Session Laws 2012-83, s. 9, effective June 26, 2012.

(d) The Division shall establish an alcoholism and chemical dependency treatment program. The program shall consist of a continuum of treatment and intervention services for male and female inmates, established in medium and minimum custody prison

facilities, and for male and female probationers and parolees, established in community-based residential treatment facilities.

(e) The Department, in consultation with the Domestic Violence Commission, and in accordance with established best practices, shall establish a domestic violence treatment program for offenders sentenced to a term of imprisonment in the custody of the Department and whose official record includes a finding by the court that the offender committed acts of domestic violence.

The Department shall ensure that inmates, whose record includes a finding by the court that the offender committed acts of domestic violence, complete a domestic violence treatment program prior to the completion of the period of incarceration, unless other requirements, deemed critical by the Department, prevent program completion. In the event an inmate does not complete the program during the period of incarceration, the Department shall document, in the inmate's official record, specific reasons why that particular inmate did not or was not able to complete the program. (1973, c. 1262, s. 4; 1983, c. 682, s. 1; 1987, c. 479; c. 738, s. 111(a); 1989 (Reg. Sess., 1990), c. 994; 1997-57, s. 1; 1999-423, s. 8; 2001-487, s. 47(f); 2004-186, s. 1.2; 2009-372, s. 6; 2011-145, ss. 19.1(h), (k), (s); 2012-83, s. 9; 2017-186, s. 1(g).)

§ 143B-705. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – Alcoholism and Chemical Dependency Treatment Program.

(a) The Program established by G.S. 143B-704 shall be offered in correctional facilities, or a portion of correctional facilities that are self-contained, so that the residential and program space is separate from any other programs or inmate housing, and shall be operational by January 1, 1988, at those facilities as the Secretary or the Secretary's designee may designate.

(b) A Section Chief for the Alcoholism and Chemical Dependency Treatment Program shall be employed and shall report directly to a deputy director for the Division of Adult Correction and Juvenile Justice as designated by the Deputy Commissioner for the Division of Adult Correction and Juvenile Justice. The duties of the Section Chief and staff shall include the following:

(1) Administer and coordinate all substance abuse programs, grants, contracts, and related functions in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
(2) Develop and maintain working relationships and agreements with agencies and organizations that will assist in developing and operating alcoholism and chemical dependency treatment and recovery programs in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
(3) Develop and coordinate the use of volunteers in the Substance Abuse Program.
(4) Develop and present training programs related to alcoholism and chemical dependency for employees and others at all levels in the agency.
(5) Develop programs that provide effective treatment for inmates, probationers, and parolees with alcohol and chemical dependency problems.

(6) Maintain contact with key leaders in the alcoholism and chemical dependency field, the service structure of various community recovery programs, and active supporters of the Correction Program.

(7) Supervise directly the facility and district program managers, other specialized personnel, and programs that exist or may be developed in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(8) Repealed by Session Laws 2012-83, s. 10, effective June 26, 2012.

(c) In each prison that houses an alcoholism and chemical dependency program, there shall be a unit superintendent under the Section of Prisons of the Division of Adult Correction and Juvenile Justice and other custodial, administrative, and support staff as required to maintain the proper custody level at the facility. The unit superintendent shall be responsible for all matters pertaining to custody and administration of the unit. The Section Chief of the Alcoholism and Chemical Dependency Treatment Program shall designate and direct employees to manage treatment programs at each location. Duties of unit treatment program managers shall include program development and implementation, supervision of personnel assigned to treatment programs, adherence to all pertinent policy and procedural requirements of the Department, and other duties as assigned.

(d) Extensive use may be made of inmates working in the role of ancillary staff, treatment assistants, role models, or study group leaders as the program manager determines. Additional resource people who may be required for specialized treatment activities, presentations, or group work may be employed on a fee or contractual basis.

(e) Admission priorities shall be established as follows:

(1) Evaluation and referral from reception and diagnostic centers.

(2) General staff referral.

(3) Self-referral.

(f) The Program shall include extensive follow-up after the period of intensive treatment. There will be specific plans for each departing inmate for follow-up, including active involvement with Alcoholics Anonymous, community resources, and personal sponsorship. (1987, c. 738, s. 111(c); 1987 (Reg. Sess., 1988), c. 1086, s. 126.1(a); 2002-126, s. 17.7; 2003-141, s. 3; 2011-145, ss. 19.1(h)-(j), (s); 2012-83, s. 10; 2017-186, s. 1(h).)

§ 143B-706: Repealed by Session Laws 2017-57, s. 16C.7, effective July 1, 2017.

§ 143B-707. Reports to the General Assembly.

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall report by March 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees in Justice and Public Safety on their efforts to provide effective treatment to offenders with substance abuse problems. The report shall include:

(1) Details of any new initiatives and expansions or reduction of programs.

(2) Details on any treatment efforts conducted in conjunction with other departments.

(3) Utilization of the community-based programs at DART-Cherry and Black Mountain Substance Abuse Treatment Center for Women.

(4), (5) Repealed by Session Laws 2007-323, s. 17.3(a), effective July 1, 2007.

(6) Statistical information on the number of current inmates with substance abuse problems that require treatment, the number of treatment slots, the number who have completed treatment, and a comparison of available treatment slots to actual utilization rates. The report shall include this information for each funded program.

(7) Evaluation of each substance abuse treatment program funded by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Evaluation measures shall include reduction in alcohol and drug dependency, improvements in disciplinary and infraction rates, recidivism (defined as return-to-prison rates), and other measures of the programs' success. (1998-212, s. 17.12(d); 2003-284, s. 16.19; 2007-323, s. 17.3(a); 2011-145, ss. 19.1(h), (s); 2012-83, s. 51; 2017-186, s. 1(j).)

§ 143B-707.1. Report on probation and parole caseloads.

(a) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on caseload averages for probation and parole officers. The report shall include:

(1) Data on current caseload averages and district averages for probation/parole officer positions.

(2) Data on current span of control for chief probation officers.

(3) An analysis of the optimal caseloads for these officer classifications.

(4) The number and role of paraprofessionals in supervising low-risk caseloads.

(5) The process of assigning offenders to an appropriate supervision level based on a riskeeds assessment.

(6) Data on cases supervised solely for the collection of court-ordered payments.

(b) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the following:

(1) The number of sex offenders enrolled on active and passive GPS monitoring.

(2) The caseloads of probation officers assigned to GPS-monitored sex offenders.

(3) The number of violations.

(4) The number of absconders.

(5) The projected number of offenders to be enrolled by the end of the fiscal year. (2013-360, s. 16C.10.)

§ 143B-707.2. Mutual agreement parole program report; medical release program report.

(a) The Department of Public Safety and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of

Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates enrolled in the mutual agreement parole program, the number completing the program and being paroled, and the number who enrolled but were terminated from the program. The information should be based on the previous calendar year.

(b) The Department of Public Safety and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates proposed for release, considered for release, and granted release under Article 84B of Chapter 15A of the General Statutes, providing for the medical release of inmates who are either permanently and totally disabled, terminally ill, or geriatric. (2013-360, s. 16C.11(d); 2013-363, s. 6.5.)

§ 143B-707.3. Medical costs for inmates and juvenile offenders.

(a) The Department of Public Safety shall reimburse those providers and facilities providing approved medical services to inmates and juvenile offenders outside the correctional or juvenile facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. The Department shall have the right to audit any given provider to determine the actual prevailing charge to ensure compliance with this provision.

This section does apply to vendors providing services that are not billed on a fee-for-service basis, such as temporary staffing. Nothing in this section shall preclude the Department from contracting with a provider for services at rates that provide greater documentable cost avoidance for the State than do the rates contained in this section or at rates that are less favorable to the State but that will ensure the continued access to care.

(b) The Department of Public Safety shall make every effort to contain medical costs for inmates and juvenile offenders by making use of its own hospital and health care facilities to provide health care services to inmates and juvenile offenders. To the extent that the Department of Public Safety must utilize other facilities and services to provide health care services to inmates and juvenile offenders, the Department shall make reasonable efforts to make use of hospitals or other providers with which it has a contract or, if none is reasonably available, hospitals with available capacity or other health care facilities in a region to accomplish that goal. The Department shall make reasonable efforts to equitably distribute inmates and juvenile offenders among all hospitals or other appropriate health care facilities.

(c) The Department of Public Safety shall report quarterly to the Joint Legislative Oversight Committee on Justice and Public Safety and the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety on:

(1) The percentage of the total inmates and juvenile offenders requiring hospitalization or hospital services who receive that treatment at each hospital.

(2) through (4) Repealed by Session Laws 2016-94, s. 17C.2A, effective July 1, 2016.

(4a) The volume of scheduled and emergent services listed by hospital and, of that volume, the number of those services that are provided by contracted and noncontracted providers.

(4b) The volume of scheduled and emergent admissions listed by hospital and, of that volume, the percentage of those services that are provided by contracted and noncontracted providers.

(5) The volume of inpatient medical services provided to Medicaid-eligible inmates and juvenile offenders, the cost of treatment, the estimated savings of paying the nonfederal portion of Medicaid for the services, and the length of time between the date the claim was filed and the date the claim was paid.

(5a) The status of the implementation of the claims processing system and efforts to address the backlog of unpaid claims.

(6) The hospital utilization, including the amount paid to individual hospitals, the number of inmates and juvenile offenders served, the number of claims, and whether the hospital was a contracted or noncontracted facility.

(7) The total cost and volume for the previous fiscal quarter for emergency room visits originating from Central Prison and NCCIW Hospitals to UNC Hospitals, UNC Rex Healthcare, and WakeMed Hospital.

(8) The total payments for Medicaid and nonMedicaid eligible inmates to UNC Hospitals, UNC Rex Healthcare, and WakeMed Hospital, including the number of days between the date the claim was filed and the date the claim was paid.

(9) A list of hospitals under contract.

Reports submitted on August 1 shall include totals for the previous fiscal year for all the information requested.

(d) The Department of Public Safety shall study whether contracts to provide inmate health services can be expanded to additional hospitals. The Department shall report the findings of its study to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety no later than February 1, 2017. The report shall include a list of hospitals considered for expansion and reasons for or against expanding to each hospital. (2015-241, s. 16C.4; 2016-94, s. 17C.2A.)

§ 143B-707.4. Annual report on safekeepers.

The Department of Public Safety shall report by October 1 of each year to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on county prisoners housed in the State prison system pursuant to safekeeping orders under G.S. 162-39. The report shall include:

(1) The number of safekeepers currently housed by the Department.

(2) A list of the facilities where safekeepers are housed and the population of safekeepers by facility.

(3) The average length of stay by a safekeeper in one of those facilities.

(4) The amount paid by counties for housing and extraordinary medical care of safekeepers.

(5) A list of the counties in arrears for safekeeper payments owed to the Department at the end of the fiscal year. (2015-241, s. 16C.11.)

§ 143B-708. Community service program.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may conduct a community service program. The program shall provide oversight of offenders placed under the supervision of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice and ordered to perform community service hours for criminal violations, including driving while impaired violations under G.S. 20-138.1. This program shall assign offenders, either on supervised or on unsupervised probation, to perform service to the local community in an effort to promote the offender's rehabilitation and to provide services that help restore or improve the community. The program shall provide appropriate work site placement for offenders ordered to perform community service hours. The Division may adopt rules to conduct the program. Each offender shall be required to comply with the rules adopted for the program.

(b) The Secretary of Public Safety may assign one or more employees to each district court district as defined in G.S. 7A-133 to assure and report to the Court the offender's compliance with the requirements of the program. Each county shall provide office space in the courthouse or other convenient place, for the use of the employees assigned to that county.

(c) A fee of two hundred fifty dollars ($250.00) shall be paid by all persons who participate in the program or receive services from the program staff. Only one fee may be assessed for each sentencing transaction, even if the person is assigned to the program on more than one occasion, or while on deferred prosecution, under a conditional discharge, or serving a sentence for the offense. A sentencing transaction shall include all offenses considered and adjudicated during the same term of court. Fees collected pursuant to this subsection shall be deposited in the General Fund. If the person is convicted in a court in this State, the fee shall be paid to the clerk of court in the county in which the person is convicted, regardless of whether the person is participating in the program as a condition of parole, of probation imposed by the court, or pursuant to the exercise of authority delegated to the probation officer pursuant to G.S. 15A-1343.2(e) or (f). If the person is participating in the program as a result of a conditional discharge or a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the county in which the agreement is filed. Persons participating in the program for any other reason shall pay the fee to the clerk of court in the county in which the services are provided by the program staff. The fee shall be paid in full before the person may participate in the community service program, except that:

(1) A person convicted in a court in this State may be given an extension of time or allowed to begin the community service before the person pays the fee by the court in which the person is convicted; or

(2) A person performing community service pursuant to a conditional discharge, deferred prosecution or similar agreement may be given an extension of time or allowed to begin community service before the fee is paid by the official or agency representing the State in the agreement.

(3) A person performing community service as a condition of parole may be given an extension of time to pay the fee by the Post-Release Supervision and Parole Commission. No person shall be required to pay the fee before beginning the community service unless the Commission orders the person to do so in writing.

(4) A person performing community service as ordered by a probation officer pursuant to authority delegated by G.S. 15A-1343.2 may be given an extension of time to pay the fee by the probation officer exercising the delegated authority.

(d) A person is not liable for damages for any injury or loss sustained by an individual performing community or reparation service under this section unless the injury is caused by the person's gross negligence or intentional wrongdoing. As used in this subsection, "person" includes any governmental unit or agency, nonprofit corporation, or other nonprofit agency that is supervising the individual, or for whom the individual is performing community service work, as well as any person employed by the agency or corporation while acting in the scope and course of the person's employment. This subsection does not affect the immunity from civil liability in tort available to local governmental units or agencies. Notice of the provisions of this subsection shall be furnished to the individual at the time of assignment of community service work by the judicial service coordinator.

(e) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, deferred prosecution, or conditional discharge related to community service, including a willful failure to pay any moneys due the State under any court order or payment schedule adopted by the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice. The community service staff shall give notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the last known address available to the preparer of the notice and reasonably believed to provide actual notice to the person. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. The hearing may be held in the county in which the order requiring the performance of community service was imposed, the county in which the violation occurred, or the county of residence of the person. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the Division of Motor Vehicles to revoke any drivers license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation. (1983 (Reg. Sess., 1984), c. 1034, s. 102; 1985, c. 451; 1985 (Reg. Sess., 1986), c. 1012, s. 4; 1987 (Reg. Sess., 1988), c. 1037, s. 118; 1989, c. 752, s. 109; 1995, c. 330, s. 2; c. 507, s. 20(a); 1997-234, s. 2; 1998-217, s. 34; 2001-487, ss. 91(a),

(b); 2002-126, s. 29A.1(c); 2009-372, s. 17; 2009-411, s. 2; 2009-451, s. 19.26(c), (e); 2009-575, s. 16A; 2010-31, s. 19.4(a); 2010-96, s. 28(c); 2010-123, s. 6.3; 2011-145, ss. 19.1(h), (i), (k), (s); 2014-119, s. 2(g); 2017-186, s. 1(k).)

§ 143B-709. Security Staffing.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall conduct:

(1) On-site postaudits of every prison at least once every three years;

(2) Regular audits of postaudit charts through the automated postaudit system; and

(3) Other staffing audits as necessary.

(b) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall update the security staffing relief formula at least every three years. Each update shall include a review of all annual training requirements for security staff to determine which of these requirements should be mandatory and the appropriate frequency of the training. The Division shall survey other states to determine which states use a vacancy factor in their staffing relief formulas. (2002-126, s. 17.5(a), (b); 2005-276, s. 17.4(a); 2011-145, ss. 19.1(h), (s); 2017-186, s. 1(*l*).)

§ 143B-710: Repealed by Session Laws 2013-289, s. 4, effective July 18, 2013.

§ 143B-711. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – organization.

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be organized initially to include the Post-Release Supervision and Parole Commission, the Section of Prisons of the Division of Adult Correction, the Section of Community Corrections, the Section of Alcoholism and Chemical Dependency Treatment Programs, and such other divisions as may be established under Part 3 of this Article and under the other provisions of the Executive Organization Act of 1973. (1973, c. 1262, s. 6; 1987, c. 738, s. 111(b); 1993, c. 538, s. 41; 1994, Ex. Sess., c. 24, s. 14(b); 2001-95, s. 7; 2011-145, ss. 19.1(h), (j), (s); 2012-83, s. 52; 2014-120, s. 1(i); 2017-186, s. 1(m).)

§ 143B-712: Reserved for future codification purposes.

§ 143B-713: Reserved for future codification purposes.

§ 143B-714: Reserved for future codification purposes.

Subpart B. Board of Correction

§ 143B-715: Repealed by Session Laws 2014-120, s. 1, effective September 18, 2014.

§ 143B-716: Reserved for future codification purposes.

§ 143B-717: Reserved for future codification purposes.

§ 143B-718: Reserved for future codification purposes.

§ 143B-719: Reserved for future codification purposes.

Subpart C. Parole Commission.

§ 143B-720. Post-Release Supervision and Parole Commission – creation, powers and duties.

(a) There is hereby created a Post-Release Supervision and Parole Commission of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety with the authority to grant paroles, including both regular and temporary paroles, to persons held by virtue of any final order or judgment of any court of this State as provided in Chapter 148 of the General Statutes and laws of the State of North Carolina, except that persons sentenced under Article 81B of Chapter 15A of the General Statutes are not eligible for parole but may be conditionally released into the custody and control of United States Immigration and Customs Enforcement pursuant to G.S. 148-64.1. The Commission shall also have authority to revoke, terminate, and suspend paroles of such persons (including persons placed on parole on or before the effective date of the Executive Organization Act of 1973) and to assist the Governor in exercising his authority in granting reprieves, commutations, and pardons, and shall perform such other services as may be required by the Governor in exercising his powers of executive clemency. The Commission shall also have authority to revoke and terminate persons on post-release supervision, as provided in Article 84A of Chapter 15A of the General Statutes. The Commission shall also have the authority to punish for criminal contempt for willful refusal to accept post-release supervision or to comply with the terms of post-release supervision by a prisoner whose offense requiring post-release supervision is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes. Any contempt proceeding conducted by the Commission shall be in accordance with G.S. 5A-15 as if the Commission were a judicial official.

(b) All releasing authority previously resting in the Commissioner and Commission of Correction with the exception of authority for extension of the limits of the place of confinement of a prisoner contained in G.S. 148-4 is hereby transferred to the Post-Release Supervision and Parole Commission. Specifically, such releasing authority includes work release (G.S. 148-33.1), indeterminate-sentence release (G.S. 148-42), and release of youthful offenders (G.S. 148-49.8), provided the individual considered for work release or indeterminate-sentence release shall have been recommended for release by the Secretary of Public Safety or his designee. No recommendation for release is required for conditional release pursuant to G.S. 148-64.1.

(c) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, in accordance with which prisoners eligible for parole consideration may have their cases reviewed and investigated and by which such proceedings may be initiated and considered. All rules and regulations heretofore adopted by the Board of Paroles shall remain in full force and effect unless and until repealed or superseded by action of the Post-Release Supervision and Parole

Commission. All rules and regulations adopted by the Commission shall be enforced by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(d) The Commission is authorized and empowered to impose as a condition of parole or post-release supervision that restitution or reparation be made by the prisoner in accordance with the provisions of G.S. 148-57.1. The Commission is further authorized and empowered to make restitution or reparation a condition of work release in accordance with the provisions of G.S. 148-33.2.

(e) The Commission may accept and review requests from persons placed on probation, parole, or post-release supervision to terminate a mandatory condition of satellite-based monitoring as provided by G.S. 14-208.43. The Commission may grant or deny those requests in compliance with G.S. 14-208.43.

(f) The Commission may conduct the following proceedings by videoconference:

(1) All hearings regarding violation of conditions of post-release supervision and all hearings regarding violation of conditions of parole.

(2) All hearings regarding criminal contempt for willful refusal to accept post-release supervision or comply with the terms of post-release supervision by a prisoner whose offense requiring post-release supervision is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes.

(g) A hearing officer may conduct the following proceedings by videoconference:

(1) Preliminary hearings regarding violation of conditions of post-release supervision.

(2) Preliminary hearings regarding violation of conditions of parole. (1973, c. 1262, s. 8; 1975, c. 220; 1977, c. 614, s. 5; c. 732, s. 5; 1993, c. 538, s. 42; 1994, Ex. Sess., c. 21, s. 6; c. 24, s. 14(b); 2006-247, s. 15(i); 2007-213, s. 14; 2008-199, s. 2; 2011-145, ss. 19.1(h), (i), (s); 2011-307, s. 7; 2012-188, s. 7; 2016-77, s. 4(a); 2017-186, s. 1(n).)

§ 143B-721. Post-Release Supervision and Parole Commission – members; selection; removal; chair; compensation; quorum; services.

(a) Effective August 1, 2005, the Post-Release Supervision and Parole Commission shall consist of one full-time member and two half-time members. The three members shall be appointed by the Governor from persons whose recognized ability, training, experience, and character qualify them for service on the Commission. The terms of office of any members serving on the Commission on June 30, 2005, shall expire on that date. The terms of office of persons appointed by the Governor as members of the Commission shall be for four years or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, removal, death or disability of a member shall be for the balance of the unexpired term only.

(a1) Effective August 1, 2012, both half-time commissioners shall begin serving as full-time members of the Commission, and the Post-Release Supervision and Parole Commission shall consist of three full-time members.

(a2) Effective February 1, 2013, an additional member shall be appointed by the Governor to the Commission, and the Post-Release Supervision and Parole Commission shall consist of four full-time members.

(b) All members of the Post-Release Supervision and Parole Commission appointed by the Governor shall possess the recognized ability, training, experience, and character to qualify each person to serve ably on the Commission.

(c) The Governor shall have the authority to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of G.S. 143B-13. The Governor shall designate a member of the Commission to serve as chair of the Commission at the pleasure of the Governor.

(d) The granting, denying, revoking, or rescinding of parole, the authorization of work-release privileges to a prisoner, or any other matters of business coming before the Commission for consideration and action shall be decided by majority vote of the full Commission, except that a three-member panel of the Commission may set the terms and conditions for a post-release supervisee under G.S. 15A-1368.4 and may decide questions of violations thereunder, including the issuance of warrants. In the event of a tie in a vote by the full Commission, the chair shall break the tie with an additional vote.

(e) The members of the Commission shall receive the salary fixed by the General Assembly in the Current Operations Appropriations Act and shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-6. Notwithstanding any other provision of law, the half-time members of the Commission shall not be subject to the provisions of G.S. 135-3(8)(c).

(f) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Public Safety. (1973, c. 1262, s. 9; 1977, c. 704, s. 1; 1979, c. 2; 1983, c. 709, s. 3; c. 717, s. 80; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1993, c. 337, s. 1; c. 538, s. 43; 1994, Ex. Sess., c. 14, s. 63; c. 24, s. 14(b); 1999-237, s. 18.2; 2005-276, s. 17.25(a); 2006-264, s. 89(a); 2011-145, s. 19.1(i), (s); 2012-142, s. 25.1(g); 2013-196, s. 2; 2013-410, s. 12.1.)

§ 143B-721.1. Parole eligibility reports.

(a) Each fiscal year the Post-Release Supervision and Parole Commission shall, with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the Department of Public Safety, analyze the amount of time each inmate who is eligible for parole on or before July 1 of the previous fiscal year has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

(b) For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

(1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.

(2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).

(3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

(c) The Commission shall reinitiate the parole review process for each offender who has served more time than that person would have under Structured Sentencing as provided by subsections (a) and (b) of this section.

(d) The Post-Release Supervision and Parole Commission shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety by April 1 of each year. The report shall include the following: the class of the offense for which each parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions. The Commission shall also report on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled. (2015-241, s. 16C.14.)

§ 143B-722: Reserved for future codification purposes.

§ 143B-723: Reserved for future codification purposes.

§ 143B-724: Reserved for future codification purposes.

§ 143B-725: Reserved for future codification purposes.

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§ 143B-733: Reserved for future codification purposes.

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§ 143B-778: Reserved for future codification purposes.

§ 143B-779: Reserved for future codification purposes.

Part 3. Juvenile Justice Section.

Subpart A. Creation of Division.

§ 143B-800. Creation of Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

There is hereby created and constituted a section to be known as the " Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety", with the organization, powers, and duties as set forth in this Article or as prescribed by the Director of the Division of Adult Correction and Juvenile Justice. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(p).)

§ 143B-801. Transfer of Office of Juvenile Justice authority to the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(a) All (i) statutory authority, powers, duties, and functions, including directives of S.L. 1998-202, rule making, budgeting, and purchasing, (ii) records, (iii) personnel, personnel positions, and salaries, (iv) property, and (v) unexpended balances of appropriations, allocations, reserves, support costs, and other funds of the Office of Juvenile Justice under the Office of the Governor are transferred to and vested in the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. This transfer has all of the elements of a Type I transfer as defined in G.S. 143A-6.

(b) The Section shall be considered a continuation of the Office of Juvenile Justice for the purpose of succession to all rights, powers, duties, and obligations of the Office and of those rights, powers, duties, and obligations exercised by the Office of the Governor on behalf of the Office of Juvenile Justice. Where the Office of Juvenile Justice or the Division of Juvenile Justice of the Department of Public Safety is referred to by law, contract, or other document, that reference shall apply to the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice. Where the Office of the Governor is referred to by contract or other document, where the Office of the Governor is acting on behalf of the Office of Juvenile Justice, that reference shall apply to the Section.

(c) All institutions previously operated by the Office of Juvenile Justice and the present central office of the Office of Juvenile Justice, including land, buildings, equipment, supplies, personnel, or other properties rented or controlled by the Office or by the Office of the Governor for the Office of Juvenile Justice, shall be administered by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(q).)

§ 143B-802: Reserved for future codification purposes.

§ 143B-803: Reserved for future codification purposes.

§ 143B-804: Reserved for future codification purposes.

Subpart B. General Provisions.

§ 143B-805. Definitions.

In this Part, unless the context clearly requires otherwise, the following words have the listed meanings:

(1) Chief court counselor. – The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(2) Community-based program. – A program providing nonresidential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.

(3) County Councils. – Juvenile Crime Prevention Councils created under G.S. 143B-846.

(4) Court. – The district court division of the General Court of Justice.

(5) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a court.

(6) **(Effective until December 1, 2019)** Delinquent juvenile. – Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws.

(6) **(Effective December 1, 2019)** Delinquent juvenile. –

a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

b. Any juvenile who, while less than 18 years of age but at least 16 years of age, commits a crime or an infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

(7) Detention. – The secure confinement of a juvenile under a court order.

(8) Detention facility. – A facility approved to provide secure confinement and care for juveniles. Detention facilities include both State and locally administered detention homes, centers, and facilities.

(9) District. – Any district court district as established by G.S. 7A-133.

(10) Repealed by Session Laws 2017-186, s. 1(r), effective December 1, 2017.

(11) Judge. – Any district court judge.
(12) Judicial district. – Any district court district as established by G.S. 7A-133.
(13) Juvenile. – Except as provided in subdivisions (6) and (20) of this section, any person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States. Wherever the term "juvenile" is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.
(14) Juvenile court. – Any district court exercising jurisdiction under this Chapter.
(15) Juvenile court counselor. – A person responsible for intake services and court supervision services to juveniles under the supervision of the chief court counselor.
(16) Post-release supervision. – The supervision of a juvenile who has been returned to the community after having been committed to the Division for placement in a training school.
(17) Probation. – The status of a juvenile who has been adjudicated delinquent, is subject to specified conditions under the supervision of a juvenile court counselor, and may be returned to the court for violation of those conditions during the period of probation.
(18) Protective supervision. – The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a juvenile court counselor.
(19) Secretary. – The Secretary of Public Safety.
(19a) Section. – The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
(20) Undisciplined juvenile. –
a. A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from school; or is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or
b. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.
(21) Youth development center. – A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Division. (1998-202, ss. 1(b), 2(a); 2000-137, s. 1(b); 2001-95, ss. 3, 4; 2001-490, s. 2.39; 2008-118, s. 3.12(b); 2011-145, ss. 19.1(*l*), (m), (t), (ccc); 2011-183, s. 105; 2017-57, s. 16D.4(r); 2017-186, s. 1(r).)

§ 143B-806. Duties and powers of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(a) Repealed by Session Laws 2013-289, s. 5, effective July 18, 2013.

(b) In addition to its other duties, the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice shall have the following powers and duties:

(1) Give leadership to the implementation as appropriate of State policy that requires that youth development centers be phased out as populations diminish.

(2) Close a State youth development center when its operation is no longer justified and transfer State funds appropriated for the operation of that youth development center to fund community-based programs, to purchase care or services for predelinquents, delinquents, or status offenders in community-based or other appropriate programs, or to improve the efficiency of existing youth development centers, after consultation with the Joint Legislative Commission on Governmental Operations.

(3) Administer a sound admission or intake program for juvenile facilities, including the requirement of a careful evaluation of the needs of each juvenile prior to acceptance and placement.

(4) Operate juvenile facilities and implement programs that meet the needs of juveniles receiving services and that assist them to become productive, responsible citizens.

(5) Adopt rules to implement this Part and the responsibilities of the Secretary and the Division under Chapter 7B of the General Statutes. The Secretary may adopt rules applicable to local human services agencies providing juvenile court and delinquency prevention services for the purpose of program evaluation, fiscal audits, and collection of third-party payments.

(6) Ensure a statewide and uniform system of juvenile intake, protective supervision, probation, and post-release supervision services in all district court districts of the State. The system shall provide appropriate, adequate, and uniform services to all juveniles who are alleged or found to be undisciplined or delinquent.

(7) Establish procedures for substance abuse testing for juveniles adjudicated delinquent for substance abuse offenses.

(8) Plan, develop, and coordinate comprehensive multidisciplinary services and programs statewide for the prevention of juvenile delinquency, early intervention, and rehabilitation of juveniles.

(9) Develop standards, approve yearly program evaluations, and make recommendations based on the evaluations to the General Assembly concerning continuation funding.

(10) Collect expense data for every program operated and contracted by the Division.

(11) Develop a formula for funding, on a matching basis, juvenile court and delinquency prevention services as provided for in this Part. This formula shall be based upon the county's or counties' relative ability to fund community-based programs for juveniles.

Local governments receiving State matching funds for programs under this Part must maintain the same overall level of effort that existed at the time of the filing of the county assessment of juvenile needs with the Division.

(12) Assist local governments and private service agencies in the development of juvenile court services and delinquency prevention services and provide

information on the availability of potential funding sources and assistance in making application for needed funding.

(13) Develop and administer a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and allowing reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles.

(14) Coordinate State-level services in relation to delinquency prevention and juvenile court services so that any citizen may go to one place in State government to receive information about available juvenile services.

(14a) Develop and administer a system to provide information to victims and complainants regarding the status of pending complaints and the right of a complainant and victim to request review under G.S. 7B-1704 of a decision to not file a petition.

(15) Appoint the chief court counselor in each district.

(16) Develop a statewide plan for training and professional development of chief court counselors, court counselors, and other personnel responsible for the care, supervision, and treatment of juveniles. The plan shall include attendance at appropriate professional meetings and opportunities for educational leave for academic study.

(17) Study issues related to qualifications, salary ranges, appointment of personnel on a merit basis, including chief court counselors, court counselors, secretaries, and other appropriate personnel, at the State and district levels in order to adopt appropriate policies and procedures governing personnel.

(18) Set, in consultation with the Office of State Human Resources, the salary supplement paid to teachers, instructional support personnel, and school-based administrators who are employed at juvenile facilities and are licensed by the State Board of Education. The salary supplement shall be at least five percent (5%), but not more than the percentage supplement they would receive if they were employed in the local school administrative unit where the job site is located. These salary supplements shall not be paid to central office staff. Nothing in this subdivision shall be construed to include "merit pay" under the term "salary supplement".

(19) Designate persons, as necessary, as State juvenile justice officers, to provide for the care and supervision of juveniles placed in the physical custody of the Division.

(20) **(Effective December 1, 2019)** Provide for the transportation to and from any State or local juvenile facility of any person under the jurisdiction of the juvenile court for any purpose required by Chapter 7B of the General Statutes or upon order of the court.

(c) Repealed by Session Laws 2017-186, s. 1(s), effective December 1, 2017.

(d) Where Division statistics indicate the presence of minority youth in juvenile facilities disproportionate to their presence in the general population, the Division shall develop and recommend appropriate strategies designed to ensure fair and equal treatment in the juvenile justice system.

(e) The Division may provide consulting services and technical assistance to courts, law enforcement agencies, and other agencies, local governments, and public and private organizations. The Division may develop or assist Juvenile Crime Prevention Councils in developing community needs, assessments, and programs relating to the prevention and treatment of delinquent and undisciplined behavior.

(f) The Division shall develop a cost-benefit model for each State-funded program. Program commitment and recidivism rates shall be components of the model. (1998-202, ss. 1(b), 2(b), 2(f); 1998-217, ss. 57(2), 57(3); 2000-137, s. 1(b); 2001-95, s. 5; 2001-490, s. 2.40; 2003-284, s. 17.2(a); 2005-276, s. 29.19(b); 2006-203, s. 111; 2008-118, s. 3.12(c); 2011-145, ss. 19.1(*l*), (t); 2012-83, s. 12; 2013-289, s. 5; 2013-360, s. 16D.7(b); 2013-382, s. 9.1(c); 2017-57, ss. 16D.4(s), (w); 2017-186, s. 1(s).)

§ 143B-807. Authority to contract with other entities.

(a) The Section may contract with any governmental agency, person, or association for the accomplishment of its duties and responsibilities. The expenditure of funds under these contracts shall be for the purposes for which the funds were appropriated and not otherwise prohibited by law.

(b) The Section may enter into contracts with, and act as intermediary between, any federal government agency and any county of this State for the purpose of assisting the county to recover monies expended by a county-funded financial assistance program. As a condition of assistance, the county shall agree to hold and save harmless the Section against any claims, loss, or expense which the Section might incur under the contracts by reason of any erroneous, unlawful, or tortious act or omission of the county or its officials, agents, or employees.

(c) The Section and any other appropriate State or local agency may purchase services from public or private agencies providing delinquency prevention programs or juvenile court services, including parenting responsibility classes. The programs shall meet State standards. As institutional populations are reduced, the Section may divert State funds appropriated for institutional programs to purchase the services under the State Budget Act.

(d) Each programmatic, residential, and service contract or agreement entered into by the Section shall include a cooperation clause to ensure compliance with the Section's quality assurance requirements and cost-accounting requirements. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(s1).)

§ 143B-808. Authority to assist private nonprofit foundations.

The Section may provide appropriate services or allow employees of the Section to assist any private nonprofit foundation that works directly with the Section's services or programs and whose sole purpose is to support these services and programs. A Section employee shall be allowed to work with a foundation no more than 20 hours in any one month. These services are not subject to Chapter 150B of the General Statutes.

The board of directors of each private, nonprofit foundation shall secure and pay for the services of the Department of State Auditor or employ a certified public accountant to conduct an annual audit of the financial accounts of the foundation. The board of directors

shall transmit to the Section a copy of the annual financial audit report of the private nonprofit foundation. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(s2).)

§ 143B-809. Teen court programs.

(a) All teen court programs administered by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall operate as community resources for the diversion of juveniles pursuant to G.S. 7B-1706(c). A juvenile diverted to a teen court program shall be tried by a jury of other juveniles, and, if the jury finds the juvenile has committed the delinquent act, the jury may assign the juvenile to a rehabilitative measure or sanction, including counseling, restitution, curfews, and community service.

Teen court programs may also operate as resources to the local school administrative units to handle problems that develop at school but that have not been turned over to the juvenile authorities.

(b) Every teen court program that receives funds from Juvenile Crime Prevention Councils shall comply with rules and reporting requirements of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (2001-424, s. 24.8; 2002-126, s. 16.2(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(t).)

§ 143B-810. Youth Development Center annual report.

The Department of Public Safety shall report by October 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and the Fiscal Research Division of the Legislative Services Commission on the Youth Development Center (YDC) population, staffing, and capacity in the preceding fiscal year. Specifically, the report shall include all of the following:

(1) The on-campus population of each YDC, including the county the juveniles are from.
(2) The housing capacity of each YDC.
(3) A breakdown of staffing for each YDC, including number, type of position, position title, and position description.
(4) The per-bed and average daily population cost for each facility.
(5) The operating cost for each facility, including personnel and nonpersonnel items.
(6) A brief summary of the treatment model, education, services, and plans for reintegration into the community offered at each facility.
(7) The average length of stay in the YDCs.
(8) The number of incidents of assaults and attacks on staff at each facility. (2013-360, s. 16D.3.)

§ 143B-811. Annual evaluation of community programs and multiple purpose group homes.

The Department of Public Safety shall conduct an annual evaluation of the community programs and of multipurpose group homes. In conducting the evaluation of each of these, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also determine whether the programs are achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202.

The Department shall report the results of the evaluation to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year. (2013-360, s. 16D.1.)

§ 143B-812: Reserved for future codification purposes.

§ 143B-813: Reserved for future codification purposes.

§ 143B-814: Reserved for future codification purposes.

Subpart C. Juvenile Facilities.

§ 143B-815. Juvenile facilities.

In order to provide any juvenile in a juvenile facility with appropriate treatment according to that juvenile's need, the Section shall be responsible for the administration of statewide educational, clinical, psychological, psychiatric, social, medical, vocational, and recreational services or programs. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(t1).)

§ 143B-816. Authority to provide necessary medical or surgical care.

The Section may provide any medical and surgical treatment necessary to preserve the life and health of juveniles committed to the custody of the Section; however, no surgical operation may be performed except as authorized in G.S. 148-22.2. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(t2).)

§ 143B-817. Compensation to juveniles in care.

A juvenile who has been committed to the Section may be compensated for work or participation in training programs at rates approved by the Secretary within available funds. The Secretary may provide for a reasonable allowance to the juvenile for incidental personal expenses, and any balance of the juvenile's earnings remaining at the time the juvenile is released shall be paid to the juvenile or the juvenile's parent or guardian. The Section may accept grants or funds from any source to compensate juveniles under this section. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(t3).)

§ 143B-818. Visits and community activities.

(a) The Section shall encourage visits by parents or guardians and responsible relatives of juveniles committed to the custody of the Section.

(b) The Section shall develop a program of home visits for juveniles in the custody of the Section. The visits shall begin after the juvenile has been in the custody of the Section for a period of at least six months. In developing the program, the Section shall adopt criteria that promote the protection of the public and the best interests of the juvenile. (1998-202, ss. 1(b), (2)c; 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(t4).)

§ 143B-819. Regional detention services.

The Section is responsible for juvenile detention services, including the development of a statewide plan for regional juvenile detention services that offer juvenile detention care of sufficient quality to meet State standards to any juvenile requiring juvenile detention care within the State in a detention facility as follows:

(1) The Section shall plan with the counties operating a county detention facility to provide regional juvenile detention services to surrounding counties. The Section has discretion in defining the geographical boundaries of the regions based on negotiations with affected counties, distances, availability of juvenile detention care that meets State standards, and other appropriate factors.

(2) The Section may plan with any county that has space within its county jail system to use the existing space for a county detention facility when needed, if the space meets the State standards for a detention facility and meets all of the requirements of G.S. 153A-221. The use of space within the county jail system shall be constructed to ensure that juveniles are not able to converse with, see, or be seen by the adult population, and juveniles housed in a space within a county jail shall be supervised closely.

(3) The Section shall plan for and administer regional detention facilities. The Section shall carefully plan the location, architectural design, construction, and administration of a program to meet the needs of juveniles in juvenile detention care. The physical facility of a regional detention facility shall comply with all applicable State and federal standards. The programs of a regional detention facility shall comply with the standards established by the Section. (1998-202, ss. 1(b), 2(f); 1998-217, s. 57(3); 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(t5).)

§ 143B-820. State subsidy to county detention facilities.

The Section shall administer a State subsidy program to pay a county that provides juvenile detention services and meets State standards a certain per diem per juvenile. In general, this per diem should be fifty percent (50%) of the total cost of caring for a juvenile from within the county and one hundred percent (100%) of the total cost of caring for a juvenile from another county. Any county placing a juvenile in a detention facility in another county shall pay fifty percent (50%) of the total cost of caring for the juvenile to the Section. The Section may vary the exact funding formulas to operate within existing State appropriations or other funds that may be available to pay for juvenile detention care. (1998-202, ss. 1(b), 2(f); 1998-217, s. 57(3); 2000-137, s. 1(b); 2011-145, s. 19.1(*l*), (t); 2017-186, s. 1(t6).)

§ 143B-821. Authority for implementation.

In order to allow for effective implementation of a statewide regional approach to juvenile detention, the Section may:

(1) Release or transfer a juvenile from one detention facility to another when necessary to administer the juvenile's detention appropriately.

(2) Plan with counties that operate county detention facilities to provide regional services and to upgrade physical facilities to contract with counties for services and care, and to pay State subsidies to counties providing regional juvenile detention services that meet State standards.

(3) Allow the State to reimburse law enforcement officers or other appropriate employees of local government for the costs of transportation of a juvenile to and from any juvenile detention facility.

(4) Seek funding for juvenile detention services from federal sources, and accept gifts of funds from public or private sources. (1998-202, ss. 1(b), 2(f); 1998-217, s. 57(3); 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(t7).)

§ 143B-822. Juvenile facility monthly commitment report.

The Department of Public Safety shall report electronically on the first day of each month to the Fiscal Research Division regarding each juvenile correctional facility and the average daily population for the previous month. The report shall include (i) the average daily population for each detention center and (ii) the monthly summary of the Committed Youth Report. (2013-360, s. 16D.4.)

§ 143B-823: Reserved for future codification purposes.

§ 143B-824: Reserved for future codification purposes.

§ 143B-825: Reserved for future codification purposes.

§ 143B-826: Reserved for future codification purposes.

§ 143B-827: Reserved for future codification purposes.

§ 143B-828: Reserved for future codification purposes.

§ 143B-829: Reserved for future codification purposes.

Subpart D. Juvenile Court Services.

§ 143B-830. Duties and powers of chief court counselors.

The chief court counselor in each district appointed under G.S. 143B-806(b)(15) may:

(1) Appoint juvenile court counselors, secretaries, and other personnel authorized by the Section in accordance with the personnel policies adopted by the Section.

(2) Supervise and direct the program of juvenile intake, protective supervision, probation, and post-release supervision within the district.

(3) Provide in-service training for staff as required by the Section.
(4) Keep any records and make any reports requested by the Secretary in order to provide statewide data and information about juvenile needs and services.
(5) Delegate to a juvenile court counselor or supervisor the authority to carry out specified responsibilities of the chief court counselor to facilitate the effective operation of the district.
(6) Designate a juvenile court counselor in the district as acting chief court counselor, to act during the absence or disability of the chief court counselor. (1998-202, ss. 1(b), 2(f); 1998-217, s. 57(3); 2000-137, s. 1(b); 2009-320, s. 1; 2011-145, s. 19.1(*l*), (t), (ddd); 2017-186, s. 1(t8).)

§ 143B-831. Duties and powers of juvenile court counselors.

As the court or the chief court counselor may direct or require, all juvenile court counselors shall have the following powers and duties:

(1) Secure or arrange for any information concerning a case that the court may require before, during, or after the hearing.
(2) Prepare written reports for the use of the court.
(3) Appear and testify at court hearings.
(4) Assume custody of a juvenile as authorized by G.S. 7B-1900, or when directed by court order.
(5) Furnish each juvenile on probation or protective supervision and that juvenile's parents, guardian, or custodian with a written statement of the juvenile's conditions of probation or protective supervision, and consult with the juvenile's parents, guardian, or custodian so that they may help the juvenile comply with the conditions.
(6) Keep informed concerning the conduct and progress of any juvenile on probation or under protective supervision through home visits or conferences with the parents or guardian and in other ways.
(7) See that the juvenile complies with the conditions of probation or bring to the attention of the court any juvenile who violates the juvenile's probation.
(8) Make periodic reports to the court concerning the adjustment of any juvenile on probation or under court supervision.
(9) Keep any records of the juvenile's work as the court may require.
(10) Account for all funds collected from juveniles.
(11) Serve necessary court documents pertaining to delinquent and undisciplined juvenile matters.
(12) Assume custody of juveniles under the jurisdiction of the court when necessary for the protection of the public or the juvenile, and when necessary to carry out the responsibilities of juvenile court counselors under this section and under Chapter 7B of the General Statutes.
(13) Use reasonable force and restraint necessary to secure custody assumed under subdivision (12) of this section.
(14) Provide supervision for a juvenile transferred to the counselor's supervision from another court or another state, and provide supervision for any juvenile released from an institution operated by the Section when requested by the Section to do so.

(15) Assist in the implementation of any order entered pursuant to G.S. 5A-32 as directed by a judicial official exercising jurisdiction under that section.
(16) Assist in the development of post-release supervision and the supervision of juveniles.
(17) Screen and evaluate a complaint alleging that a juvenile is delinquent or undisciplined to determine whether the complaint should be filed as a petition.
(18) Have any other duties as the court may direct.
(19) Have any other duties as the Section may direct. (1998-202, ss. 1(b), 2(d), 2(e), 2(f); 1998-217, s. 57(3); 2000-137, s. 1(b); 2001-490, s. 2.41; 2007-168, s. 7; 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(t9).)

§ 143B-832: Reserved for future codification purposes.

§ 143B-833: Reserved for future codification purposes.

§ 143B-834: Reserved for future codification purposes.

§ 143B-835: Reserved for future codification purposes.

§ 143B-836: Reserved for future codification purposes.

§ 143B-837: Reserved for future codification purposes.

§ 143B-838: Reserved for future codification purposes.

§ 143B-839: Reserved for future codification purposes.

Subpart E. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.

§ 143B-840. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.

(a) The Section shall develop and implement a comprehensive juvenile delinquency and substance abuse prevention plan and shall coordinate with County Councils for implementation of a continuum of services and programs at the community level.

The Section shall ensure that localities are informed about best practices in juvenile delinquency and substance abuse prevention.

(b) The plan shall contain the following:
(1) Identification of the risk factors at the developmental stages of a juvenile's life that may result in delinquent behavior.
(2) Identification of the protective factors that families, schools, communities, and the State must support to reduce the risk of juvenile delinquency.
(3) Programmatic concepts that are effective in preventing juvenile delinquency and substance abuse and that should be made available as basic services in the communities, including:
a. Early intervention programs and services.

b. In-home training and community-based family counseling and parent training.
c. Adolescent and family substance abuse prevention services, including alcohol abuse prevention services, and substance abuse education.
d. Programs and activities offered before and after school hours.
e. Life and social skills training programs.
f. Classes or seminars that teach conflict resolution, problem solving, and anger management.
g. Services that provide personal advocacy, including mentoring relationships, tutors, or other caring adult programs.

(c) The Section shall cooperate with all other affected State agencies and entities in implementing this section. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(*l*), (t); 2012-83, s. 13; 2017-186, s. 1(t10).)

§ 143B-841: Reserved for future codification purposes.

§ 143B-842: Reserved for future codification purposes.

§ 143B-843: Reserved for future codification purposes.

§ 143B-844: Reserved for future codification purposes.

Subpart F. Juvenile Crime Prevention Councils.

§ 143B-845. Legislative intent.

It is the intent of the General Assembly to prevent juveniles who are at risk from becoming delinquent. The primary intent of this Subpart is to develop community-based alternatives to youth development centers and to provide community-based delinquency, substance abuse, and gang prevention strategies and programs. Additionally, it is the intent of the General Assembly to provide noninstitutional dispositional alternatives that will protect the community and the juveniles.

These programs and services shall be planned and organized at the community level and developed in partnership with the State. These planning efforts shall include appropriate representation from local government, local public and private agencies serving juveniles and their families, local business leaders, citizens with an interest in youth problems, youth representatives, and others as may be appropriate in a particular community. The planning bodies at the local level shall be the Juvenile Crime Prevention Councils. (1998-202, s. 1(b); 2000-137, s. 1(b); 2001-95, s. 5; 2008-56, s. 2; 2011-145, s. 19.1(t), (eee).)

§ 143B-846. Creation; method of appointment; membership; chair and vice-chair.

(a) As a prerequisite for a county receiving funding for juvenile court services and delinquency prevention programs, the board of commissioners of a county shall appoint a Juvenile Crime Prevention Council. Each County Council is a continuation of the

corresponding Council created under G.S. 147-33.61. The County Council shall consist of not more than 26 members and should include, if possible, the following:

(1) The local school superintendent, or that person's designee;
(2) A chief of police in the county;
(3) The local sheriff, or that person's designee;
(4) The district attorney, or that person's designee;
(5) The chief court counselor, or that person's designee;
(6) The director of the area mental health, developmental disabilities, and substance abuse authority, or that person's designee;
(7) The director of the county department of social services, or consolidated human services agency, or that person's designee;
(8) The county manager, or that person's designee;
(9) A substance abuse professional;
(10) A member of the faith community;
(11) A county commissioner;
(12) Two persons under the age of 18 years, one of whom is a member of the State Youth Council;
(13) A juvenile defense attorney;
(14) The chief district court judge, or a judge designated by the chief district court judge;
(15) A member of the business community;
(16) The local health director, or that person's designee;
(17) A representative from the United Way or other nonprofit agency;
(18) A representative of a local parks and recreation program; and
(19) Up to seven members of the public to be appointed by the board of commissioners of a county.

The board of commissioners of a county shall modify the County Council's membership as necessary to ensure that the members reflect the racial and socioeconomic diversity of the community and to minimize potential conflicts of interest by members.

(b) Two or more counties may establish a multicounty Juvenile Crime Prevention Council under subsection (a) of this section. The membership shall be representative of each participating county.

(c) The members of the County Council shall elect annually the chair and vice-chair. (1998-202, s. 1(b); 2000-137, s. 1(b); 2001-199, s. 1; 2011-145, s. 19.1(t).)

§ 143B-847. Terms of appointment.

Each member of a County Council shall serve for a term of two years, except for initial terms as provided in this section. Each member's term is a continuation of that member's term under G.S. 147-33.62. Members may be reappointed. The initial terms of appointment began January 1, 1999. In order to provide for staggered terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18) of G.S. 143B-846(a) were appointed for an initial term ending on June 30, 2000. The initial term of the second member added to each County Council pursuant to G.S. 143B-846(a)(12) shall begin on July 1, 2001, and end on June 30, 2002. After the initial terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18)

of G.S. 143B-846(a) shall be appointed for two-year terms, beginning on July 1. All other persons appointed to the Council were appointed for an initial term ending on June 30, 2001, and, after those initial terms, persons shall be appointed for two-year terms beginning on July 1. (1998-202, s. 1(b); 1999-423, s. 15; 2000-137, s. 1(b); 2001-199, s. 2; 2011-145, s. 19.1(t), (fff).)

§ 143B-848. Vacancies; removal.

Appointments to fill vacancies shall be for the remainder of the former member's term.

Members shall be removed only for malfeasance or nonfeasance as determined by the board of county commissioners. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, s. 19.1(t).)

§ 143B-849. Meetings; quorum.

County Councils shall meet at least bimonthly, or more often if a meeting is called by the chair.

A majority of members constitutes a quorum. (1998-202, s. 1(b); 1999-423, s. 16; 2000-137, s. 1(b); 2011-145, s. 19.1(t).)

§ 143B-850. Compensation of members.

Members of County Councils shall receive no compensation but may receive a per diem in an amount established by the board of county commissioners. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, s. 19.1(t).)

§ 143B-851. Powers and duties.

(a) Each County Council shall review annually the needs of juveniles in the county who are at risk of delinquency or who have been adjudicated undisciplined or delinquent and the resources available to address those needs. In particular, each County Council shall assess the needs of juveniles in the county who are at risk or who have been associated with gangs or gang activity, and the local resources that are established to address those needs. The Council shall develop and advertise a request for proposal process and submit a written plan of action for the expenditure of juvenile sanction and prevention funds to the board of county commissioners for its approval. Upon the county's authorization, the plan shall be submitted to the Section for final approval and subsequent implementation.

(b) Each County Council shall ensure that appropriate intermediate dispositional options are available and shall prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Section.

(c) On an ongoing basis, each County Council shall:

(1) Assess the needs of juveniles in the community, evaluate the adequacy of resources available to meet those needs, and develop or propose ways to address unmet needs.

(2) Evaluate the performance of juvenile services and programs in the community. The Council shall evaluate each funded program as a condition of continued funding.

(3) Increase public awareness of the causes of delinquency and of strategies to reduce the problem.
(4) Develop strategies to intervene and appropriately respond to and treat the needs of juveniles at risk of delinquency through appropriate risk assessment instruments.
(5) Provide funds for services for treatment, counseling, or rehabilitation for juveniles and their families. These services may include court-ordered parenting responsibility classes.
(6) Plan for the establishment of a permanent funding stream for delinquency prevention services.
(7) Develop strategies to intervene and appropriately respond to the needs of juveniles who have been associated with gang activity or who are at risk of becoming associated with gang activity.

(d) The Councils may examine the benefits of joint program development between counties within the same judicial district. (1998-202, s. 1(b); 2000-137, s. 1(b); 2008-56, s. 3; 2011-145, ss. 19.1(*l*), (t); 2017-186, s. 1(t11).)

§ 143B-852. Department of Public Safety to report on Juvenile Crime Prevention Council grants.

(a) On or before February 1 of each year, the Department of Public Safety shall submit to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council (JCPC) grants, including the following information:

(1) The amount of the grant awarded.
(2) The membership of the local committee or council administering the award funds on the local level.
(3) The type of program funded.
(4) A short description of the local services, programs, or projects that will receive funds.
(5) Identification of any programs that received grant funds at one time but for which funding has been eliminated by the Department.
(6) The number of at-risk, diverted, and adjudicated juveniles served by each county.
(7) The Department's actions to ensure that county JCPCs prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Department.
(8) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.

(b) On or before February 1 of each year, the Department of Public Safety shall send to the Fiscal Research Division of the Legislative Services Commission an electronic copy

of the list and information required under subsection (a) of this section. (2013-360, s. 16D.2(a); 2017-57, s. 16D.3.)

§ 143B-853: Reserved for future codification purposes.

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§ 143B-899: Reserved for future codification purposes.

Part 4. Law Enforcement.

Subpart A. General Provisions.

§ 143B-900: Recodified as G.S. 143B-911 by Session Laws 2014-100, s. 17.1(i), effective July 1, 2014.

§ 143B-901. Reporting system and database on certain domestic-violence-related homicides; reports by law enforcement agencies required; annual report to the General Assembly.

The Department of Public Safety, in consultation with the North Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police, shall develop a reporting system and database that reflects the number of homicides in the State where the offender and the victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the database shall also include the type of personal relationship that existed between the offender and the victim, whether the victim had obtained an order pursuant to G.S. 50B-3, and whether there was a pending charge for which the offender was on pretrial release pursuant to G.S. 15A-534.1. All State and local law enforcement agencies shall report information to the Department of Public Safety upon making a determination that a homicide meets the reporting system's criteria. The report shall be made in the format adopted by the Department of Public Safety. The Department of Public Safety shall report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, no later than April 1 of each year, with the data collected for the previous calendar year. (2007-14, s. 2; 2014-100, ss. 17.1(g), (rr); 2016-94, s. 17B.2.)

§ 143B-902. Powers and duties of the Department of Public Safety with respect to criminal information.

In addition to its other duties, it shall be the duty of the Department of Public Safety to do all of the following:

(1) To collect and correlate information in criminal law administration, including crimes committed, arrests made, dispositions on preliminary hearings, prosecutions, convictions, acquittals, punishment, appeals, together with the age, race, and sex of the offender, the necessary data to make a trace regarding all firearms seized, forfeited, found, or otherwise coming into the possession of any State or local law enforcement agency of the State that are believed to have been used in the commission of a crime, and such other information concerning crime and criminals as may appear significant or helpful. To correlate such

information with the operations of agencies and institutions charged with the supervision of offenders on probation, in penal and correctional institutions, on parole and pardon, so as to show the volume, variety and tendencies of crime and criminals and the workings of successive links in the machinery set up for the administration of the criminal law in connection with the arrests, trial, punishment, probation, prison parole and pardon of all criminals in North Carolina.

(2) To collect, correlate, and maintain access to information that will assist in the performance of duties required in the administration of criminal justice throughout the State. This information may include, but is not limited to, motor vehicle registration, drivers' licenses, wanted and missing persons, stolen property, warrants, stolen vehicles, firearms registration, sexual offender registration as provided under Article 27A of Chapter 14 of the General Statutes, drugs, drug users and parole and probation histories. In performing this function, the Division may arrange to use information available in other agencies and units of State, local and federal government, but shall provide security measures to insure that such information shall be made available only to those whose duties, relating to the administration of justice, require such information.

(3) To make scientific study, analysis and comparison from the information so collected and correlated with similar information gathered by federal agencies, and to provide the Governor and the General Assembly with the information so collected biennially, or more often if required by the Governor.

(4) To perform all the duties heretofore imposed by law upon the Attorney General with respect to criminal statistics.

(5) Repealed by Session Laws 2014-100, s. 17.1(ss).

(6) To promulgate rules and regulations for the administration of this Article. (1939, c. 315, s. 2; 1955, c. 1257, ss. 1, 2; 1969, c. 1267, s. 1; 1995, c. 545, s. 2; 1999-26, s. 1; 1999-225, s. 1; 2000-67, s. 17.2(a); 2001-424, s. 23.7(a); 2002-159, s. 18(a); 2012-182, s. 1; 2014-100, ss. 17.1(h), (ss).)

§ 143B-903. Collection of traffic law enforcement statistics.

(a) In addition to its other duties, the Department of Public Safety shall collect, correlate, and maintain the following information regarding traffic law enforcement by law enforcement officers:

(1) The number of drivers stopped for routine traffic enforcement by law enforcement officers, the officer making each stop, the date each stop was made, the agency of the officer making each stop, and whether or not a citation or warning was issued.

(2) Identifying characteristics of the drivers stopped, including the race or ethnicity, approximate age, and sex.

(3) The alleged traffic violation that led to the stop.

(4) Whether a search was instituted as a result of the stop.

(5) Whether the vehicle, personal effects, driver, or passenger or passengers were searched, and the race or ethnicity, approximate age, and sex of each person searched.

(6) Whether the search was conducted pursuant to consent, probable cause, or reasonable suspicion to suspect a crime, including the basis for the request for consent, or the circumstances establishing probable cause or reasonable suspicion.

(7) Whether any contraband was found and the type and amount of any such contraband.

(8) Whether any written citation or any oral or written warning was issued as a result of the stop.

(9) Whether an arrest was made as a result of either the stop or the search.

(10) Whether any property was seized, with a description of that property.

(11) Whether the officers making the stop encountered any physical resistance from the driver or passenger or passengers.

(12) Whether the officers making the stop engaged in the use of force against the driver, passenger, or passengers for any reason.

(13) Whether any injuries resulted from the stop.

(14) Whether the circumstances surrounding the stop were the subject of any investigation, and the results of that investigation.

(15) The geographic location of the stop; if the officer making the stop is a member of the State Highway Patrol, the location shall be the Highway Patrol District in which the stop was made; for all other law enforcement officers, the location shall be the city or county in which the stop was made.

(b) For purposes of this section, "law enforcement officer" means any of the following:

(1) All State law enforcement officers.

(2) Law enforcement officers employed by county sheriffs or county police departments.

(3) Law enforcement officers employed by police departments in municipalities with a population of 10,000 or more persons.

(4) Law enforcement officers employed by police departments in municipalities employing five or more full-time sworn officers for every 1,000 in population, as calculated by the Department for the calendar year in which the stop was made.

(c) The information required by this section need not be collected in connection with impaired driving checks under G.S. 20-16.3A or other types of roadblocks, vehicle checks, or checkpoints that are consistent with the laws of this State and with the State and federal constitutions, except when those stops result in a warning, search, seizure, arrest, or any of the other activity described in subdivisions (4) through (14) of subsection (a) of this section.

(d) Each law enforcement officer making a stop covered by subdivision (1) of subsection (a) of this section shall be assigned an anonymous identification number by the officer's employing agency. The anonymous identifying number shall be public record and shall be reported to the Department to be correlated along with the data collected under subsection (a) of this section. The correlation between the identification numbers and the names of the officers shall not be a public record, and shall not be disclosed by the agency except when required by order of a court of competent jurisdiction to resolve a claim or defense properly before the court.

(e) Any agency subject to the requirements of this section shall submit information collected under subsection (a) of this section to the Department within 60 days of the close of each month. Any agency that does not submit the information as required by this subsection shall be ineligible to receive any law enforcement grants available by or through the State until the information which is reasonably available is submitted.

(f) The Department shall publish and distribute by December 1 of each year a list indicating the law enforcement officers that will be subject to the provisions of this section during the calendar year commencing on the following January 1. (1939, c. 315, s. 2; 1955, c. 1257, ss. 1, 2; 1969, c. 1267, s. 1; 1995, c. 545, s. 2; 1999-26, s. 1; 1999-225, s. 1; 2000-67, s. 17.2(a); 2001-424, s. 23.7(a); 2002-159, s. 18(a), (b); 2009-544, s. 1; 2012-182, s. 1; 2014-100, ss. 17.1(h), (tt).)

§ 143B-904. Collection of statistics on the use of deadly force by law enforcement officers.

(a) In addition to its other duties, the Department of Public Safety shall collect, maintain, and annually publish the number of deaths, by law enforcement agency, resulting from the use of deadly force by law enforcement officers in the course and scope of their official duties.

(b) For purposes of this section, "law enforcement officer" means sworn law enforcement officers with the power of arrest, both State and local. (2009-106, s. 1; 2012-182, ss. 1; 2014-100, s. 17.1(h), (uu).)

§ 143B-905. Criminal Information Network.

(a) The Department of Public Safety is authorized to establish, devise, maintain and operate a system for receiving and disseminating to participating agencies information collected, maintained and correlated under authority of G.S. 143B-902. The system shall be known as the Criminal Information Network.

(b) The Department of Public Safety is authorized to cooperate with the Division of Motor Vehicles, Department of Administration, and other State, local and federal agencies and organizations in carrying out the purpose and intent of this section, and to utilize, in cooperation with other State agencies and to the extent as may be practical, computers and related equipment as may be operated by other State agencies.

(c) The Department of Public Safety, after consultation with participating agencies, shall adopt rules and regulations governing the organization and administration of the Criminal Information Network, including rules and regulations governing the types of information relating to the administration of criminal justice to be entered into the system, and who shall have access to such information. The rules and regulations governing access to the Criminal Information Network shall not prohibit an attorney who has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining information relevant to that criminal proceeding. The rules and regulations governing access to the Criminal Information Network shall not prohibit an attorney who represents a person in adjudicatory or dispositional proceedings for an infraction from obtaining the person's driving record or criminal history.

(d) The Department may impose monthly fees on participating agencies. The monthly fees collected under this subsection shall be used to offset the cost of operating and maintaining the Criminal Information Network.

(1) The Department may impose a monthly circuit fee on agencies that access the Criminal Information Network through a circuit maintained and operated by the Department of Public Safety. The amount of the monthly fee is three hundred dollars ($300.00) plus an additional fee amount for each device linked to the Network. The additional fee amount varies depending upon the type of device. For a desktop device after the first seven desktop devices, the additional monthly fee is twenty-five dollars ($25.00) per device. For a mobile device, the additional monthly fee is twelve dollars ($12.00) per device.

(2) The Department may impose a monthly device fee on agencies that access the Criminal Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars ($25.00) per device. For a mobile device, the fee is twelve dollars ($12.00) per device. (1969, c. 1267, s. 2; 1975, c. 716, s. 5; 1977, c. 836; 1993, c. 39, s. 1; 2005-276, ss. 43.4(a), 43.4(b); 2011-145, s. 19.1(h); 2012-83, s. 36; 2012-182, s. 1; 2014-100, ss. 17.1(h), (vv).)

§ 143B-906. Criminal statistics.

It shall be the duty of the State Bureau of Investigation to receive and collect criminal information, to assist in locating, identifying, and keeping records of criminals in this State, and from other states, and to compare, classify, compile, publish, make available and disseminate any and all such information to the sheriffs, constables, police authorities, courts or any other officials of the State requiring such criminal identification, crime statistics and other information respecting crimes local and national, and to conduct surveys and studies for the purpose of determining so far as is possible the source of any criminal conspiracy, crime wave, movement or cooperative action on the part of the criminals, reporting such conditions, and to cooperate with all officials in detecting and preventing. (1965, c. 1049, s. 1; 1973, c. 1286, s. 19; 1989, c. 772, s. 3; 1989 (Reg. Sess., 1990), c. 814, s. 9; 2000-119, s. 7; 2003-214, s. 1(1); 2014-100, ss. 17.1(k), (zzz).)

§ 143B-907: Reserved for future codification purposes.

§ 143B-908: Reserved for future codification purposes.

§ 143B-909: Reserved for future codification purposes.

§ 143B-910: Reserved for future codification purposes.

Subpart B. State Capitol Police Division.

§ 143B-911. Creation of State Capitol Police Division; powers and duties.

(a) Division Established. – There is created the State Capitol Police Division of the Department of Public Safety with the organization, powers, and duties defined in Article 1 of this Chapter, except as modified in this Part.

(b) Purpose. – The State Capitol Police Division shall serve as a special police agency of the Department of Public Safety. The Chief of the State Capitol Police, appointed by the Secretary pursuant to G.S. 143B-602, with the approval of the Governor, may appoint as special police officers such reliable persons as the Chief may deem necessary.

(c) Appointment of Officers. – Special police officers appointed pursuant to this section may not exercise the power of arrest until they shall take an oath, to be administered by any person authorized to administer oaths, as required by law.

(d) Jurisdiction of Officers. – Each special police officer of the State Capitol Police shall have the same power of arrest as the police officers of the City of Raleigh. Such authority may be exercised within the same territorial jurisdiction as exercised by the police officers of the City of Raleigh, and in addition thereto the authority of a deputy sheriff may be exercised on property owned, leased, or maintained by the State located in the County of Wake.

(e) Public Safety. – The Chief of the State Capitol Police, or the Chief's designee, shall exercise at all times those means that, in the opinion of the Chief or the designee, may be effective in protecting all State buildings and grounds, except for the State legislative buildings and grounds as defined in G.S. 120-32.1(d), and the persons within those buildings and grounds from fire, bombs, bomb threats, or any other emergency or potentially hazardous conditions, including both the ordering and control of the evacuation of those buildings and grounds. The Chief, or the Chief's designee, may employ the assistance of other available law enforcement agencies and emergency agencies to aid and assist in evacuations of those buildings and grounds. (2009-451, s. 17.3(f); 2011-145, ss. 19.1(g), (u), (y); 2014-100, s. 17.1(i); 2015-241, s. 16A.7(f); 2015-267, s. 3; 2017-57, s. 16B.10(c).)

§ 143B-912: Reserved for future codification purposes.

§ 143B-913: Reserved for future codification purposes.

§ 143B-914: Reserved for future codification purposes.

Subpart C. State Bureau of Investigation.

§ 143B-915. Bureau of Investigation created; powers and duties.

In order to secure a more effective administration of the criminal laws of the State, to prevent crime, and to procure the speedy apprehension of criminals, there is established the State Bureau of Investigation, which shall be administratively located in the Department of Public Safety. The Bureau shall be an independent agency under the direction and supervision of the Director, who shall serve as chief executive officer of the Bureau and shall be solely responsible for all management functions. Notwithstanding any provisions

to the contrary, the Director shall have such authority as is necessary to direct and oversee the Bureau, and may delegate any duties and responsibilities necessary to ensure the proper management of the Bureau. The Department of Public Safety shall provide administrative support to the Bureau. The State Bureau of Investigation shall have charge of and administer the agencies and activities herein set up for the identification of criminals, for their apprehension, and investigation and preparation of evidence to be used in criminal courts; and the said Bureau shall have charge of investigation of criminal matters herein especially mentioned, and of such other crimes and criminal procedure as the Governor may direct.

In the personnel of the Bureau shall be included a sufficient number of persons of training and skill in the investigation of crime and in the preparation of evidence as to be of service to local enforcement officers, under the direction of the Governor, in criminal matters of major importance. (1937, c. 349, s. 1; 1939, c. 315, s. 6; 2003-214, s. 1(1); 2013-360, s. 17.6(l); 2014-100, s. 17.1(j), (ww); 2015-241, s. 16A.7(a).)

§ 143B-916. SBI liaison.

The State Bureau of Investigation may designate liaison personnel to lobby for legislative action in accordance with Part 5 of Article 8 of Chapter 163A of the General Statutes. (2015-241, s. 16A.7(c); 2017-6, s. 3.)

§ 143B-917. General powers and duties of Director and law enforcement officers of the State Bureau of Investigation.

The Director of the Bureau and other sworn law enforcement officers of the State Bureau of Investigation are given the same power of arrest as is now vested in the sheriffs of the several counties, and their jurisdiction shall be statewide. The Director of the Bureau and other sworn law enforcement officers of the Bureau may give assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so directed. They shall also give assistance, when requested, to the Department of Public Safety in the investigation of cases pending before the parole office and of complaints lodged against parolees, when so directed by the Governor. (1937, c. 349, s. 5; 1973, c. 47, s. 2; c. 1262, s. 10; 2003-214, s. 1(1); 2011-145, ss. 19.1(h), (q1); 2011-391, s. 43(g); 2012-83, s. 37; 2014-100, ss. 17.1(j), (xx).)

§ 143B-918. Transfer of personnel.

The Director of the State Bureau of Investigation shall have authority to transfer members of the Bureau from one locality in the State to another as he may deem necessary. When any member of the State Bureau of Investigation is transferred from one point to another for the convenience of the State, or otherwise than upon the request of the employee, the Bureau shall be responsible for transporting the household goods, furniture, and personal effects of the employee and members of his household. (1955, c. 1185, s. 2; 2003-214, s. 1(1); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j).)

§ 143B-919. Investigations of lynchings, election frauds, etc.; services subject to call of Governor; witness fees and mileage for employees.

(a) The Bureau shall, upon request of the Governor, investigate and prepare evidence in the event of any lynching or mob violence in the State; shall investigate all cases arising from frauds in connection with elections when requested to do so by the Board of Elections, and when so directed by the Governor. Such investigation, however, shall in nowise interfere with the power of the Attorney General to make such investigation as the Attorney General is authorized to make under the laws of the State. The Bureau is authorized further, at the request of the Governor, to investigate cases of frauds arising under the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and matters of similar kind when called upon by the Governor so to do. In all such cases it shall be the duty of the Department to keep such records as may be necessary and to prepare evidence in the cases investigated, for the use of enforcement officers and for the trial of causes. The services of employees of the Bureau may be required by the Governor in connection with the investigation of any crime committed anywhere in the State when called upon by the enforcement officers of the State, and when, in the judgment of the Governor, such services may be rendered with advantage to the enforcement of the criminal law. The State Bureau of Investigation is hereby authorized to investigate without request the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1).

(b) The Bureau also is authorized at the request of the Governor to conduct a background investigation on a person that the Governor plans to nominate for a position that must be confirmed by the General Assembly, the Senate, or the House of Representatives. The background investigation of the proposed nominee shall be limited to an investigation of the person's criminal record, educational background, employment record, records concerning the listing and payment of taxes, and credit record, and to a requirement that the person provide the information contained in the statements of economic interest required to be filed by persons subject to Subchapter II of Chapter 163A of the General Statutes. The Governor must give the person being investigated written notice that the Governor intends to request a background investigation at least 10 days prior to the date that the Governor requests the State Bureau of Investigation to conduct the background investigation. The written notice shall be sent by regular mail, and there is created a rebuttable presumption that the person received the notice if the Governor has a copy of the notice.

(c) The State Bureau of Investigation is further authorized, upon request of the Governor or the Attorney General, to investigate the commission or attempted commission of the crimes defined in the following statutes:

(1) Article 4A of Chapter 14 of the General Statutes;
(1a) G.S. 14-43.11;
(2) G.S. 14-277.1;
(3) G.S. 14-277.2;

(4) G.S. 14-283;
(5) G.S. 14-284;
(6) G.S. 14-284.1;
(7) G.S. 14-288.2;
(8) G.S. 14-288.7;
(9) G.S. 14-288.8;
(10) G.S. 14-288.20;
(10a) G.S. 14-288.21;
(10b) G.S. 14-288.22;
(10c) G.S. 14-288.23;
(10d) G.S. 14-288.24;
(11) G.S. 14-284.2;
(12) G.S. 14-399(e);
(12a) G.S. 15A-287 and G.S. 15A-288;
(13) G.S. 130A-26.1;
(14) G.S. 143-215.6B;
(15) G.S. 143-215.88B; and
(16) G.S. 143-215.114B.

(d) The State Bureau of Investigation is further authorized, upon request of the Governor or Attorney General, to investigate the solicitation, commission, or attempted commission, by means of a computer, computer network, computer system, electronic mail service provider, or the Internet, of the crimes defined in the following statutes:

(1) G.S. 14-190.6;
(2) G.S. 14-190.7;
(3) G.S. 14-190.8;
(4) G.S. 14-190.14;
(5) G.S. 14-190.15;
(6) G.S. 14-190.16;
(7) G.S. 14-190.17;
(8) G.S. 14-190.17A;
(9) G.S. 14-190.18;
(10) G.S. 14-190.19;
(11) G.S. 14-202.3;

Upon determining the location of the criminal violation, the State Bureau of Investigation shall promptly notify the sheriff and local law enforcement of its investigation.

(e) All records and evidence collected and compiled by employees of the Bureau shall, upon request, be made available to the district attorney of any district if the same concerns persons or investigations in his district.

(f) In all cases where the cost is assessed against the defendant and paid by him, there shall be assessed in the bill of cost, mileage and witness fees to any employees of the Bureau who are witnesses in cases arising in courts of this State. The fees so assessed, charged and collected shall be forwarded by the clerks of the court to the Treasurer of the State of North Carolina, and there credited to the Bureau of Identification and Investigation Fund. (1937, c. 349, s. 6; 1947, c. 280; 1965, c. 772; 1973, c. 47, s. 2; 1981, c. 822, s. 2; 1987, c. 858, s. 1; c. 867, s. 3; 1991, c. 725, s. 2; 1993, c. 461, s. 2; 1995, c. 407, s. 2;

1999-398, s. 2; 2003-214, s. 1(1); 2005-121, s. 3; 2008-213, s. 88; 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, ss. 17.1(j), (yy); 2017-57, s. 16B.10(a); 2017-6, s. 3.)

§ 143B-920. Department heads to report possible violations of criminal statutes involving misuse of State property to State Bureau of Investigation.

Any person employed by the State of North Carolina, its agencies or institutions, who receives any information or evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement of, or misuse of, any state-owned personal property, buildings or other real property, shall as soon as possible, but not later than three days from receipt of the information or evidence, report such information or evidence to his immediate supervisor, who shall in turn report such information or evidence to the head of the respective department, agency, or institution. The head of any department, agency, or institution receiving such information or evidence shall, within a reasonable time but no later than 10 days from receipt thereof, report such information, excluding damage or loss resulting from motor vehicle accidents or unintentional loss of property, in writing to the Director of the State Bureau of Investigation.

Upon receipt of notification and information as provided for in this section, the State Bureau of Investigation shall, if appropriate, conduct an investigation.

The employees of all State departments, agencies and institutions are hereby required to cooperate with the State Bureau of Investigation, its officers and agents, as far as may be possible, in aid of such investigation.

If such investigation reveals a possible violation of the criminal laws, the results thereof shall be reported by the State Bureau of Investigation to the district attorney of any district if the same concerns persons or offenses in his district. (1977, c. 763; 2003-214, s. 1(1); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j); 2014-115, s. 45(a).)

§ 143B-921. Use of private investigators limited.

No State executive officer, department, agency, institution, commission, bureau, or other organized activity of the State that receives support in whole or in part from the State except for counties, cities, towns, other municipal corporations or political subdivisions of the State or any agencies of these subdivisions, or county or city boards of education may employ a private investigator without the consent of the Director of the State Bureau of Investigation. If the Director of the State Bureau of Investigation determines that it is impracticable for the Bureau to conduct the investigation, the Director of the State Bureau of Investigation shall employ a private investigator and shall fix the compensation for his services. The cost of the private investigator shall be paid from funds credited to the entity requesting the investigation or from the Contingency and Emergency Fund. (1985, c. 479, s. 138; 2003-214, s. 1(1); 2014-100, ss. 17.1(j), (p).)

§ 143B-922. Investigations of child sexual abuse in child care.

The Director of the Bureau may form a task force to investigate and gather evidence following a notification by the director of a county department of social services, pursuant

to G.S. 7B-301, that child sexual abuse may have occurred in a child care facility. (1991, c. 593, s. 3; 1991 (Reg. Sess., 1992), c. 923, s. 5; 1997-506, s. 37; 1998-202, s. 13(z); 2003-214, s. 1(1); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j).)

§ 143B-923. Cooperation of local enforcement officers.

All local enforcement officers are hereby required to cooperate with the said Bureau, its officers and agents, as far as may be possible, in aid of such investigations and arrest and apprehension of criminals as the outcome thereof. (1937, c. 349, s. 8; 2003-214, s. 1(1); 2014-100, s. 17.1(j).)

§ 143B-924. Governor authorized to transfer activities of Central Prison Identification Bureau to the new Bureau; photographing and fingerprinting records.

The records and equipment of the Identification Bureau now established at Central Prison shall be made available to the said Bureau of Investigation, and the activities of the Identification Bureau now established at Central Prison may, in the future, if the Governor deem advisable, be carried on by the Bureau hereby established; except that the Bureau established by this Article shall have authority to make rules and regulations whereby the photographing and fingerprinting of persons confined in the Central Prison, or clearing through the Central Prison, or sentenced by any of the courts of this State to service upon the roads, may be taken and filed with the Bureau. (1937, c. 349, s. 2; 1939, c. 315, s. 6; 2003-214, s. 1(1); 2014-100, s. 17.1(j).)

§ 143B-925. Study and report on use of pseudoephedrine products to make methamphetamine.

The State Bureau of Investigation shall study issues regarding the use of pseudoephedrine products to make methamphetamine, including any data on the use of particular pseudoephedrine products in that regard, pertinent law enforcement statistics, trends observed, and other relevant information, and report annually to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, the Legislative Commission on Methamphetamine Abuse, and the Joint Governmental Operations Subcommittee on Justice and Public Safety. (2005-434, s. 8; 2014-100, s. 17.1(l).)

§ 143B-926. Appointment and term of the Director of the State Bureau of Investigation.

(a) The Director of the State Bureau of Investigation shall be appointed by the Governor for a term of eight years subject to confirmation by the General Assembly by joint resolution. The term of office of the Director of the State Bureau of Investigation shall be for eight years; the first full term shall begin July 1, 2015. The name of the person to be appointed by the Governor shall be submitted by the Governor to the General Assembly for confirmation by the General Assembly on or before May 1 of the year in which the term for which the appointment is to be made expires. Upon failure of the Governor to submit a name as herein provided, the President Pro Tempore of the Senate and the Speaker

of the House of Representatives jointly shall submit a name of an appointee to the General Assembly on or before May 15 of the same year. The appointment shall then be made by enactment of a bill. The bill shall state the name of the person being appointed, the office to which the appointment is being made, the effective date of the appointment, the date of expiration of the term, the residence of the appointee, and that the appointment is made upon the joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Nothing precludes any member of the General Assembly from proposing an amendment to any bill making such an appointment. If there is no vacancy in the office of the Director of the State Bureau of Investigation, and a bill that would confirm the appointment of the person as Director fails a reading in either chamber of the General Assembly, then the Governor shall submit a new name within 30 days.

(b) The Director may be removed from office only by the Governor and solely for the grounds set forth in G.S. 143B-13(b), (c), and (d). In case of a vacancy in the office of the Director of the State Bureau of Investigation for any reason prior to the expiration of the Director's term of office, the name of the Director's successor shall be submitted by the Governor to the General Assembly not later than 60 days after the vacancy arises. If a vacancy arises in the office when the General Assembly is not in session, an acting Director shall be appointed by the Governor to serve pending confirmation by the General Assembly. However, in no event shall an acting Director serve (i) for more than 12 months without General Assembly confirmation or (ii) after a bill that would confirm the appointment of the person as Director fails a reading in either chamber of the General Assembly. (2014-100, s. 17.1(ppp).)

§ 143B-927. Personnel of the State Bureau of Investigation.

The Director of the State Bureau of Investigation may appoint a sufficient number of assistants who shall be competent and qualified to do the work of the Bureau. The Director shall be responsible for making all hiring and personnel decisions of the Bureau. Notwithstanding the provisions of this Chapter or Chapter 143A of the General Statutes, the Director may hire or fire personnel and transfer personnel within the Bureau. (2014-100, s. 17.1(ttt); 2015-264, s. 20.)

§ 143B-928. Alcohol Law Enforcement Branch to remain separate and discrete component of the State Bureau of Investigation; retention of funds; youth access to tobacco products.

(a) Notwithstanding any overlap between the duties and jurisdiction of the Alcohol Law Enforcement Branch and the remainder of the State Bureau of Investigation, the Alcohol Law Enforcement Branch is a separate and discrete branch of the State Bureau of Investigation and alcohol law enforcement officers are separate and discrete from other sworn law enforcement officers of the Bureau. No funds or positions shall be transferred from budget code 14550, fund code 1401, to any other fund code or budget code except by act of the General Assembly.

(b) Where the General Statutes confer narrower authority on the State Bureau of Investigation than on the Alcohol Law Enforcement Branch, the narrower authority shall not be construed to limit the authority of the Alcohol Law Enforcement Division.

(c) Any funds or property distributed to the Alcohol Law Enforcement Branch as a result of any federal forfeiture proceeding shall only be expended for purposes related to the Alcohol Law Enforcement Branch.

(d) The Alcohol Law Enforcement branch has jurisdiction and primary responsibility to enforce G.S. 14-313 regarding youth access to tobacco products. (2014-100, s. 17.1(vvv); 2017-57, s. 16B.11; 2018-5, s. 16B.3(a).)

§ 143B-929. Operation and management of Information Sharing and Analysis Center.

The State Bureau of Investigation shall operate and manage the Information Sharing and Analysis Center, and its operation and management shall be under the sole direction and control of the Director of the State Bureau of Investigation. The Information Sharing and Analysis Center is authorized to analyze information related to any threat of violence to the safety of any individual associated with (i) an educational property as defined in G.S. 14-269.2 or (ii) a place of worship as defined in G.S. 14-54.1. The Information Sharing and Analysis Center shall promptly notify the sheriff and local law enforcement agency with jurisdiction if (i) a threat is determined to be credible and (ii) the location of the educational property or place of worship associated with the threat, or the location of any individual suspected of creating the threat, is ascertained. The Director of the State Bureau of Investigation and other sworn law enforcement officers of the State Bureau of Investigation may give assistance to sheriffs and police officers when called upon by them and so directed, as provided in G.S. 143B-917. (2015-241, s. 16A.7(d); 2018-67, s. 4.)

Subpart D. Criminal History Record Checks.

§ 143B-930. Criminal history background investigations; fees.

(a) When the Department of Public Safety determines that any person is entitled by law to receive information, including criminal records, from the State Bureau of Investigation, for any purpose other than the administration of criminal justice, the State Bureau of Investigation shall charge the recipient of such information a reasonable fee for retrieving such information. The fee authorized by this section shall not exceed the actual cost of storing, maintaining, locating, editing, researching and retrieving the information, and may be budgeted for the support of the State Bureau of Investigation.

(b) As used in this section, "administration of criminal justice" means the performance of any of the following activities: the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of persons suspected of, accused of or convicted of a criminal offense. The term also includes screening for suitability for employment, appointment or retention of a person as a law enforcement or criminal justice officer or for suitability for appointment of a person who must be appointed or confirmed by the General Assembly, the Senate, or the House of Representatives.

(c) In providing criminal history record checks, the Department of Public Safety shall process requests in the following priority order:

(1) Administration of criminal justice record checks,

(2) Mandatory noncriminal justice criminal history record checks,

(3) Voluntary noncriminal justice criminal history record checks.

(d) Nothing in this section shall be construed as enlarging any right to receive any record of the State Bureau of Investigation. Such rights are and shall be controlled by G.S. 143B-919, 143B-906, 120-19.4A, and other applicable statutes. (1979, c. 816; 1981, c. 832, s. 1; 1987, c. 867, s. 1; 1995 (Reg. Sess., 1996), c. 606, s. 4; 2002-126, s. 29A.12(a); 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o), (zz); 2015-267, s. 1(b).)

§ 143B-931. Criminal record checks of school personnel.

(a) The Department of Public Safety may provide a criminal record check to the local board of education of a person who is employed in a public school in that local school district or of a person who has applied for employment in a public school in that local school district, if the employee or applicant consents to the record check. The Department may also provide a criminal record check of school personnel as defined in G.S. 115C-332 by fingerprint card to the local board of education from National Repositories of Criminal Histories, in accordance with G.S. 115C-332. The information shall be kept confidential by the local board of education as provided in Article 21A of Chapter 115C of the General Statutes.

(b) The Department of Public Safety may provide a criminal history record check to the board of directors of a regional school of a person who is employed at a regional school or of a person who has applied for employment at a regional school if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in G.S. 115C-238.73 by fingerprint card to the board of directors of the regional school from the National Repositories of Criminal Histories, in accordance with G.S. 115C-238.73. The information shall be kept confidential by the board of directors of the regional school as provided in G.S. 115C-238.73.

(b1) The Department of Public Safety may provide a criminal history record check to the chancellor operating a University of North Carolina laboratory school of a person who is employed at a laboratory school or of a person who has applied for employment at a laboratory school if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel, as defined in G.S. 116-239.12, by fingerprint card to the chancellor operating the laboratory school from the National Repositories of Criminal Histories, in accordance with G.S. 116-239.12. The information shall be kept confidential by the chancellor operating the laboratory school as provided in G.S. 116-239.12.

(c) The Department of Public Safety may provide a criminal record check to the employer of a person who is employed in a nonpublic school or of a person who has applied for employment in a nonpublic school, if the employee or applicant consents to the record check. For purposes of this subsection, the term nonpublic school is one that is subject to

the provisions of Article 39 of Chapter 115C of the General Statutes, but does not include a home school as defined in that Article.

(d) The Department of Public Safety shall charge a reasonable fee for conducting a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(e) The Department of Public Safety may provide a criminal record check to the schools within the Department of Health and Human Services of a person who is employed, applies for employment, or applies to be selected as a volunteer, if the employee or applicant consents to the record check. The Department of Health and Human Services shall keep all information pursuant to this subsection confidential, as provided in Article 7 of Chapter 126 of the General Statutes.

(f) The Department of Public Safety shall adopt rules to implement this section. (1991, c. 705, s. 1; 1993, c. 350, s. 1; 1995, c. 373, s. 2; 1997-443, s. 11A.118(a); 2003-214, s. 1(2); 2011-241, s. 2; 2014-100, ss. 17.1(m), (o); 2017-102, s. 25; 2017-117, s. 3.)

§ 143B-932. Criminal record checks of providers of treatment for or services to children, the elderly, mental health patients, the sick, and the disabled.

(a) Authority. – The Department of Public Safety may provide to any of the following entities a criminal record check of an individual who is employed by that entity, has applied for employment with that entity, or has volunteered to provide direct care on behalf of that entity:

(1) Hospitals licensed under Chapter 131E of the General Statutes.
(2) Hospices licensed under Chapter 131E of the General Statutes.
(3) Child placing agencies licensed under Chapter 131D of the General Statutes.
(4) Residential child care facilities licensed under Chapter 131D of the General Statutes.
(5) Hospitals licensed under Chapter 122C of the General Statutes.
(6) Licensed child care facilities and nonlicensed child care homes regulated by the State.
(7) Any other organization or corporation, whether for profit or nonprofit, that provides direct care or services to children, the sick, the disabled, or the elderly.

(b) Procedure. – A criminal record check may be conducted by using an individual's fingerprint or any information required by the Department of Public Safety to identify that individual. A criminal record check shall be provided only if the individual whose record is checked consents to the record check. The information shall be kept confidential by the entity that receives the information. Upon the disclosure of confidential information under this section by the entity, the Department may refuse to provide further criminal record checks to that entity.

(c) Foster or Adoptive Parent. – The Department of Public Safety, at the request of a child placing agency licensed under Chapter 131D of the General Statutes or a local department of social services, may provide a criminal record check of a prospective foster care or adoptive parent if the prospective parent consents to the record check. The information shall be kept confidential and upon the disclosure of confidential information

under this section by the agency or department, the Department may refuse to provide further criminal record checks to that agency or department.

(d) Fee. – The Department may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee may not exceed fourteen dollars ($14.00). (1993, c. 403, s. 1; 1995, c. 453, s. 1; 1995 (Reg. Sess., 1996), c. 606, s. 1; 1997-506, s. 38; 2000-154, s. 5; 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-933. Criminal record checks for foster care.

The Department of Public Safety may provide to the Division of Social Services, Department of Health and Human Services, the criminal history from the State and National Repositories of Criminal Histories as defined in G.S. 131D-10.2(6a). The Division shall provide to the Department of Public Safety, along with the request, the fingerprints of the individual to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 131D-10.3A(g). The Department of Public Safety shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. (1995, c. 507, s. 23.26(c); 1997-140, s. 3; 1997-443, s. 11A.118(a); 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-934. Criminal record checks of child care providers.

The Department of Public Safety may provide to the Division of Child Development, Department of Health and Human Services, the criminal history from the State and National Repositories of Criminal Histories in accordance with G.S. 110-90.2, of any child care provider, as defined in G.S. 110-90.2. The Division shall provide to the Department of Public Safety, along with the request, the fingerprints of the provider to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the child care provider to be checked. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 110-90.2(e). The Department of Public Safety shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. (1995, c. 507, s. 23.25(b); 1997-443, s. 11A.118(a); 1997-506, s. 39; 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-935. Criminal history record checks of employees of and applicants for employment with the Department of Health and Human Services, and the

Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(a) Definitions. – As used in this section, the term:

(1) "Covered person" means any of the following:

a. An applicant for employment or a current employee in a position in the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who provides direct care for a client, patient, student, resident or ward of the Division.

b. A person who supervises positions in the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety providing direct care for a client, patient, student, resident or ward of the Division.

c. An applicant for employment or a current employee in a position in the Department of Health and Human Services.

d. An independent contractor or an employee of an independent contractor that has contracted to provide services to the Department of Health and Human Services.

e. A person who has been approved to perform volunteer services for the Department of Health and Human Services.

f. An independent contractor or an employee of an independent contractor who has contracted with the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to provide direct care for a client, patient, student, resident, or ward of the Division.

g. A person who has been approved to perform volunteer services in or for the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to provide direct care for a client, patient, student, resident, or ward of the Division.

(2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,

Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the North Carolina Department of Public Safety may provide to the requesting department or division a covered person's criminal history from the State Repository of Criminal Histories. Such requests shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department or division shall provide to the Department of Public Safety a form consenting to the check signed by the covered person to be checked and any additional information required by the Department of Public Safety. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall provide to the North Carolina Department of Public Safety the fingerprints of the covered person to be checked, any additional information required by the Department of Public Safety, and a form signed by the covered person to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Health and Human Services and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall keep all information pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Department of Public Safety. All of the information either department receives through the checking of the criminal history is privileged information and for the exclusive use of that department.

(d) If the covered person's verified criminal history record check reveals one or more convictions covered under subsection (a) of this section, then the conviction shall constitute

just cause for not selecting the person for employment, or for dismissing the person from current employment with the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The conviction shall not automatically prohibit employment; however, the following factors shall be considered by the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in determining whether employment shall be denied:

(1) The level and seriousness of the crime;
(2) The date of the crime;
(3) The age of the person at the time of the conviction;
(4) The circumstances surrounding the commission of the crime, if known;
(5) The nexus between the criminal conduct of the person and job duties of the person;
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
(7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Health and Human Services and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(f) The Department of Health and Human Services and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may extend a conditional offer of employment pending the results of a criminal history record check authorized by this section. (1997-260, s. 1; 1997-443, s. 11A.118(b); 1998-202, s. 4(f); 2000-137, s. 4(h); 2003-214, s. 1(2); 2005-114, s. 4; 2011-145, s. 19.1(*l*); 2012-12, s. 2(nn); 2012-83, s. 5; 2014-100, ss. 17.1(m), (o), (q), (aaa); 2015-181, s. 47; 2017-186, ss. 2(jjjjjj), 3(b).)

§ 143B-935.1. Criminal record checks of applicants and current employees who access federal tax information.

(a) The Department of Public Safety may, upon request, provide to the Division of Social Services or Division of Medical Assistance within the Department of Health and Human Services or a county agency the criminal history from the State and National Repositories of Criminal Histories of the following individuals if the individual is permitted, or will be permitted, to access federal tax information:

(1) An applicant for employment.
(2) A current employee.
(3) A contractual employee or applicant.
(4) An employee of a contractor.

(b) Along with the request, the requesting agency shall provide the following to the Department of Public Safety:

(1) The fingerprints of the person who is the subject of the record check.
(2) A form signed by the person who is the subject of the record check consenting to:
    a. The criminal record check.
    b. The use of fingerprints.
    c. Any other identifying information required by the State and National Repositories.
    d. Any additional information required by the Department of Public Safety.

(c) The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(d) The requesting agency shall keep all information obtained pursuant to this section confidential.

(e) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2018-5, s. 11C.4.)

§ 143B-936. Criminal record checks required prior to placement for adoption of a minor who is in the custody or placement responsibility of a county department of social services.

The Department of Public Safety may provide to the Division of Social Services, Department of Health and Human Services, the criminal history from the State and National Repositories of Criminal Histories as defined in G.S. 48-1-101(5a). The Division shall provide to the Department of Public Safety, along with the request, the fingerprints of any individual to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 48-3-309(f). The Department of Public Safety shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. (1998-229, s. 16; 2003-214, s. 1(2); 2005-114, s. 3; 2014-100, ss. 17.1(m), (o).)

§ 143B-937. Criminal record checks of applicants for auctioneer, apprentice auctioneer, or auction firm license.

The Department of Public Safety may provide to the North Carolina Auctioneers Commission from the State and National Repositories of Criminal Histories the criminal history of any applicant for an auctioneer's license under Chapter 85B of the General Statutes. Along with the request, the Commission shall provide to the Department of Public

Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a check of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Commission shall keep all information obtained pursuant to this section confidential. Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (1999-142, s. 9; 2000-140, s. 59(c); 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-938. Criminal record checks of McGruff House Program volunteers.

(a) Authority. – The Department of Public Safety and the Federal Bureau of Investigation may provide to any local law enforcement agency a criminal record check of any individual who applies as a volunteer for the McGruff House Program in that community and a criminal record check of all persons 18 years of age or older who live in the applying household. The North Carolina criminal record check may also be done by a certified DCI operator within the local law enforcement agency.

(b) Procedure. – A criminal record check must be conducted by using an individual's fingerprints and all identification information required by the Department of Public Safety to identify that individual. A criminal record check shall be provided only if: (i) the individual whose record is checked consents to the record check, and (ii) every individual who is 18 years of age or older who lives in the household also consents to the record check. Refusal to give consent is considered withdrawal of the application. The information shall be kept confidential by the local law enforcement agency that receives the information. If the confidential information is disclosed under this section, the Department may refuse to provide further criminal record checks to that local law enforcement agency. (1999-214, s. 1; 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-939. Criminal record checks for adult care homes, nursing homes, home care agencies, and providers of mental health, developmental disabilities, and substance abuse services.

The Department of Public Safety may provide to the following entities the criminal history from the State and National Repositories of Criminal Histories:

(1) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.
(2) Adult care homes licensed under Chapter 131D of the General Statutes.
(3) Home care agencies licensed under Chapter 131E of the General Statutes.
(4) Providers licensed under Chapter 122C of the General Statutes, including a contract agency of a provider that is subject to the provisions of Article 4 of that Chapter.

The criminal history shall be provided to nursing homes and home care agencies in accordance with G.S. 131E-265, to adult care homes in accordance with G.S. 131D-40, and to a provider in accordance with G.S. 122C-80. The requesting entity shall provide to the Department of Public Safety, along with the request, the fingerprints of the individual to be checked if a national criminal history record check is required, any additional information required by the Department of Public Safety, and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories. If a national criminal history record check is required, the fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. All information received by the entity shall be kept confidential in accordance with G.S. 131E-265, 131D-40, and 122C-80, as applicable. The Department of Public Safety shall charge a reasonable fee for conducting the checks authorized by this section. The fee for the State check may not exceed fourteen dollars ($14.00). (2000-154, s. 1; 2003-214, s. 1(2); 2005-4, s. 5(b); 2014-100, ss. 17.1(m), (o).)

§ 143B-940. Criminal record checks of applicants for licensure as registered nurses or licensed practical nurses.

The Department of Public Safety may provide to the North Carolina Board of Nursing from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a registered nurse or licensed practical nurse under Article 9A of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2001-371, s. 1; 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-941. Criminal record checks of applicants for registration, certification, or licensure as a substance abuse professional.

The Department of Public Safety may provide to the North Carolina Substance Abuse Professional Practice Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for registration, certification, or licensure pursuant to Article 5C of Chapter 90 of the General Statutes. Along with the request, the Board shall

provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2005-431, s. 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-942. Criminal record checks of applicants for licensure as massage and bodywork therapists.

The Department of Public Safety may provide to the North Carolina Board of Massage and Bodywork Therapy from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 36 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2008-224, s. 20; 2014-100, ss. 17.1(m), (o).)

§ 143B-943. Criminal history record checks of applicants to and current members of fire departments and emergency medical services.

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

(1) Applicant. – A person who applies for a paid or volunteer position with a fire department or an emergency medical service.

(2) Criminal history. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for holding a paid or volunteer position with a fire department. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14,

Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(3) Current member. – A person who serves in a paid or volunteer position with a fire department or an emergency medical service.

(b) When requested by a designated local Homeland Security director, a local fire chief of a rated fire department, a county fire marshal, an emergency services director, or if there is no designated local Homeland Security director, local fire chief of a rated fire department, county fire marshal, or emergency services director, when requested by a local law enforcement agency, the North Carolina Department of Public Safety may provide to the requesting director, chief, marshal, director, or agency an applicant's or current member's criminal history from the State and National Repositories of Criminal Histories. The local Homeland Security director, local fire chief, marshal, director, or local law enforcement agency shall provide to the North Carolina Department of Public Safety the fingerprints of the applicant to be checked, any additional information required by the Department of Public Safety, and a form signed by the applicant to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The local Homeland Security director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency shall keep all information pursuant to this section confidential. Department of Public Safety shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the local Homeland Security director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Department of Public Safety. All of the information the local Homeland Security director, local fire chief, county fire marshal, emergency services director, or local law enforcement

agency receives through the checking of the criminal history is privileged information and for the exclusive use of that director, chief, marshal, or agency.

(d) If the applicant's or current member's verified criminal history record check reveals one or more convictions covered under subdivision (a)(2) of this section, then the conviction shall constitute just cause for not selecting the applicant for the position or for dismissing the current member from a current position with the local fire department or emergency medical services. The conviction shall not automatically prohibit volunteering or employment; however, the following factors shall be considered by the local Homeland Security director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency in determining whether the position shall be denied or the current member dismissed from a current position:

(1) The level and seriousness of the crime;
(2) The date of the crime;
(3) The age of the person at the time of the conviction;
(4) The circumstances surrounding the commission of the crime, if known;
(5) The nexus between the criminal conduct of the person and the duties of the person;
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
(7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The local fire department or emergency medical services may deny the applicant or current member the position or dismiss an applicant or current member who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. This refusal constitutes just cause for the denial of the position or the dismissal from a current position.

(f) The local fire department or emergency medical services may extend a conditional offer of the position pending the results of a criminal history record check authorized by this section.

(g) For purposes of this section, "local fire chief" shall include the fire chief of any bona fide fire department certified to the Commissioner of Insurance with at least a Class 9S rating for insurance grading purposes; "county fire marshal" shall include only fire marshals who are paid employees of a county; and "emergency services director" shall include only emergency services directors who are paid employees of a city or county. (2003-182, s. 1; 2007-479, s. 1; 2012-12, s. 2(oo); 2014-27, s. 1; 2014-100, ss. 17.1(m), (o), (q); 2015-181, s. 47.)

§ 143B-944. Criminal record checks of applicants for manufactured home manufacturer, dealer, salesperson, or set-up contractor licensure.

The Department of Public Safety may provide to the North Carolina Manufactured Housing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a manufactured home manufacturer, dealer, salesperson, or set-up contractor under Article 9A of Chapter 143 of the General Statutes.

Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check, and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2003-400, s. 12; 2014-100, ss. 17.1(m), (o).)

§ 143B-945. Criminal record checks for municipalities and county governments.

The Department of Public Safety may provide to a city or county from the State and National Repositories of Criminal Histories the criminal history of any person who applies for employment with the city or county. The city or county shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The city or county shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2003-214, s. 4; 2005-358, s. 1; 2014-100, ss. 17.1(m), (o).)

§ 143B-946. Criminal record checks of applicants for locksmith licensure or apprentice designation.

The Department of Public Safety may provide to the North Carolina Locksmith Licensing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a locksmith or an apprentice under Chapter 74F of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board

shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2003-350, s. 12; 2014-100, ss. 17.1(m), (o).)

§ 143B-947. Criminal record checks for the North Carolina State Lottery Commission and its Director.

The Department of Public Safety may provide to the North Carolina State Lottery Commission and to its Director from the State and National Repositories of Criminal Histories the criminal history of any prospective employee of the Commission and any potential contractor. The North Carolina State Lottery Commission or its Director shall provide to the Department of Public Safety, along with the request, the fingerprints of the prospective employee of the Commission, or of the potential contractor, a form signed by the prospective employee of the Commission, or of the potential contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the prospective employee of the Commission, or potential contractor, shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The North Carolina State Lottery Commission and its Director shall remit any fingerprint information retained by the Commission to alcohol law enforcement agents appointed under Article 5 of Chapter 18B of the General Statutes and shall keep all information obtained pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee only for conducting the checks of the criminal history records authorized by this section. (2005-344, s. 6; 2005-276, s. 31.1(w); 2006-259, s. 8(g); 2006-264, s. 91(c); 2009-570, s. 32(e); 2014-100, ss. 17.1(m), (o).)

§ 143B-948. Criminal record checks of applicants for permit or license to conduct exploration, recovery, or salvage operations and archaeological investigations.

The Department of Public Safety may provide to the Department of Natural and Cultural Resources from the State and National Repositories of Criminal Histories the criminal history of any applicant for a permit or license under Article 3 of Chapter 121 of the General Statutes or Article 2 of Chapter 70 of the General Statutes. Along with the request, the Department of Natural and Cultural Resources shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the

Federal Bureau of Investigation for a national criminal history record check. The Department of Natural and Cultural Resources shall keep all information obtained under this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2005-367, s. 1; 2014-100, ss. 17.1(m), (o); 2015-241, s. 14.30(s).)

§ 143B-949. Criminal record checks of applicants for licensure and licensees.

The Department of Public Safety may provide to the North Carolina Psychology Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license to practice psychology or a licensed psychologist or psychological associate under Article 18A of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's or licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge each applicant or licensee a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2006-175, s. 3; 2006-259, s. 42; 2014-100, ss. 17.1(m), (o).)

§ 143B-950. Criminal record checks for the Judicial Department.

(a) The Department of Public Safety may provide to the Judicial Department from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Judicial Department. The Judicial Department shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, volunteer, or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee, volunteer, or contractor shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Judicial Department shall keep all information obtained pursuant to this section confidential.

(b) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual

cost of locating, editing, researching, and retrieving the information. (2006-187, s. 3(a); 2006-259, s. 42; 2014-100, ss. 17.1(m), (o).)

§ 143B-951. Criminal record checks for the Department of Information Technology.

(a) The Department of Public Safety may provide to the Department of Information Technology from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Department of Information Technology. The Department of Information Technology shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, volunteer, or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee, volunteer, or contractor shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Information Technology shall keep all information obtained pursuant to this section confidential.

(b) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2007-155, s. 3; 2007-189, ss. 3, 5.1; 2014-100, ss. 17.1(m), (o); 2015-241, s. 7A.4(y).)

§ 143B-952. Criminal record checks of EMS personnel.

The Department of Public Safety may provide to the Department of Health and Human Services the criminal history from the State and National Repositories of Criminal Histories of an individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials, when the criminal history is requested by the Department. The Department of Health and Human Services shall provide to the Department of Public Safety the request for the criminal history, the fingerprints of the individual to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The Department of Health and Human Services and Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall keep all information obtained pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee to offset the costs incurred by it to conduct the checks of criminal history records authorized by this section. (2007-411, s. 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-953. Criminal record checks of applicants for licensure as chiropractic physicians.

The Department of Public Safety may provide to the State Board of Chiropractic Examiners from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 8 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2007-525, s. 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-954. Criminal history record checks of employees of and applicants for employment with the Department of Public Instruction.

(a) Definitions. – As used in this section, the term:

(1) "Covered person" means any of the following:

a. An applicant for employment or a current employee in a position in the Department of Public Instruction.

b. An independent contractor or an employee of an independent contractor that has contracted to provide services to the Department of Public Instruction.

(2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Public Instruction. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include

possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by the Department of Public Instruction, the North Carolina Department of Public Safety may provide to the requesting department a covered person's criminal history from the State Repository of Criminal Histories. Such request shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department shall provide to the Department of Public Safety a form consenting to the check, signed by the covered person to be checked and any additional information required by the Department of Public Safety. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Public Instruction shall provide to the North Carolina Department of Public Safety the fingerprints of the covered person to be checked, any additional information required by the Department of Public Safety, and a form signed by the covered person to be checked, consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the Federal Bureau of Investigation for a national criminal history record check. The Department of Public Instruction shall keep all information pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the Department of Public Instruction shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Department of Public Safety. All of the information the department receives through the checking of the criminal history is privileged information and for the exclusive use of the department.

(d) If the covered person's verified criminal history record check reveals one or more convictions covered under subsection (a) of this section, then the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment with the Department of Public Instruction. The conviction shall not automatically prohibit employment; however, the following factors shall be considered by the Department of Public Instruction in determining whether employment shall be denied:

(1) The level and seriousness of the crime;
(2) The date of the crime;
(3) The age of the person at the time of the conviction;
(4) The circumstances surrounding the commission of the crime, if known;
(5) The nexus between the criminal conduct of the person and job duties of the person;

(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and

(7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Public Instruction may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(f) The Department of Public Instruction may extend a conditional offer of employment pending the results of a criminal history record check authorized by this section. (2007-516, s. 1; 2012-12, s. 2(pp); 2014-100, ss. 17.1(m), (o), (q); 2015-181, s. 47.)

§ 143B-955. Criminal record checks of applicants and of current employees who are involved in the manufacture or production of drivers licenses and identification cards.

(a) The Department of Public Safety may, upon request, provide to the Department of Transportation, Division of Motor Vehicles, the criminal history from the State and National Repositories of Criminal Histories of the following individuals if the individual (i) is or will be involved in the manufacture or production of drivers licenses and identification cards, or (ii) has or will have the ability to affect the identity information that appears on drivers licenses or identification cards:

(1) An applicant for employment.

(2) A current employee.

(3) A contractual employee or applicant.

(4) An employee of a contractor.

(b) Along with the request, the Division of Motor Vehicles shall provide the following to the Department of Public Safety:

(1) The fingerprints of the person who is the subject of the record check.

(2) A form signed by the person who is the subject of the record check consenting to:

a. The criminal record check.

b. The use of fingerprints.

c. Any other identifying information required by the State and National Repositories.

d. Any additional information required by the Department of Public Safety.

(c) The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(d) The Division of Motor Vehicles shall keep all information obtained pursuant to this section confidential.

(e) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2008-202, s. 1; 2014-100, ss. 17.1(m), (o).)

§ 143B-956. Criminal history record checks of applicants for licensure as nursing home administrators.

(a) The Department of Public Safety may provide to the North Carolina State Board of Examiners for Nursing Home Administrators from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a nursing home administrator under Article 20 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential.

(b) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2008-183, s. 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-957. Criminal record checks of applicants for licensure as professional counselors.

The Department of Public Safety may provide to the North Carolina Board of Licensed Professional Counselors from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license or licensee under Article 24 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant or licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2009-367, s. 10; 2014-100, ss. 17.1(m), (o).)

§ 143B-958. Criminal history record checks of applicants for licensure as marriage and family therapists and marriage and family therapy associates.

The Department of Public Safety may provide to the North Carolina Marriage and Family Therapy Licensure Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license or licensee under Article 18C of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's or licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by the Department to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2009-393, s. 18; 2014-100, ss. 17.1(m), (o).)

§ 143B-959. Criminal record checks of petitioners for restoration of firearms rights.

(a) A person who petitions the court to have the person's firearms rights restored shall submit a full set of the petitioner's fingerprints, to be administered by the sheriff. The petitioner shall also submit to the sheriff a form signed by the petitioner consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the State Bureau of Investigation or the Federal Bureau of Investigation. The sheriff shall forward the set of fingerprints and the signed consent form to the State Bureau of Investigation for a records check of State and national databases.

(b) Upon receipt of the fingerprints and consent form forwarded by the sheriff pursuant to subsection (a) of this section, the State Bureau of Investigation shall conduct a search of the State criminal history record file and shall forward a set of the fingerprints and a copy of the signed consent form to the Federal Bureau of Investigation for a national criminal history record check.

(c) The State Bureau of Investigation shall provide a copy of the information obtained pursuant to this section to the clerk of superior court, which shall be kept confidential in the court file for the petition for restoration of firearms rights.

(d) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2010-108, s. 2; 2011-2, ss. 1, 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-960. Criminal record checks of applicants for certification by the Department of Agriculture and Consumer Services as euthanasia technicians.

The Department of Public Safety may provide a criminal record check to the Department of Agriculture and Consumer Services for a person who has applied for a new or renewal certification as a euthanasia technician. The Department of Agriculture and Consumer Services shall provide the Department of Public Safety a request for the criminal record check, the fingerprints of the individual to be checked, any additional information required by the Department of Public Safety, and a form signed by the person seeking certification consenting to the check of the criminal record. The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Agriculture and Consumer Services shall keep all information pursuant to this section privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this section. (2010-127, s. 4; 2014-100, ss. 17.1(m), (o).)

§ 143B-961. Criminal history record checks of applicants for trainee registration, appraiser licensure, appraiser certification, or registrants for registration as real estate appraisal management companies.

The Department of Public Safety may provide to the North Carolina Appraisal Board from the State and National Repositories of Criminal Histories the criminal history of any applicant or registrant for registration under Article 1 and Article 2 of Chapter 93E of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or registrant, a form signed by the applicant or registrant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's or registrant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by the Department to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2010-141, s. 2; 2013-403, s. 8; 2014-100, ss. 17.1(m), (o).)

§ 143B-962. Criminal history record checks of applicants for a restoration of a revoked drivers license.

The Department of Public Safety may provide to the Division of Motor Vehicles, from the State and National Repositories of Criminal Histories, the criminal history record of

any applicant for a restoration of a revoked drivers license. Along with the request, the Division shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints, other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Division shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. Fees and other costs incurred by the Division under this statute may be charged to the applicant. (2011-381, s. 5; 2014-100, ss. 17.1(m), (o).)

§ 143B-963. Criminal history record checks of applicants for and current holders of certificate to transport household goods.

The Department of Public Safety may provide to the Utilities Commission from the State and National Repositories of Criminal Histories the criminal history of any applicant for or current holder of a certificate to transport household goods. Along with the request, the Commission shall provide to the Department of Public Safety the fingerprints of the applicant or current holder, a form signed by the applicant or current holder consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories of Criminal Histories, and any additional information required by the Department of Public Safety. The applicant's or current holder's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Utilities Commission shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. The Department of Public Safety shall send a copy of the results of the criminal history record checks directly to the Utilities Commission Chief Clerk. (2012-9, s. 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-964. Criminal history record checks of applicants for licensure as physical therapists or physical therapist assistants.

The Department of Public Safety may provide to the North Carolina Board of Physical Therapy Examiners a criminal history record from the State and National Repositories of Criminal Histories for applicants for licensure by the Board. Along with a request for criminal history records, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or subject, a form signed by the applicant consenting to the

criminal history record check and use of the fingerprints and other identifying information required by the Repositories, and any additional information required by the Department. The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by the Department of Public Safety to conduct a criminal history record check under this section, but the fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2013-312, s. 6; 2014-100, ss. 17.1(m), (o).)

§ 143B-965. Criminal record checks of applicants and recipients of programs of public assistance.

(a) Upon receipt of a request from a county department of social services pursuant to G.S. 108A-26.1, the Department of Public Safety shall, to the extent allowed by federal law, provide to the county department of social services the criminal history from the State or National Repositories of Criminal Histories of an applicant for, or recipient of, program assistance under Part 2 or Part 5 of Article 2 of Chapter 108A of the General Statutes.

(b) The county department of social services shall provide to the Department of Public Safety, along with the request, any information required by the Department of Public Safety and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of any necessary identifying information required by the State or National Repositories. The county department of social services shall keep all information pursuant to this section confidential and privileged, except as provided in G.S. 108A-26.1.

(c) The Department of Public Safety may charge a reasonable fee only for conducting the checks of the criminal history records authorized by this section. (2013-417, s. 3; 2014-100, ss. 17.1(m), (o).)

§ 143B-966. Criminal record checks for the Office of State Controller.

The Department of Public Safety may provide to the Office of State Controller from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Office of State Controller. The Office of State Controller shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, volunteer, or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee, volunteer, or contractor shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Office of State Controller shall keep all information obtained

pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2016-28, s. 2.)

§ 143B-967. Criminal record checks for the Department of Revenue.

(a) The Department of Public Safety shall, upon request, provide to the Department of Revenue from the State and National Repositories of Criminal Histories the criminal history of any of the following individuals:

(1) A current or prospective permanent or temporary employee.
(2) A contractor with the Department.
(3) An employee or agent of a contractor with the Department.
(4) Any other individual otherwise engaged by the Department who will have access to federal tax information.

(b) Along with the request, the Department of Revenue shall provide to the Department of Public Safety the fingerprints of the individual whose record is being sought, a form signed by the individual consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The individual's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Revenue shall keep all information obtained pursuant to this section confidential.

(c) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2017-57, s. 32.1.)

§ 143B-968. Criminal record checks for the Office of State Human Resources.

(a) The Department of Public Safety may provide to the Office of State Human Resources from the State and National Repositories of Criminal Histories the criminal history of any prospective temporary employee of a State agency or department if a criminal record check is a requirement for employment by the agency or department with which the individual would be temporarily assigned. The Office of State Human Resources shall provide to the Department of Public Safety, along with the request, the fingerprints of the prospective temporary employee, a form signed by the prospective temporary employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal

history record check. The Office of State Human Resources shall keep all information obtained pursuant to this section confidential.

(b) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. If the Department of Public Safety charges the Office of State Human Resources a fee for conducting the criminal record check, the agency or department with which the individual would be temporarily assigned shall reimburse the Office of State Human Resources for the fee charged. (2018-5, s. 26A.1.)

§ 143B-969. Criminal record checks for employees and contractors of the State Board of Elections and Ethics Enforcement and county directors of elections.

(a) As used in this section, the term:

(1) "Current or prospective employee" means any of the following:

a. A current or prospective permanent or temporary employee of the State Board or a current or prospective county director of elections.

b. A current or prospective contractor with the State Board.

c. An employee or agent of a current or prospective contractor with the State Board.

d. Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.

(2) "State Board" means the State Board of Elections and Ethics Enforcement.

(b) The Department of Public Safety may provide to the Executive Director of the State Board a current or prospective employee's criminal history from the State and National Repositories of Criminal Histories. The Executive Director shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, a form signed by the current or prospective employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(d) The criminal history report shall be provided to the Executive Director of the State Board, who shall keep all information obtained pursuant to this section confidential to the State Board. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes. (2018-13, s. 1(a).)

§ 143B-970. Criminal record checks for employees of county boards of elections.

(a) As used in this section, the term:

(1) "Current or prospective employee" means a current or prospective permanent or temporary employee of a county board of elections.

(2) "State Board" means the State Board of Elections and Ethics Enforcement.

(b) The Department of Public Safety may provide to a county board of elections a current or prospective employee's criminal history from the State and National Repositories of Criminal Histories. The county board of elections shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, a form signed by the current or prospective employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(d) The criminal history report shall be provided to the county board of elections, who shall keep all information obtained pursuant to this section confidential to the county board of elections, the county director of elections, the State Board, and the Executive Director of the State Board. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes. (2018-13, s. 1(b).)

§ 143B-971. Criminal record checks of applicants for licensure as dietitian/nutritionists or nutritionists.

The Department of Public Safety may provide to the North Carolina Board of Dietetics/Nutrition a criminal history record from the State and National Repositories of Criminal Histories for applicants for licensure by the Board. Along with a request for criminal history records, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or subject, a form signed by the applicant consenting to the criminal history record check and use of the fingerprints and other identifying information required by the Repositories, and any additional information required by the Department. The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by the Department of Public Safety to conduct a criminal history record check under this section, but the fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2018-91, s. 15.)

§ 143B-972: Reserved for future codification purposes.

§ 143B-973: Reserved for future codification purposes.

§ 143B-974: Reserved for future codification purposes.

§ 143B-975: Reserved for future codification purposes.

§ 143B-976: Reserved for future codification purposes.

§ 143B-977: Reserved for future codification purposes.

§ 143B-978: Reserved for future codification purposes.

§ 143B-979: Reserved for future codification purposes.

§ 143B-980: Reserved for future codification purposes.

§ 143B-981. The National Crime Prevention and Privacy Compact.

The National Crime Prevention and Privacy Compact is enacted into law and entered into with all jurisdictions legally joining in the compact in the form substantially as set forth in this section, as follows:

Preamble.

Whereas, it is in the interest of the State to facilitate the dissemination of criminal history records from other states for use in North Carolina as authorized by State law; and

Whereas, the National Crime Prevention and Privacy Compact creates a legal framework for the cooperative exchange of criminal history records for noncriminal justice purposes; and

Whereas, the compact provides for the organization of an electronic information-sharing system among the federal government and the states to exchange criminal history records for noncriminal justice purposes authorized by federal or state law, such as background checks for governmental licensing and employment; and

Whereas, under the compact, the FBI and the party states agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the federal government and party states for authorized purposes; and

Whereas, the FBI shall manage the federal data facilities that provide a significant part of the infrastructure for the system; and

Whereas, entering into the compact would facilitate the interstate and federal-state exchange of criminal history information to streamline the processing of background checks for noncriminal justice purposes; and

Whereas, release and use of information obtained through the system for noncriminal justice purposes would be governed by the laws of the receiving state; and

Whereas, entering into the compact will provide a mechanism for establishing and enforcing uniform standards for record accuracy and for the confidentiality and privacy interests of record subjects.

Article I.

Definitions.

As used in this compact, the following definitions apply:

(1) "Attorney General" means the Attorney General of the United States.

(2) "Compact officer" means:

a. With respect to the federal government, an official so designated by the director of the FBI; and

b. With respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular, full-time employee of the repository.

(3) "Council" means the compact council established under Article VI.

(4) "Criminal history record repository" means the Department of Public Safety.

(5) "Criminal history records" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release. The term does not include identification information such as fingerprint records if the information does not indicate involvement of the individual with the criminal justice system.

(6) "Criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) "Criminal justice agency" means: (i) courts; and (ii) a governmental agency or any subunit of an agency that performs the administration of criminal justice pursuant to a statute or executive order and allocates a substantial part of its annual budget to the administration of criminal justice. The term includes federal and state inspector general offices.

(8) "Criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) "Direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(10) "Executive order" means an order of the President of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.

(11) "FBI" means the Federal Bureau of Investigation.

(12) "III system" means the interstate identification index system, which is the cooperative federal-state system for the exchange of criminal history records. The term includes the national identification index, the national fingerprint file, and, to the extent of their participation in the system, the criminal history record repositories of the states and the FBI.

(13) "National fingerprint file" means a database of fingerprints or of other uniquely personal identifying information that relates to an arrested or charged individual and that is maintained by the FBI to provide positive identification of record subjects indexed in the III system.

(14) "National identification index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III system.

(15) "National indices" means the national identification index and the national fingerprint file.

(16) "Noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(17) "Nonparty state" means a state that has not ratified this compact.

(18) "Party state" means a state that has ratified this compact.

(19) "Positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, does not constitute positive identification.

(20) "Sealed record information" means:

a. With respect to adults, that portion of a record that is:

1. Not available for criminal justice uses;

2. Not supported by fingerprints or other accepted means of positive identification; or

3. Subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

b. With respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(21) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article II.

Purposes.

The purposes of this compact are to:

(1) Provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;

(2) Require the FBI to permit use of the national identification index and the national fingerprint file by each party state and to provide, in a timely fashion,

federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;

(3) Require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;

(4) Provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system for noncriminal justice purposes; and

(5) Require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

Article III.

Responsibilities of Compact Parties.

(a) The director of the FBI shall:

(1) Appoint an FBI compact officer who shall:

a. Administer this compact within the Department of Public Safety and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);

b. Ensure that compact provisions and rules, procedures, and standards prescribed by the council under Article VI are complied with by the Department of Public Safety and federal agencies and other agencies and organizations referred to in sub-subdivision (a)(1)a. of this Article III; and

c. Regulate the use of records received by means of the III system from party states when such records are supplied by the FBI directly to other federal agencies;

(2) Provide to federal agencies and to state criminal history record repositories criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including:

a. Information from nonparty states; and

b. Information from party states that is available from the FBI through the III system but is not available from the party states through the III system;

(3) Provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV and ensure that the exchange of records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) Modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) Each party state shall:

(1) Appoint a compact officer who shall:

a. Administer this compact within that state;

b. Ensure that compact provisions and rules, procedures, and standards established by the council under Article VI are complied with in the state; and

c. Regulate the in-state use of records received by means of the III system from the FBI or from other party states;

(2) Establish and maintain a criminal history record repository, which shall provide:

a. Information and records for the national identification index and the national fingerprint file; and

b. The state's III system-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) Participate in the national fingerprint file; and

(4) Provide and maintain telecommunications links and related equipment necessary to support the criminal justice services set forth in this compact.

(c) In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III system rules, procedures, and standards duly established by the council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation.

(d) Use of the III system for noncriminal justice purposes authorized in this compact must be managed so as not to diminish the level of services provided in support of criminal justice purposes. Administration of compact provisions may not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

Article IV.

Authorized Record Disclosures.

(a) To the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), the FBI shall provide on request criminal history records, excluding sealed record information, to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General to ensure that the state statute explicitly authorizes national indices checks.

(b) The FBI, to the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), and state criminal history record repositories shall provide criminal history records, excluding sealed record information, to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General to ensure that the state statute explicitly authorizes national indices checks.

(c) Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures consistent with this compact and with rules, procedures, and standards established by the council under Article VI, which procedures shall protect the accuracy and privacy of the records and shall:

(1) Ensure that records obtained under this compact are used only by authorized officials for authorized purposes;

(2) Require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) Ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, that an appropriate "no record" response is communicated to the requesting official.

Article V.

Record Request Procedures.

(a) Subject fingerprints or other approved forms of positive identification must be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Each request for a criminal history record check utilizing the national indices made under any approved state statute must be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if the request is transmitted through another state criminal history record repository or the FBI.

(c) Each request for criminal history record checks utilizing the national indices made under federal authority must be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which the request originated. Direct access to the national identification index by entities other than the FBI and state criminal history record repositories may not be permitted for noncriminal justice purposes.

(d) A state criminal history record repository or the FBI:

(1) May charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) May not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) (1) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, must be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a state criminal history record repository under subdivision (e)(1) of this Article V, the FBI positively identifies the subject as having a III system-indexed record or records:

a. The FBI shall so advise the state criminal history record repository; and

b. The state criminal history record repository is entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

Article VI.

Establishment of Compact Council.

(a) There is established a council to be known as the compact council which has the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes. The council shall:

(1) Continue in existence as long as this compact remains in effect;
(2) Be located, for administrative purposes, within the FBI; and
(3) Be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(b) The council must be composed of 15 members, each of whom must be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a two-year term, who must be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states must be eligible to serve on an interim basis;
(2) Two at-large members, nominated by the director of the FBI, each of whom shall serve a three-year term, of whom:
    a. One must be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and
    b. One must be a representative of the noncriminal justice agencies of the federal government;
(3) Two at-large members, nominated by the chair of the council once the chair is elected pursuant to subsection (c) of this Article VI, each of whom shall serve a three-year term, of whom:
    a. One must be a representative of state or local criminal justice agencies; and
    b. One must be a representative of state or local noncriminal justice agencies;
(4) One member who shall serve a three-year term and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board; and
(5) One member, nominated by the director of the FBI, who shall serve a three-year term and who must be an employee of the FBI.

(c) From its membership, the council shall elect a chair and a vice-chair of the council. Both the chair and vice-chair of the council: (i) must be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chair may be an at-large member and (ii) shall serve two-year terms and may be reelected to only

one additional two-year term. The vice-chair of the council shall serve as the chair of the council in the absence of the chair.

(d) The council shall meet at least once each year at the call of the chair. Each meeting of the council must be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at the meeting. A majority of the council or any committee of the council shall constitute a quorum of the council or of a committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) The council shall make available for public inspection and copying at the council office within the FBI and shall publish in the federal register any rules, procedures, or standards established by the council.

(f) The council may request from the FBI reports, studies, statistics, or other information or materials that the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide assistance or information upon a request.

(g) The chair may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

Article VII.

Ratification of Compact.

This compact takes effect upon being entered into by two or more states as between those states and the federal government. When additional states subsequently enter into this compact, it becomes effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact has the full force and effect of law within the ratifying jurisdictions. The form of ratification must be in accordance with the laws of the executing state.

Article VIII.

Miscellaneous Provisions.

(a) Administration of this compact may not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) Nothing in this compact may require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Nothing in this compact may diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544) or regulations and guidelines promulgated thereunder, including

the rules and procedures promulgated by the council under Article VI(a), regarding the use and dissemination of criminal history records and information.

Article IX.

Renunciation.

(a) This compact shall bind each party state until renounced by the party state.

(b) Any renunciation of this compact by a party state must:

(1) Be effected in the same manner by which the party state ratified this compact; and

(2) Become effective 180 days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

Article X.

Severability.

The provisions of this compact must be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or to the Constitution of the United States or if the applicability of any phrase, clause, sentence, or provision of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of the remainder of the compact to any government, agency, person, or circumstance may not be affected by the severability. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact must remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

Article XI.

Adjudication of Disputes.

(a) The council:

(1) Has initial authority to make determinations with respect to any dispute regarding:

a. Interpretation of this compact;

b. Any rule or standard established by the council pursuant to Article VI; and

c. Any dispute or controversy between any parties to this compact; and

(2) Shall hold a hearing concerning any dispute described in subdivision (a)(1) of this Article XI at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. The decision must be published pursuant to the requirements of Article VI(e).

(b) The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, to maintain system policy and standards, to protect the accuracy and privacy of records, and to prevent abuses until the council holds a hearing on the matters.

(c) The FBI or a party state may appeal any decision of the council to the Attorney General and after that appeal may file suit in the appropriate district court of the United States that has original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court must be removed to the

appropriate district court of the United States in the manner provided by section 1446 of Title 28, United States Code, or other statutory authority. (2003-214, s. 2; 2004-199, s. 28; 2014-100, ss. 17.1(m), (o), (q).)

§ 143B-982: Reserved for future codification purposes.

§ 143B-983: Reserved for future codification purposes.

§ 143B-984: Reserved for future codification purposes.

§ 143B-985: Reserved for future codification purposes.

Subpart E. Protection of Public Officials.

§ 143B-986. Authority to provide protection to certain public officials.

The North Carolina State Bureau of Investigation is authorized to provide protection to public officials who request it, and who, in the discretion of the Director of the Bureau demonstrate a need for such protection. The Director of the Bureau shall notify the Governor whenever the State Bureau of Investigation provides protection to public officials pursuant to this section. The bureau shall not provide protection for any individual other than the Governor for a period greater than 30 days without review and approval by the Governor. This review and reapproval shall be required at the end of each 30-day period. (1977, c. 571; 2003-214, s. 1(3); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, ss. 17.1(n), (bbb).)

§ 143B-987. Authority to designate areas for protection of public officials.

(a) The Director of the State Bureau of Investigation is authorized to designate buildings and grounds which constitute temporary residences or temporary offices of any public official being protected under authority of G.S. 143B-986, or any area that will be visited by any such official, a public building or facility during the time of such use.

(b) The Director of the State Bureau of Investigation may, with the consent of the official to be protected, make rules governing ingress to or egress from such buildings, grounds or areas designated under this section. (1981, c. 499, s. 1; 2003-214, s. 1(3); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, ss. 17.1(n), (ccc).)

§ 143B-988: Reserved for future codification purposes.

§ 143B-989: Reserved for future codification purposes.

§ 143B-990: Reserved for future codification purposes.

§ 143B-991: Reserved for future codification purposes.

§ 143B-992: Reserved for future codification purposes.

§ 143B-993: Reserved for future codification purposes.

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§ 143B-997: Reserved for future codification purposes.

§ 143B-998: Reserved for future codification purposes.

§ 143B-999: Reserved for future codification purposes.

Part 5. Division of Emergency Management.

Subpart A. Emergency Management Division.

§ 143B-1000. Division of Emergency Management of the Department of Public Safety.

(a) There is established, within the Department of Public Safety, the Division of Emergency Management, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Division of Emergency Management shall have the following powers and duties:

(1) Repealed by Session Laws 2011-145, s. 19.1(aa), effective January 1, 2012.

(2) To exercise the powers and duties conferred on it by Chapter 166A of the General Statutes.

(3) To exercise any other powers vested by law. (2009-397, s. 3; 2011-145, s. 19.1(g), (w), (aa).)

§ 143B-1001: Reserved for future codification purposes.

§ 143B-1002: Reserved for future codification purposes.

§ 143B-1003: Reserved for future codification purposes.

§ 143B-1004: Reserved for future codification purposes.

§ 143B-1005: Reserved for future codification purposes.

§ 143B-1006: Reserved for future codification purposes.

§ 143B-1007: Reserved for future codification purposes.

§ 143B-1008: Reserved for future codification purposes.

§ 143B-1009: Reserved for future codification purposes.

Subpart B. North Carolina Center for Missing Persons.

§ 143B-1010. North Carolina Center for Missing Persons established.

There is established within the Department of Public Safety the North Carolina Center for Missing Persons, which shall be organized and staffed in accordance with applicable laws. The purpose of the Center is to serve as a central repository for information regarding missing persons and missing children, with special emphasis on missing children. The Center may utilize the Federal Bureau of Investigation/National Crime Information Center's missing person computerized file (hereinafter referred to as FBI/NCIC) through the use of the Police Information Network in the North Carolina Department of Justice. (1985, c. 765, s. 1; 1985 (Reg. Sess., 1986), c. 1000, s. 1; 2011-145, s. 19.1(g), (w).)

§ 143B-1011. Definitions.

For the purpose of this Part:

(1) "Missing child" means a juvenile as defined in G.S. 7B-101 whose location has not been determined, who has been reported as missing to a law-enforcement agency, and whose parent's, spouse's, guardian's or legal custodian's temporary or permanent residence is in North Carolina or is believed to be in North Carolina.

(2) "Missing person" means any individual who is 18 years of age or older, whose temporary or permanent residence is in North Carolina, or is believed to be in North Carolina, whose location has not been determined, and who has been reported as missing to a law-enforcement agency.

(3) "Missing person report" is a report prepared on a prescribed form for transmitting information about a missing person or a missing child to an appropriate law-enforcement agency. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 1998-202, s. 13(mm); 2011-145, s. 19.1(w).)

§ 143B-1012. Control of the Center.

The Center is under the direction of the Secretary of the Department of Public Safety and may be organized and structured in a manner as the Secretary deems appropriate to ensure that the objectives of the Center are achieved. The Secretary may employ those Center personnel as the General Assembly may authorize and provide funding for. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2011-145, s. 19.1(g), (w).)

§ 143B-1013. Secretary to adopt rules.

The Secretary shall adopt rules prescribing:

(1) procedures for accepting and disseminating information maintained at the Center;

(2) the confidentiality of the data and information, including the missing person report, maintained by the Center;

(3) the proper disposition of all obsolete data, including the missing person report; provided, data for an individual who has reached the age of 18 and remains missing must be preserved;

(4) procedures allowing a communication link with the Police Information Network and the FBI/NCIC's missing person file to ensure compliance with FBI/NCIC policies; and

(5) forms, including but not limited to a missing person report, considered necessary for the efficient and proper operation of the Center. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2011-145, s. 19.1(w).)

§ 143B-1014. Submission of missing person reports to the Center.

Any parent, spouse, guardian, legal custodian, or person responsible for the supervision of the missing individual may submit a missing person report to the Center of any missing child or missing person, regardless of the circumstances, after having first submitted a missing person report on the individual to the law-enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing, regardless of the circumstances. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2007-469, s. 1; 2011-145, s. 19.1(w).)

§ 143B-1015. Dissemination of missing persons data by law-enforcement agencies.

A law-enforcement agency, upon receipt of a missing person report by a parent, spouse, guardian, legal custodian, or person responsible for the supervision of the missing individual shall immediately make arrangements for the entry of data about the missing person or missing child into the national missing persons file in accordance with criteria set forth by the FBI/NCIC, immediately inform all of its on-duty law-enforcement officers of the missing person report, initiate a statewide broadcast to all appropriate law-enforcement agencies to be on the lookout for the individual, and transmit a copy of the report to the Center. No law enforcement agency shall establish or maintain any policy which requires the observance of any waiting period before accepting a missing person report.

If the report involves a missing child and the report meets the criteria established in G.S. 143B-1021(b), as soon as practicable after receipt of the report, the law enforcement agency shall notify the Center and the National Center for Missing and Exploited Children of the relevant data about the missing child. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2002-126, s. 18.7(a); 2003-191, s. 1; 2007-469, s. 2; 2011-145, s. 19.1(w), (yy).)

§ 143B-1016. Responsibilities of Center.

The Center shall:

(1) Assist local law-enforcement agencies with entering data about missing persons or missing children into the national missing persons file, ensure that proper entry criteria have been met as set forth by the FBI/NCIC, and confirm entry of the data about the missing persons or missing children;

(2) Gather and distribute information and data on missing children and missing persons;

(3) Encourage research and study of missing children and missing persons, including the prevention of child abduction and the prevention of the exploitation of missing children;
(4) Serve as a statewide resource center to assist local communities in programs and initiatives to prevent child abduction and the exploitation of missing children;
(5) Continue increasing public awareness of the reasons why children are missing and vulnerability of missing children;
(6) Achieve maximum cooperation with other agencies of the State, with agencies of other states and the federal government and with the National Center for Missing and Exploited Children in rendering assistance to missing children and missing persons and their parents, guardians, spouses, or legal custodians; and cooperate with interstate and federal efforts to identify deceased individuals;
(7) Develop and maintain the AMBER Alert System as created by G.S. 143B-1021.
(8) Forward the appropriate information to the Police Information Network to assist it in maintaining and publishing a bulletin of currently missing children and missing persons;
(9) Maintain a directory of existing public and private agencies, groups, and individuals that provide effective assistance to families in the areas of prevention of child abduction, location of missing children and missing persons, and follow-up services to the child or person and family, as determined by the Secretary of Public Safety;
(10) Annually compile and publish reports on the actual number of children and persons missing each year, listing the categories and causes, when known, for the disappearances;
(11) Provide follow-up referrals for services to missing children or persons and their families;
(12) Maintain a toll-free 1-800 telephone service that will be in service at all times; and
(13) Perform such other activities that the Secretary of Public Safety considers necessary to carry out the intent of its mandate. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2002-126, s. 18.7(b); 2003-191, s. 2; 2011-145, s. 19.1(g), (w), (zz).)

§ 143B-1017. Duty of individuals to notify Center and law-enforcement agency when missing person has been located.

Any parent, spouse, guardian, legal custodian, or person responsible for the supervision of the missing individual who submits a missing person report to a law-enforcement agency or to the Center, shall immediately notify the law-enforcement agency and the Center of any individual whose location has been determined. The Center shall confirm the deletion of the individual's records from the FBI/NCIC's missing person file, as long as there are no grounds for criminal prosecution, and follow up with the local law-enforcement agency having jurisdiction of the records. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2007-469, s. 3; 2011-145, s. 19.1(w).)

§ 143B-1018. Release of information by Center.

The following may make inquiries of, and receive data or information from, the Center:

(1) Any police, law-enforcement, or criminal justice agency investigating a report of a missing or unidentified person or child, whether living or deceased.

(2) A court, upon a finding by the court that access to the data, information, or records of the Center may be necessary for the determination of an issue before the court.

(3) Any district attorney of a prosecutorial district as defined in G.S. 7A-60 in this State or the district attorney's designee or representative.

(4) Any person engaged in bona fide research when approved by the Secretary; provided, no names or addresses may be supplied to this person.

(5) Any other person authorized by the Secretary of the Department of Public Safety pursuant to G.S. 143B-1013. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 1987, c. 282, s. 28; 1987 (Reg. Sess., 1988), c. 1037, s. 119; 2011-145, s. 19.1(g), (w), (aaa).)

§ 143B-1019. Provision of toll-free service; instructions to callers; communication with law-enforcement agencies.

The Center shall provide a toll-free telephone line for anyone to report the disappearance of any individual or the sighting of any missing child or missing person. The Center personnel shall instruct the caller, in the case of a report concerning the disappearance of an individual, of the requirements contained in G.S. 143B-1014 of first having to submit a missing person report on the individual to the law-enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing. Any law-enforcement agency may retrieve information imparted to the Center by means of this phone line. The Center shall directly communicate any report of a sighting of a missing person or a missing child to the law-enforcement agency having jurisdiction in the area of disappearance or sighting. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2007-469, s. 4; 2011-145, s. 19.1(w), (bbb).)

§ 143B-1020. Improper release of information; penalty.

Any person working under the supervision of the Director of Victims and Justice Services who knowingly and willfully releases, or authorizes the release of, any data, information, or records maintained or possessed by the Center to any agency, entity, or person other than as specifically permitted by Subpart B or in violation of any rule adopted by the Secretary is guilty of a Class 2 misdemeanor. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 1993, c. 539, s. 1050; 1994, Ex. Sess., c. 24, s. 14(c); 2011-145, s. 19.1(w).)

§ 143B-1021. North Carolina AMBER Alert System established.

(a) There is established within the North Carolina Center for Missing Persons the AMBER Alert System. The purpose of AMBER Alert is to provide a statewide system for the rapid dissemination of information regarding abducted children.

(b) The AMBER Alert System shall make every effort to disseminate information on missing children as quickly as possible when the following criteria are met:

(1) The child is 17 years of age or younger;
(2) The abduction is not known or suspected to be by a parent of the child, unless the child's life is suspected to be in danger of injury or death;
(3) The child is believed:
  a. To have been abducted, or
  b. To be in danger of injury or death;
(4) The child is not a runaway or voluntarily missing; and
(5) The abduction has been reported to and investigated by a law enforcement agency.

If the abduction of the child is known or suspected to be by a parent of the child, the Center, in its discretion, may disseminate information through the AMBER Alert System if the child is believed to be in danger of injury or death.

(c) The Center shall adopt guidelines and develop procedures for the statewide implementation of the AMBER Alert System and shall provide education and training to encourage radio and television broadcasters to participate in the System. The Center shall work with the Department of Justice in developing training material regarding the AMBER Alert System for law enforcement, broadcasters, and community interest groups.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on the abduction of a child meeting the criteria established in subsection (b) of this section, when information is available that would enable motorists to assist law enforcement in the recovery of the missing child. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign.

(e) The Center shall consult with the Division of Emergency Management, in the Department of Public Safety, to develop a procedure for the use of the Emergency Alert System to provide information on the abduction of a child meeting the criteria established in subsection (b) of this section.

(f) The Department of Public Safety, on behalf of the Center, may accept grants, contributions, devises, and gifts, which shall be kept in a separate fund, which shall be nonreverting, and shall be used to fund the operations of the Center and the AMBER Alert System. (2002-126, s. 18.7(c); 2003-191, s. 3; 2011-145, s. 19.1(g), (w); 2011-284, s. 103.)

§ 143B-1022. North Carolina Silver Alert System established.

(a) There is established within the North Carolina Center for Missing Persons the Silver Alert System. The purpose of the Silver Alert System is to provide a statewide system for the rapid dissemination of information regarding a missing person or missing child who is believed to be suffering from dementia, Alzheimer's disease, or a disability that requires them to be protected from potential abuse or other physical harm, neglect, or exploitation.

(b) If the Center receives a request that involves a missing person or missing child as described in subsection (a) of this section, the Center shall issue an alert providing for rapid dissemination of information statewide regarding the missing person or missing child. The Center shall make every effort to disseminate the information as quickly as

possible when the person's or child's status as missing has been reported to a law enforcement agency.

(c) The Center shall adopt guidelines and develop procedures for issuing an alert for missing persons and missing children as described in subsection (a) of this section and shall provide education and training to encourage radio and television broadcasters to participate in the alert. The guidelines and procedures shall ensure that specific health information about the missing person or missing child is not made public through the alert or otherwise.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on the missing person or missing child meeting the criteria of this section when information is available that would enable motorists to assist in the recovery of the missing person or missing child. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign. (2007-469, s. 5; 2008-83, s. 1; 2009-143, s. 1; 2010-96, s. 16; 2011-145, s. 19.1(w); 2016-87, s. 3.)

§ 143B-1023. North Carolina Blue Alert System established.

(a) There is established within the North Carolina Center for Missing Persons the Blue Alert System. The purpose of the Blue Alert System is to aid in the apprehension of a suspect who kills or inflicts serious bodily injury on a law enforcement officer by providing a statewide system for the rapid dissemination of information regarding the suspect. The term "serious bodily injury" is as defined in G.S. 14-32.4(a).

(b) The Center shall make every effort to rapidly disseminate information on a suspect when the following criteria are met:

(1) A law enforcement officer is killed or suffers serious bodily injury.

(2) A law enforcement agency with jurisdiction (i) determines that the suspect poses a threat to the public and other law enforcement personnel and (ii) possesses information that may assist in locating the suspect, including information regarding the suspect's vehicle, complete or partial license plate information, and a detailed description of the suspect, or that a law enforcement officer is missing while on duty under circumstances warranting concern for the law enforcement officer's safety.

(3) The head of a law enforcement agency with jurisdiction recommends the issuance of a blue alert to the Center.

(c) The Center shall adopt guidelines and develop procedures for the statewide implementation of the Blue Alert System and shall provide education and training to encourage radio and television broadcasters to participate in the alert.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on a suspect when the criteria established in subsection (b) of this section are met. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on the overhead permanent changeable message sign pursuant to the issuance of a blue alert.

(e) The Center shall consult with the Division of Emergency Management in the Department of Public Safety to develop a procedure for the use of the Blue Alert System to provide information on a suspect when the criteria established in subsection (b) of this section are met. (2016-87, s. 1.)

§ 143B-1024: Reserved for future codification purposes.

§ 143B-1025: Reserved for future codification purposes.

§ 143B-1026: Reserved for future codification purposes.

§ 143B-1027: Reserved for future codification purposes.

§ 143B-1028: Reserved for future codification purposes.

§ 143B-1029: Reserved for future codification purposes.

Subpart C. Civil Air Patrol

§ 143B-1030. Civil Air Patrol Section – powers and duties.

(a) There is hereby established, within the Department of Public Safety the Civil Air Patrol Section, which shall be organized and staffed in accordance with this Subpart and within the limits of authorized appropriations.

(b) The Civil Air Patrol Section shall:

(1) Receive and supervise the expenditure of State funds provided by the General Assembly or otherwise secured by the State of North Carolina for the use and benefit of the North Carolina Wing-Civil Air Patrol;

(2) Supervise the maintenance and use of State provided facilities and equipment by the North Carolina Wing-Civil Air Patrol;

(3) Receive, from State and local governments, their agencies, and private citizens, requests for State approval for assistance by the North Carolina Wing-Civil Air Patrol in natural or man-made disasters or other emergency situations. Such State requested and approved missions shall be approved or denied by the Secretary of Public Safety or his designee under such rules, terms and conditions as are adopted by the Department. (1979, c. 516, s. 1; 2011-145, s. 19.1(g), (w), (bb2); 2011-391, s. 43(k).)

§ 143B-1031. Personnel and benefits.

(a) The Wing Commander of the North Carolina Wing-Civil Air Patrol shall certify to the Secretary or his designee those members who are in good standing as members eligible for benefits. The Wing Commander shall provide the Secretary with two copies of the certification. The Secretary shall acknowledge receipt of, sign, and date both copies and return one to the Wing Commander. The Wing Commander shall, in the form and manner provided above, notify the Secretary of any changes in personnel within 30 days

thereof. Upon the Secretary's signature, those members listed on the certification shall be eligible for the benefits listed below.

(b) Those members of the North Carolina Wing-Civil Air Patrol certified under subsection (a) of this section shall be deemed and considered employees of the Department of Public Safety for workers' compensation purposes, and for no other purposes, while performing duties incident to a State approved mission. Such period of employment shall not extend to said members while performing duties incident to a United States Air Force authorized mission or any other Wing activities. (1979, c. 516, s. 1; c. 714, s. 2; 1993, c. 389, s. 2; 2011-145, s. 19.1(g), (w).)

§ 143B-1032. State liability.

Unless otherwise specifically provided, the members of the North Carolina Wing-Civil Air Patrol shall serve without compensation and shall not be entitled to the benefits of the retirement system for teachers and State employees as set forth in Chapter 135 of the General Statutes. The provisions of Article 31 of Chapter 143 of the General Statutes, with respect to tort claims against State departments and agencies, shall not be applicable to the activities of the North Carolina Wing-Civil Air Patrol, unless those activities are State-approved missions which are not covered by the Federal Tort Claims Act. The State shall not in any manner be liable for any of the contracts, debts, or obligations of the said organization. (1979, c. 516, s. 1; 1993, c. 389, s. 1; 2011-145, s. 19.1(w).)

§ 143B-1033: Reserved for future codification purposes.

§ 143B-1034: Reserved for future codification purposes.

§ 143B-1035: Reserved for future codification purposes.

§ 143B-1036: Reserved for future codification purposes.

§ 143B-1037: Reserved for future codification purposes.

§ 143B-1038: Reserved for future codification purposes.

§ 143B-1039: Reserved for future codification purposes.

§ 143B-1040: Reserved for future codification purposes.

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§ 143B-1069: Reserved for future codification purposes.

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Part 6. Division of Administration.

Subpart A. Governor's Crime Commission.

§ 143B-1100. Governor's Crime Commission – creation; composition; terms; meetings, etc.

(a) There is hereby created the Governor's Crime Commission of the Department of Public Safety. The Commission shall consist of 37 voting members and five nonvoting members. The composition of the Commission shall be as follows:

(1) The voting members shall be:

a. The Governor, the Chief Justice of the Supreme Court of North Carolina (or the Chief Justice's designee), the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of Public Safety (or the Secretary's designee), and the Superintendent of Public Instruction;

b. A judge of superior court, a judge of district court specializing in juvenile matters, a chief district court judge, a clerk of superior court, and a district attorney;

c. A defense attorney, three sheriffs (one of whom shall be from a "high crime area"), three police executives (one of whom shall be from a "high crime area"), eight citizens (two with knowledge of juvenile delinquency and the public school system, two of whom shall be under the age of 21 at the time of their appointment, one advocate for victims of all crimes, one representative from a domestic violence or sexual assault program, one representative of a "private juvenile delinquency program," and one in the discretion of the Governor), three county

commissioners or county officials, and three mayors or municipal officials;

d. Four public members.

(2) The nonvoting members shall be the Director of the State Bureau of Investigation, the Deputy Chief of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who is responsible for Intervention/Prevention programs, the Deputy Chief of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who is responsible for Youth Development programs, the Section Chief of the Section of Prisons of the Division of Adult Correction and Juvenile Justice and the Section Chief of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice.

(b) The membership of the Commission shall be selected as follows:

(1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of Public Safety, the Director of the State Bureau of Investigation, the Section Chief of the Section of Prisons of the Division of Adult Correction and Juvenile Justice, the Section Chief of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice, the Deputy Chief who is responsible for Intervention/Prevention of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the Deputy Chief who is responsible for Youth Development of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.

(2) The following members shall be appointed by the Governor: the district attorney, the defense attorney, the three sheriffs, the three police executives, the eight citizens, the three county commissioners or county officials, the three mayors or municipal officials.

(3) The following members shall be appointed by the Governor from a list submitted by the Chief Justice of the Supreme Court, which list shall contain no less than three nominees for each position and which list must be submitted within 30 days after the occurrence of any vacancy in the judicial membership: the judge of superior court, the clerk of superior court, the judge of district court specializing in juvenile matters, and the chief district court judge.

(4) Two public members provided by sub-subdivision (a)(1)d. of this section shall be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives and two public members provided by sub-subdivision (a)(1)d. of this section shall be appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate.

(5) The Governor may serve as chairman, designating a vice-chairman to serve at his pleasure, or he may designate a chairman and vice-chairman both of whom shall serve at his pleasure.

(c) The initial members of the Commission shall be those appointed under subsection (b) above, which appointments shall be made by March 1, 1977. The terms of the present members of the Governor's Commission on Law and Order shall expire on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other than those serving by virtue of their office, to serve staggered terms; seven shall be appointed for one-year terms, seven for two-year terms, and seven for three-year terms. At the end of their respective terms of office their successors shall be appointed for terms of three years and until their successors are appointed and qualified. The public members appointed pursuant to subdivision (4) of subsection (b) of this section shall serve two-year terms effective March 1, of each odd-numbered year. Any Commission member no longer serving in the office from which the member qualified for appointment shall be disqualified from serving on the Commission. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

(d) The Governor shall have the power to remove any member from the Commission for misfeasance, malfeasance or nonfeasance.

(e) The Commission shall meet quarterly and at other times at the call of the chairman or upon written request of at least eight of the members. A majority of the voting members shall constitute a quorum for the transaction of business.

(f) The Commission shall be treated as a board for purposes of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes. (1965, c. 663; 1977, c. 11, s. 1; 1981, c. 467, ss. 1-5; 1981 (Reg. Sess., 1982), c. 1189, s. 4; 1991, c. 739, s. 32; 1997-443, s. 11A.118(a); 1998-170, s. 3; 1998-202, s. 4(aa); 1999-423, s. 11; 2000-137, s. 4(ee); 2001-95, s. 6; 2001-487, s. 47(g); 2007-454, s. 1; 2010-169, s. 11; 2011-145, s. 19.1(g), (i)-(l), (x); 2012-83, s. 54; 2013-410, s. 13; 2015-9, ss. 2.3(a), (b); 2015-264, ss. 79(a), (b); 2017-6, s. 3; 2017-186, s. 2(kkkkkk).)

§ 143B-1101. Governor's Crime Commission – powers and duties.

(a) The Governor's Crime Commission shall have the following powers and duties:

(1) To serve, along with its adjunct committees, as the chief advisory board to the Governor and to the Secretary of the Department of Public Safety on matters pertaining to the criminal justice system.

(2) To recommend a comprehensive statewide plan for the improvement of criminal justice throughout the State which is consistent with and serves to foster the following established goals of the criminal justice system:

a. To reduce crime,

b. To protect individual rights,

c. To achieve justice,

d. To increase efficiency in the criminal justice system,

e. To promote public safety,

f. To provide for the administration of a fair and humane system which offers reasonable opportunities for adjudicated offenders to develop progressively responsible behavior, and

g. To increase professional skills of criminal justice officers.

(3) To advise State and local law-enforcement agencies in improving law enforcement and the administration of criminal justice;

(4) To make studies and recommendations for the improvement of law enforcement and the administration of criminal justice;

(5) To encourage public support and respect for the criminal justice system in North Carolina;

(6) To seek ways to continue to make North Carolina a safe and secure State for its citizens;

(7) To recommend objectives and priorities for the improvement of law enforcement and criminal justice throughout the State;

(8) To recommend recipients of grants for use in pursuing its objectives, under such conditions as are deemed to be necessary;

(9) To serve as a coordinating committee and forum for discussion of recommendations from its adjunct committees formed pursuant to G.S. 143B-1102; and

(10) To serve as the primary channel through which local law-enforcement departments and citizens can lend their advice, and state their needs, to the Department of Public Safety.

(b) The Governor's Crime Commission shall review the level of gang activity throughout the State and assess the progress and accomplishments of the State, and of local governments, in preventing the proliferation of gangs and addressing the needs of juveniles who have been identified as being associated with gang activity.

(c) All directives of the Governor's Crime Commission shall be administered by the Director, Crime Control Division of the Department of Public Safety. (1975, c. 663; 1977, c. 11, s. 2; 1979, c. 107, s. 11; 1981, c. 931, s. 3; 1981 (Reg. Sess., 1982), c. 1191, s. 15; 2008-56, s.7; 2008-187, s. 44.5(b); 2011-145, ss. 19.1(g), (x), (xx); 2014-100, s. 16A.2; 2015-241, s. 16B.3(b).)

§ 143B-1102. Adjunct committees of the Governor's Crime Commission – creation; purpose; powers and duties.

(a) There are hereby created by way of extension and not limitation, the following adjunct committees of the Governor's Crime Commission: the Judicial Planning Committee, the Juvenile Justice Planning Committee, the Law Enforcement Planning Committee, the Corrections Planning Committee, and the Juvenile Code Revision Committee.

(b) The composition of the adjunct committees shall be as designated by the Governor by executive order, except for the Judicial Planning Committee, the composition of which shall be designated by the Supreme Court. The Governor's appointees shall serve two-year terms beginning March 1, of each odd-numbered year, and members of the Judicial Planning Committee shall serve at the pleasure of the Supreme Court.

(c) The adjunct committees created herein shall report directly to the Governor's Crime Commission and shall have the following powers and duties:

(1) The Law Enforcement Planning Committee shall advise the Governor's Crime Commission on all matters which are referred to it relevant to law enforcement, including detention; shall participate in the development of the law-enforcement component of the State's comprehensive plan; shall consider and recommend priorities for the improvement of law-enforcement services; and shall offer technical assistance to State and local agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of law-enforcement services.

The Law Enforcement Planning Committee shall maintain contact with the National Commission on Accreditation for Law Enforcement Agencies, assist the National Commission in the furtherance of its efforts, adapt the work of the National Commission by an analysis of law-enforcement agencies in North Carolina, develop standards for the accreditation of law-enforcement agencies in North Carolina, make these standards available to those law-enforcement agencies which desire to participate voluntarily in the accreditation program, and assist participants to achieve voluntary compliance with the standards.

(2) The Judicial Planning Committee (which shall be appointed by the Supreme Court) shall establish court improvement priorities, define court improvement programs and projects, and develop an annual judicial plan in accordance with the Crime Control Act of 1976 (Public Law 94-503); shall advise the Governor's Crime Commission on all matters which are referred to it relevant to the courts; shall consider and recommend priorities for the improvement of judicial services; and shall offer technical assistance to State agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of judicial services.

(3) The Corrections Planning Committee shall advise the Governor's Crime Commission on all matters which are referred to it relevant to corrections; shall participate in the development of the adult corrections component of the State's comprehensive plan; shall consider and recommend priorities for the improvement of correction services; and shall offer technical assistance to State agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of corrections.

(4) The Juvenile Justice Planning Committee shall advise the Governor's Crime Commission on all matters which are referred to it relevant to juvenile justice; shall participate in the development of the juvenile justice component of the State's comprehensive plan; shall consider and recommend priorities for the improvement of juvenile justice services; and shall offer technical assistance to State and local agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of juvenile justice.

(5) The Juvenile Code Revision Committee shall study problems relating to young people who come within the juvenile jurisdiction of the district court as defined by Article 23 of Chapter 7A of the General Statutes and develop a legislative plan which will best serve the needs of young people and protect the interests

of the State; shall study the existing laws, services, agencies and commissions and recommend whether they should be continued, amended, abolished or merged; and shall take steps to insure that all agencies, organizations, and private citizens in the State of North Carolina have an opportunity to lend advice and suggestions to the development of a revised juvenile code. If practical, the Committee shall submit a preliminary report to the General Assembly prior to its adjournment in 1977. It shall make a full and complete report to the General Assembly by March 1, 1979. This adjunct committee shall terminate on February 28, 1979.

(d) The Governor shall have the power to remove any member of any adjunct committee from the Committee for misfeasance, malfeasance or nonfeasance. Each Committee shall meet at the call of the chairman or upon written request of one third of its membership. A majority of a committee shall constitute a quorum for the transaction of business.

(e) The actions and recommendations of each adjunct committee shall be subject to the final approval of the Governor's Crime Commission. (1975, c. 663; 1977, c. 11, s. 3; 1981, c. 605, s. 1; 1983 (Reg. Sess., 1984), c. 995, s. 8; 2011-145, s. 19.1(x).)

§ 143B-1103. Additional duties of the Grants Management Section.

(a) Repealed by Session Laws 2011-145, s. 19.1(ww), effective January 1, 2012.

(b) The Grants Management Section shall administer the State Law Enforcement Assistance Program and such additional related programs as may be established by or assigned to the Section. It shall serve as the single State planning agency for purposes of the Crime Control Act of 1976 (Public Laws 94-503). Administrative responsibilities shall include, but are not limited to, the following:

(1) Compiling data, establishing needs and setting priorities for funding and policy recommendations for the Governor's Crime Commission;

(2) Preparing and revising statewide plans for adoption by the Governor's Crime Commission which are designed to improve the administration of criminal justice and to reduce crime in North Carolina;

(3) Advising State and local interests of opportunities for securing federal assistance for crime reduction and for improving criminal justice administration and planning within the State of North Carolina;

(4) Stimulating and seeking financial support from federal, State, and local government and private sources for programs and projects which implement adopted criminal justice administration improvement and crime reduction plans;

(5) Assisting State agencies and units of general local government and combinations thereof in the preparation and processing of applications for financial aid to support improved criminal justice administration, planning and crime reduction;

(6) Encouraging and assisting coordination at the federal, State, and local government levels in the preparation and implementation of criminal justice administration improvements and crime reduction plans;

(7) Applying for, receiving, disbursing, and auditing the use of funds received for the program from any public and private agencies and instrumentalities for criminal justice administration, planning, and crime reduction purposes;

(8) Entering into, monitoring, and evaluating the results of contracts and agreements necessary or incidental to the discharge of its assigned responsibilities;

(9) Providing technical assistance to State and local law-enforcement agencies in developing programs for improvement of the law-enforcement and criminal justice system; and

(10) Taking such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities.

(c) Repealed by Session Laws 2011-145, s. 19.1(ww), effective January 1, 2012. (1977, c. 11, s. 4; 2011-145, s. 19.1(x), (ww).)

§ 143B-1104. Funding for programs.

(a) Annually, the Division of Administration shall develop and implement a funding mechanism for programs that meet the standards developed under Subpart F of Part 3 of Article 13 of Chapter 143B of the General Statutes. The Division shall ensure that the guidelines for the State and local partnership's funding process include the following requirements:

(1) Fund effective programs. – The Division shall fund programs that it determines to be effective in preventing delinquency and recidivism. Programs that have proven to be ineffective shall not be funded.

(2) Use a formula for the distribution of funds. – A funding formula shall be developed that ensures that even the smallest counties will be able to provide the basic prevention and alternative services to juveniles in their communities.

(3) Allow and encourage local flexibility. – A vital component of the State and local partnership established by this section is local flexibility to determine how best to allocate prevention and alternative funds.

(4) Combine resources. – Counties shall be allowed and encouraged to combine resources and services.

(b) The Division shall adopt rules to implement this section. The Division shall provide technical assistance to County Councils and shall require them to evaluate all State-funded programs and services on an ongoing and regular basis.

(c) The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2006, and annually thereafter, on the results of the alternatives to commitment demonstration programs funded by Section 16.7 of S.L. 2004-124. The 2007 report and all annual reports thereafter shall also include projects funded by Section 16.11 of S.L. 2005-276 for the 2005-2006 fiscal year. Specifically, the report shall provide a detailed description of each of the demonstration programs, including the numbers of juveniles served, their adjudication status at the time of service, the services/treatments provided, the length of service, the total cost per juvenile, and the six- and 12-month recidivism rates for

the juveniles after the termination of program services. (1998-202, s. 1(b); 2000-137, s. 1(b); 2005-276, s. 16.11(c); 2011-145, ss. 19.1(*l*), (x), (ggg); 2017-186, s. 2(*llllll*).)

§ 143B-1105. Grants reporting.

(a) State Grants. – Beginning August 1, 2018, and annually thereafter, the Governor's Crime Commission (Commission) shall report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety (Committee) on all grant awards made by the Commission from State funds during the prior fiscal year. The report shall contain all of the following information:

(1) The name of the unit of local government receiving the grant.
(2) The purpose of the grant.
(3) The economic tier of the county where the unit of local government receiving the grant is located.
(4) Any recommended changes to State-funded grant programs to benefit local law enforcement agencies.

(b) Federal Grants. – Beginning December 1, 2018, and annually thereafter, the Commission shall report to the chairs of the Committee on Justice and Public Safety on all grant awards made by the Commission from federal funds during the prior federal fiscal year. The report shall contain all of the following information:

(1) A list of all federal grants administered in the prior federal fiscal year.
(2) The names of all entities receiving federal grants.
(3) The amount, the purpose, and the terms of each grant.
(4) Whether there are any terms, conditions, or other contingencies that may arise as a result of a freeze on federal funds or result in compliance issues.
(5) A list of any penalties that have been assessed. The list shall include the entity against which the penalty was assessed, the reason for the assessment, and the source of funds used to pay any penalty.

(c) Reporting Notice of Penalty. – The Commission shall notify the chairs of the Committee of the receipt of any notice of assessment or notice of penalty. The Commission must notify the chairs in writing, within 30 days of the receipt of the notice, and must include a copy of the notice and any subsequent correspondence by the Commission with the agency assessing the penalty. (2018-5, s. 16.2(a).)

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§ 143B-1149: Reserved for future codification purposes.

Subpart B. Treatment for Effective Community Supervision Program.

§ 143B-1150. Short title.

This Subpart is the "Treatment for Effective Community Supervision Act of 2011" and may be cited by that name. (2011-192, s. 6(b).)

§ 143B-1151. Legislative policy.

The policy of the General Assembly with respect to the Treatment for Effective Community Supervision Program is to support the use of evidence-based practices to reduce recidivism and to promote coordination between State and community-based corrections programs. (2011-192, s. 6(b).)

§ 143B-1152. Definitions.

The following definitions apply in this Subpart:

(1) Certified and licensed. – North Carolina Substance Abuse Professional Practice Board certified or licensed substance abuse professionals or Department of Health and Human Services licensed agencies.
(2) Division. – The Division of Adult Correction and Juvenile Justice.
(3) Repealed by Session Laws 2012-83, s. 55, effective June 26, 2012.
(4) Eligible entity. – A local or regional government, a nongovernmental entity, or collaborative partnership that demonstrates capacity to provide services that address the criminogenic needs of offenders.
(5) Program. – A community-based corrections program.
(6) Secretary. – The Secretary of Public Safety.
(6a) Section. – The Section of Community Corrections of the Division of Adult Correction and Juvenile Justice.
(7) State Board. – The State Community Corrections Advisory Board. (2011-145, ss. 19.1(h), (k); 2011-192, s. 6(b); 2012-83, s. 55; 2017-186, s. 2(mmmmmm).)

§ 143B-1153. Goals of community-based corrections programs funded under this Subpart.

The goals of community-based programs funded under this Subpart are to reduce recidivism and to reduce the rate of probation and post-release supervision revocations from the rate in the 2009-2010 fiscal year. (2011-192, s. 6(b).)

§ 143B-1154. Eligible population.

(a) An eligible offender is an adult offender who was convicted of a misdemeanor or a felony offense or is sentenced under the conditional discharge program as defined in G.S. 90-96 and meets any one of the following criteria:
(1) Received a nonincarcerative sentence of a community punishment.
(2) Received a nonincarcerative sentence of an intermediate punishment.
(3) Is serving a term of parole or post-release supervision after serving an active sentence of imprisonment.

(b) The priority populations for programs funded under this Subpart shall be as follows:
(1) Offenders convicted of a felony or offenders sentenced under G.S. 90-96 conditional discharge for a felony offense.
(2) Offenders identified by the Division of Adult Correction and Juvenile Justice using a validated risk assessment instrument to have a high likelihood of reoffending and a moderate to high need for substance abuse treatment. (2011-145, s. 19.1(h); 2011-192, s. 6(b); 2017-186, s. 2(nnnnnn).)

§ 143B-1155. Duties of Division of Adult Correction and Juvenile Justice.

(a) In addition to those otherwise provided by law, the Division of Adult Correction and Juvenile Justice shall have the following duties:
(1) To enter into contractual agreements with eligible entities for the operation of community-based corrections programs and monitor compliance with those agreements.

(2) To develop the minimum program standards, policies, and rules for community-based corrections programs and to consult with the Department of Health and Human Services on those standards, policies, and rules that are applicable to licensed and credentialed substance abuse services.
(3) To monitor, oversee, and evaluate contracted service providers.
(4) To act as an information clearinghouse regarding community-based corrections programs.
(5) To collaborate with the Department of Health and Human Services on focusing treatment resources on high-risk and moderate to high need offenders on probation, parole, and post-release supervision.

(b) The Section of Community Corrections of the Division of Adult Correction and Juvenile Justice shall develop and publish a recidivism reduction plan for the State that accomplishes the following:

(1) Articulates a goal of reducing revocations among people on probation and post-release supervision by twenty percent (20%) from the rate in the 2009-2010 fiscal year.
(2) Identifies the number of people on probation and post-release supervision in each county that are in the priority population and have a likely need for substance abuse and/or mental health treatment, employment, education, and/or housing.
(3) Identifies the program models that research has shown to be effective at reducing recidivism for the target population and ranks those programs based on their cost-effectiveness.
(4) Propose a plan to fund the provision of the most cost-effective programs and services across the State. The plan shall describe the number and types of programs and/or services to be funded in each region of the State and how that program capacity compares with the needs of the target population in that region.

(c) The Department of Public Safety, Community Corrections Section, shall report by March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the status of the programs funded through the Treatment for Effective Community Supervision Program. The report shall include the following information from each of the following components:

(1) Recidivism Reduction Services:
    a. The method by which offenders are referred to the program.
    b. The target population.
    c. The amount of services contracted for and the amount of funding expended in each fiscal year.
    d. The supervision type.
    e. The risk level of the offenders served.
    f. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
    g. The demographics of the population served.
    h. The number and kind of mandatory and optional services received by offenders in this program.

i. Employment status at entry and exit.
j. Supervision outcomes, including completion, revocation, and termination.

(2) Community Intervention Centers (CIC):
a. The target population.
b. The amount of funds contracted for and expended each fiscal year.
c. The supervision type.
d. The risk level of the offenders served.
e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
f. The demographics of the population served.
g. Supervision outcomes, including completion, revocation, and termination.

(3) Transitional and Temporary Housing:
a. The target population.
b. The amount of funds contracted for and expended each fiscal year.
c. The supervision type.
d. The risk level of the offenders served.
e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
f. The demographics of the population served.
g. The employment status at entry and exit.
h. Supervision outcomes, including completion, revocation, and termination.

(4) Local Reentry Councils (LRC):
a. The target population.
b. The amount of funds contracted for and expended each fiscal year.
c. The supervision type.
d. The risk level of the offenders served.
e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
f. The demographics of the population served.
g. The employment status at entry and exit including, wherever possible, the average wage received at entry and exit.
h. Supervision outcomes, including completion, revocation, and termination.

(5) Intensive Outpatient Services. – If the Department enters into a contract for Intensive Outpatient Services, the Department of Public Safety shall report in the next fiscal year on this service including the following:
a. The target population.
b. The amount of funds contracted for and expended each fiscal year.
c. The supervision type.
d. The risk level of the offenders served.
e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
f. The demographics of the population served.

g. Supervision outcomes, including completion, revocation, and termination. (2011-145, ss. 19.1(h), (k); 2011-192, s. 6(b); 2012-83, s. 56; 2014-100, s. 16C.7(b); 2016-94, s. 17C.4; 2017-186, s. 2(oooooo).)

§ 143B-1156. Contract for services.

(a) The Division of Adult Correction and Juvenile Justice shall contract with service providers through a competitive procurement process to provide community-based services to offenders on probation, parole, or post-release supervision.

(b) Contracts for substance abuse treatment services shall be awarded to certified or licensed substance abuse professionals and appropriately licensed agencies to provide services and use practices that have a demonstrated evidence base.

(c) The Division of Adult Correction and Juvenile Justice, in partnership with the Department of Health and Human Services, shall develop standard service definitions and performance measures for substance abuse and aftercare support services for inclusion in the contracts.

(d) The percentage of funds received by a service provider that may be used for administrative purposes is up to fifteen percent (15%).

(e) The Division of Adult Correction and Juvenile Justice shall pay service providers the contract base award upon the initiation of services with the remaining payments made as milestones are reached as stated in the contract for services. If the service provider cancels or terminates the contract prior to its conclusion, the service provider shall reimburse the Division for the unearned pro rata portion of the base award.

(f) The Department shall pay service providers the contract base award upon initiation of services with the remaining payments made as milestones are reached as stated in the contract for services. Should the vendor cancel or terminate the contract prior to its conclusion, the vendor shall reimburse the Department for the unearned pro rata portion of the base award. (2011-145, s. 19.1(h); 2011-192, s. 6(b); 2016-77, s. 10; 2016-94, s. 17C.5; 2017-186, ss. 2(pppppp), 3(a).)

§ 143B-1157: Repealed by Session Laws 2016-77, s. 3(a), effective July 1, 2016.

§ 143B-1158: Repealed by Session Laws 2016-77, s. 3(a), effective July 1, 2016.

§ 143B-1159: Repealed by Session Laws 2013-101, s. 5, effective June 12, 2013.

§ 143B-1160. Program types eligible for funding; community-based corrections programs.

Based on the prioritized populations in G.S. 143B-1154(b), program types eligible for funding may include, but are not limited to, the following:

(1) Substance abuse treatment services, to include co-occurring substance abuse and mental health disorder services, residential, intensive outpatient, outpatient, peer support, and relapse prevention.

(2) Cognitive behavioral programming and other evidence-based programming deemed to be the most cost-effective method to reduce criminogenic needs identified by the risk/needs assessment. (2011-192, s. 6(b).)

§ 143B-1161. Justice Reinvestment Council.

(a) The Justice Reinvestment Council is established to act as an advisory body to the Commissioner of Adult Correction with regard to this Subpart. The Council shall consist of 13 members as follows, to be appointed as provided in subsection (b) of this section:

(1) Two members of the Senate.
(2) Two members of the House of Representatives.
(3) A judge of the superior court.
(4) A judge of the district court.
(5) A district attorney.
(6) A criminal defense attorney.
(7) A county sheriff.
(8) A chief of a city police department.
(9) A victim service provider.
(10) A member selected to represent behavioral health services.
(11) A member selected to represent substance abuse treatment services.

(b) The membership of the Council shall be selected as follows:

(1) The Governor shall appoint the following members: the county sheriff, the chief of a city police department, the member representing behavioral health services, and the member representing substance abuse treatment services.
(2) The Lieutenant Governor shall appoint the victim service provider.
(3) The Chief Justice of the North Carolina Supreme Court shall appoint the following members: the superior court judge, the district court judge, the district attorney, and the criminal defense attorney.
(4) The President Pro Tempore of the Senate shall appoint the two members of the Senate.
(5) The Speaker of the House of Representatives shall appoint the two members of the House of Representatives.

In appointing the members of the Council, the appointing authorities shall make every effort to ensure fair geographic representation of the Council membership and to ensure that minority persons and women are fairly represented.

(c) The initial members shall serve staggered terms. The members identified in subdivisions (1) and (2) of subsection (a) of this section shall be appointed initially for a term of one year. The members identified in subdivisions (3) through (7) of subsection (a) of this section shall be appointed initially for a term of two years. The members identified in subdivisions (8) through (11) of subsection (a) of this section shall be appointed initially for a term of three years. The terms of office of the initial members appointed under this section commence effective October 1, 2015.

At the end of their respective terms of office, their successors shall be appointed for terms of three years effective July 1. A vacancy occurring before the expiration of the term

of office shall be filled in the same manner as original appointments for the remainder of the term. Members may be reappointed without limitation.

(d) The purpose of the Justice Reinvestment Council in conjunction with the Department of Public Safety, Division of Adult Correction and Juvenile Justice, is to:

(1) Recommend policy enhancements to the Justice Reinvestment Act of 2011.
(2) Assist in the continued education of criminal justice system stakeholders.
(3) Support implementation of the Justice Reinvestment Act of 2011.
(4) Identify new initiatives that further the implementation of the Justice Reinvestment Act of 2011 and the Adult Corrections Recidivism Reduction Plan. (2016-77, s. 3(b); 2017-186, s. 3(a).)

§ 143B-1162: Reserved for future codification purposes.

§ 143B-1163: Reserved for future codification purposes.

§ 143B-1164: Reserved for future codification purposes.

§ 143B-1165: Reserved for future codification purposes.

§ 143B-1166: Reserved for future codification purposes.

§ 143B-1167: Reserved for future codification purposes.

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§ 143B-1173: Reserved for future codification purposes.

§ 143B-1174: Reserved for future codification purposes.

§ 143B-1175: Reserved for future codification purposes.

§ 143B-1176: Reserved for future codification purposes.

§ 143B-1177: Reserved for future codification purposes.

§ 143B-1178: Reserved for future codification purposes.

§ 143B-1179: Reserved for future codification purposes.

§ 143B-1180: Reserved for future codification purposes.

§ 143B-1181: Reserved for future codification purposes.

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§ 143B-1187: Reserved for future codification purposes.

§ 143B-1188: Reserved for future codification purposes.

§ 143B-1189: Reserved for future codification purposes.

§ 143B-1190: Reserved for future codification purposes.

§ 143B-1191: Reserved for future codification purposes.

§ 143B-1192: Reserved for future codification purposes.

§ 143B-1193: Reserved for future codification purposes.

§ 143B-1194: Reserved for future codification purposes.

§ 143B-1195: Reserved for future codification purposes.

§ 143B-1196: Reserved for future codification purposes.

§ 143B-1197: Reserved for future codification purposes.

§ 143B-1198: Reserved for future codification purposes.

§ 143B-1199: Reserved for future codification purposes.

Part 7. Office of External Affairs.

§ 143B-1200. Assistance Program for Victims of Rape and Sex Offenses.

(a) Establishment of Program. – There is established an Assistance Program for Victims of Rape and Sex Offenses, hereinafter referred to as the "Program." The Secretary shall administer and implement the Program and shall have authority over all assistance awarded through the Program. The Secretary shall promulgate rules and guidelines for the Program.

(b) Victims to Be Provided Free Forensic Medical Examinations. – It is the policy of this State to arrange for victims to obtain forensic medical examinations free of charge. Whenever a forensic medical examination is conducted as a result of a sexual assault or an attempted sexual assault that occurred in this State, the Program shall pay for the cost of the examination. A medical facility or medical professional that performs a forensic medical examination on the victim of a sexual assault or attempted sexual assault shall not seek payment for the examination except from the Program.

(c) No Billing of Victim. – A medical facility or medical professional that performs a forensic medical examination shall accept payment made under this section as payment in full of the amount owed for the cost of the examination and other eligible expenses and shall not bill victims, their personal insurance, Medicaid, Medicare, or any other collateral source for the examination. Furthermore, a medical facility or medical professional shall not seek reimbursement from the Program after one year from the date of the examination.

(d) Eligible Expenses. – Medical facilities and medical professionals who perform forensic medical examinations shall do so using a Sexual Assault Evidence Collection Kit. Payments by the Program for the forensic medical examination shall be limited to the following:

Service	Maximum Amount Paid by Program
Physician or SANE Nurse	$350.00
Hospital/Facility Fee	$250.00
Other Expenses Deemed Eligible by the Program	$200.00
Total:	$800.00

(e) Payment Directly to Provider. – The Program shall make payment directly to the medical facility or medical professional. Bills submitted to the Program for payment shall specify under which categories of expense set forth in subsection (d) of this section the billed services fall.

(f) Additional Victim Notification Requirements. – A medical facility or medical professional who performs a forensic medical examination shall encourage victims to submit an application for reimbursement of medical expenses beyond the forensic examination to the Crime Victims Compensation Commission for consideration of those expenses. Medical facilities and medical professionals shall not seek reimbursement from the Program after one year from the date of the exam.

(g) Judicial Review. – Upon an adverse determination by the Secretary on a claim for assistance under this Part, a victim is entitled to judicial review of that decision. The person seeking review shall file a petition in the Superior Court of Wake County.

(h) The Secretary shall adopt rules to encourage, whenever practical, the use of licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical examinations and procedures.

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

(1) Forensic medical examination. – An examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law. The examination should include at a minimum an examination of physical trauma, a patient interview, a determination of penetration or force, and a collection and evaluation of evidence. This definition shall be interpreted consistently with 28 C.F.R. § 90.2(b) and other relevant federal law.

(2) SANE nurse. – A Sexual Assault Nurse Examiner that is a licensed registered nurse trained pursuant to G.S. 90-171.38(b) who obtains preliminary histories, conducts in-depth interviews, and conducts medical examinations of rape victims or victims of related sexual offenses.

(3) Sexual assault. – Any of the following crimes:

a. First-degree forcible rape as defined in G.S. 14-27.21.

b. Second-degree forcible rape as defined in G.S. 14-27.22.

c. First-degree statutory rape as defined in G.S. 14-27.24.

d. Statutory rape of a person who is 15 years of age or younger as defined in G.S. 14-27.25.

e. First-degree forcible sexual offense as defined in G.S. 14-27.26.

f. Second-degree forcible sexual offense as defined in G.S. 14-27.27.

g. First-degree statutory sexual offense as defined in G.S. 14-27.29.

h. Statutory sexual offense with a person who is 15 years of age or younger as defined in G.S. 14-27.30.

(4) Sexual Assault Evidence Collection Kit. – The kit assembled and paid for by the Program and used to conduct forensic medical examinations in this State. (1981, c. 931, s. 2; 1981 (Reg. Sess., 1982), c. 1191, s. 16; 2009-354, s. 1(b); 2011-145, s. 19.1(x1); 2011-391, s. 43(i); 2015-181, s. 38.)

§ 143B-1201. Restitution; actions.

(a) The Program shall be an eligible recipient for restitution or reparation under G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148-57.1, and any other applicable statutes.

(b) When any victim who:

(1) Has received assistance under this Part;

(2) Brings an action for damages arising out of the rape, attempted rape, sexual offense, or attempted sexual offense for which she received that assistance; and

(3) Recovers damages including the expenses for which she was awarded assistance, the court shall make as part of its judgment an order for reimbursement to the Program of the amount of any assistance awarded less reasonable expenses allocated by the court to that recovery.

(c) Funds appropriated to the Department of Public Safety for this program may be used to purchase and distribute sexual assault evidence collection kits approved by the Director of the State Crime Laboratory.

(d) The Secretary, in consultation with the Director of the State Crime Laboratory, shall require that all sexual assault evidence collection kits purchased or distributed on or after October 1, 2018, are compatible with the Statewide Sexual Assault Evidence Collection Kit Tracking System established under G.S. 114-65. (1981, c. 931, s. 2; 1983, c. 715, s. 3; 2008-107, s. 18.2(b); 2009-354, s. 2; 2011-145, s. 19.1(g), (x1); 2018-70, s. 2.)

§ 143B-1202: Reserved for future codification purposes.

§ 143B-1203: Reserved for future codification purposes.

§ 143B-1204: Reserved for future codification purposes.

§ 143B-1205: Reserved for future codification purposes.

§ 143B-1206: Reserved for future codification purposes.

§ 143B-1207: Reserved for future codification purposes.

§ 143B-1208: Reserved for future codification purposes.

§ 143B-1209: Reserved for future codification purposes.

Article 14.

Department of Military and Veterans Affairs

Part 1. General Provisions.

§ 143B-1210. Organization.

(a) There is established the Department of Military and Veterans Affairs. The head of the Department of Military and Veterans Affairs is the Secretary of Military and Veterans Affairs, who shall be known as the Secretary.

(b) The powers and duties of the deputy secretaries and the divisions and directors of the Department shall be subject to the direction and control of the Secretary of Military and Veterans Affairs. (2015-241, s. 24.1(b); 2015-268, s. 7.3(a).)

§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.

It shall be the duty of the Department of Military and Veterans Affairs to do all of the following:

(1) Provide active outreach to the United States Department of Defense and the United States Department of Homeland Security and their associated establishments in North Carolina in order to support the military installations

and activities in the State, to enhance North Carolina's current military-friendly environment and foster and promote business, technology, transportation, education, economic development, and other efforts in support of the mission, execution, and transformation of the United States government military and national defense activities located in the State.

(2) Promote the industrial and economic development of localities included in or adjacent to United States government military and national defense activities and those of the State.

(3) Provide technical assistance and coordination between the State, its political subdivisions, and the United States military and national defense activities within the State of North Carolina.

(4) Award grants to local governments, State and federal agencies, and private entities at the direction of the Secretary. The number of grants awarded and the level of funding of each grant for each fiscal year shall be contingent upon and determined by funds appropriated for that purpose by the General Assembly.

(5) Provide active outreach to the United States Department of Veterans Affairs, the veterans service organizations, and the veterans community in North Carolina to support and assist North Carolina's veterans in identifying and obtaining the services, assistance, and support to which they are entitled, including monitoring efforts to provide services to veterans, newly separated service members, and their immediate family members and disseminating relevant materials.

(6) Monitor and enhance efforts to provide assistance and support for veterans living in North Carolina and members of the North Carolina National Guard and North Carolina residents in the Armed Forces Reserves not in active federal service in the areas of (i) medical care, (ii) mental health and rehabilitative services, (iii) housing, (iv) homelessness prevention, (v) job creation, and (vi) education.

(7) Seek and receive monies from any source, including federal funds, gifts, grants, and devises, which shall be expended for the purposes designated in this Article.

(8) Provide active outreach, coordination, formal training and standards, and official certification to localities of the State and veterans support organizations in the development, implementation, and review of local veterans services programs as part of the State program.

(9) Work with veterans services organizations and counterparts in other states to monitor and encourage the timely and accurate processing of veterans' benefit requests by the United States Department of Veterans Affairs, including requests for service connected to health care, mental health care, and disability payments.

(10) Manage and maintain the State's veterans nursing homes and cemeteries and their associated assets to the standard befitting those who have worn the uniform of the Armed Forces according to federal guidelines. Plan for expansion and grow the capacity of these facilities and any new facilities as required pending the availability of designated funds.

(11) Manage and maintain the State's Scholarships for Children of Wartime Veterans in accordance with Part 2 of Article 14 of Chapter 143B of the General Statutes and in support of the Veterans' Affairs Commission.

(12) Provide administrative, organizational, and funding support to the Governor's Working Group for Veterans.

(12a) Provide administrative services to the North Carolina Military Affairs Commission pursuant to G.S. 143B-1310(a).

(13) Work with federal officials to obtain additional federal resources and coordinate veterans policy development and information exchange.

(14) Work with the appropriate heads of the principal departments to coordinate working relationships between State agencies and take all actions necessary to ensure that available federal and State resources are directed toward assisting veterans and addressing all issues of mutual concern to the State and the Armed Forces of the United States, including, but not limited to, quality of life issues unique to North Carolina's military personnel and their families, the quality of educational opportunities for military children, the future of federal impact aid, preparedness, public safety and security concerns, transportation needs, alcoholic beverage law enforcement, substance abuse, social service needs, possible expansion and growth of military facilities in the State, and intergovernmental support agreements with state and local governments.

(15) Educate the public on veterans and defense issues in coordination with applicable State agencies.

(16) Adopt rules and procedures for the implementation of this section.

(17) Assist veterans, their families, and dependents in the presentation, processing, proof, and establishment of such claims, privileges, rights, and benefits as they may be entitled to under federal, State, or local laws, rules, and regulations.

(18) Aid persons in active military service and their dependents with problems arising out of that service that come reasonably within the purview of the Department's program of assistance.

(19) Collect data and information as to the facilities and services available to veterans, their families, and dependents and to cooperate with agencies furnishing information or services throughout the State in order to inform such agencies regarding the availability of (i) education, training, and retraining facilities; (ii) health, medical, rehabilitation, and housing services and facilities; (iii) employment and reemployment services; and (iv) provisions of federal, State, and local laws, rules, and regulations affording rights, privileges, and benefits to veterans, their families, and dependents, and in respect to such other matters of similar, related, or appropriate nature not herein set out.

(20) Establish such field offices, facilities, and services throughout the State as may be necessary to carry out the purposes of this Article.

(21) Cooperate, as the Department deems appropriate, with governmental, private, and civic agencies and instrumentalities in securing services or benefits for veterans, their families, dependents, and beneficiaries.

(22) Enter into any contract or agreement with any person, business, governmental agency, or other entity in furtherance of the purposes of this Article.

(23) Train, assist, and provide guidance to the employees of any county, city, town, or Indian tribe who are engaged in veterans service. Authority is hereby granted to the governing body of any county, city, or town to appropriate such amounts as it may deem necessary to provide a veterans services program, and the expenditure of such funds is hereby declared to be for a public purpose; such program shall be operated in affiliation with this Department as set forth above and in compliance with Department policies and procedures.

(24) Contribute each fiscal year to each county that applies for it an amount for the maintenance and operation of a county veterans services program. Participating counties shall furnish the Department such reports, accountings, and other information at such times and in such form as the Department may require. The amount contributed to each county under this subdivision shall be as follows:

a. If funds appropriated to the Department for contributions under this subdivision exceed the total amount of county requests received by December 31 of each year, the contribution to each county shall be the full amount requested by each county.

b. If the funds appropriated to the Department for contributions under this subdivision are insufficient to fund the full amount of county requests received by December 31 of each year, the contribution to each county shall be a pro rata share of the amount appropriated to the Department for contributions under this section, up to the amount requested by the county. (2015-241, ss. 24.1(b), 24.2; 2015-268, s. 7.3(a); 2017-57, s. 19.1(d).)

§ 143B-1212. Personnel of the Department of Military and Veterans Affairs.

Notwithstanding G.S. 114-2.3, the Secretary of Military and Veterans Affairs shall have the power to appoint all employees, including consultants and legal counsel, necessary to carry out the powers and duties of the office. These employees shall be subject to the North Carolina Human Resources Act, except that employees in positions designated as exempt under G.S. 126-5(d)(1) are not subject to the Act, in accordance with the provisions of that section. (2015-241, s. 24.1(b); 2015-268, s. 7.3(a).)

§ 143B-1213. Definitions.

Except where provided otherwise, the following definitions apply in this Chapter:

(1) Department. – The Department of Military and Veterans Affairs.

(2) Secretary. – The Secretary of Military and Veterans Affairs.

(3) Veteran. – One of the following, as applicable:

a. For qualifying as a voting member of the State Board of Veterans Affairs and as the State Director of Veterans Affairs, a person who served honorably during a period of war as defined in Title 38, United States Code.

b. For entitlement to the services of the Department of Military and Veterans Affairs, any person who may be entitled to any benefits or rights under the laws of the United States by reason of service in the

Armed Forces of the United States. (2015-241, s. 24.1(b); 2015-268, s. 7.3(a).)

§ 143B-1214. Appropriations.

Appropriations for the Department shall be made from the general fund of the State, and the Governor, with the approval of the Council of State, is hereby authorized and empowered to allocate from time to time from the Contingency and Emergency Fund, such funds as may be necessary to carry out the intent and purposes of this Part. (1945, c. 723, s. 1; 1967, c. 1060, s. 1; 2015-241, s. 24.1(e); 2015-268, s. 7.3(a).)

§ 143B-1215. Copies of records to be furnished to the Department of Military and Veterans Affairs.

(a) Whenever copies of any State and local public records are requested by a representative of the Department of Military and Veterans Affairs in assisting persons in obtaining any federal, State, local or privately provided benefits relating to veterans and their beneficiaries, the official charged with the custody of any such records shall without charge furnish said representative with the requested number of certified copies of such records; provided, that this section shall not apply to the disclosure of information in certain privileged and confidential records referred to elsewhere in the General Statutes of North Carolina, which information shall continue to be disclosed in the manner prescribed by the statute relating thereto.

(b) No official chargeable with the collection of any fee or charge under the laws of the State of North Carolina in connection with his official duties shall be held accountable on his official bond or otherwise for any fee or charge remitted pursuant to the provisions of this section. (1967, c. 1060, s. 1; 1973, c. 620, s. 9; 1977, c. 70, s. 27; 2015-241, ss. 24.1(e), (ff); 2015-268, s. 7.3(a).)

§ 143B-1216. Confidentiality of Department of Military and Veterans Affairs records.

Notwithstanding any other provisions of this Chapter, no records of the Department of Military and Veterans Affairs shall be disclosed or used for any purpose except for official purposes, and no records shall be disclosed, destroyed or used in any manner which is in violation of any existing federal law or regulation. Nothing in this Chapter shall convert records which are the property of the federal government into State property. (1977, c. 70, s. 28; 2015-241, ss. 24.1(e), (gg); 2015-268, s. 7.3(a).)

§ 143B-1217. Military Presence Stabilization Fund.

The Military Presence Stabilization Fund is established as a special fund in the Department of Military and Veterans Affairs. Funds in the Military Presence Stabilization Fund shall be used to fund actions designed to make the State less vulnerable to closure pursuant to federal Base Realignment and Closure and related initiatives. The North Carolina Military Affairs Commission shall approve the use of the Fund for this purpose. (2015-241, s. 24.3(a); 2017-57, s. 19.1(e).)

§ 143B-1218: Reserved for future codification purposes.

§ 143B-1219: Reserved for future codification purposes.

Part 2. Veterans' Affairs Commission.

§ 143B-1220. Veterans' Affairs Commission – creation, powers and duties.

There is hereby created the Veterans' Affairs Commission of the Department of Military and Veterans Affairs. The Veterans' Affairs Commission shall have the following functions and duties, as delegated by the Secretary of Military and Veterans Affairs:

(1) To advise the Secretary of Military and Veterans Affairs on matters relating to the affairs of veterans in North Carolina;

(2) To maintain a continuing review of the operation and budgeting of existing programs for veterans and their dependents in the State and to make any recommendations to the Secretary of Military and Veterans Affairs for improvements and additions to such matters to which the Secretary shall give due consideration;

(3) To promulgate rules and regulations concerning the awarding of scholarships for children of North Carolina veterans as provided by this Article. The Commission shall make rules and regulations consistent with the provisions of this Article. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the State Board of Veterans' Affairs shall remain in full force and effect unless and until repealed or superseded by action of the Veterans' Affairs Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Military and Veterans Affairs;

(4) To promulgate rules concerning the awarding of the North Carolina Services Medal to all veterans who have served in any period of war as defined in 38 U.S.C. § 101. The award shall be self-financing; those who wish to be awarded the medal shall pay a fee to cover the expenses of producing the medal and awarding the medal. All rules adopted by the Commission with respect to the North Carolina Services Medal shall be implemented and enforced by the Department of Military and Veterans Affairs; and

(5) To advise the Secretary on any matter the Secretary may refer to it. (1973, c. 620, s. 7; 1977, c. 70, ss. 24, 25, 27; c. 622; 1991 (Reg. Sess., 1992), c. 998, s. 1; 1993, c. 553, s. 47; 2015-241, ss. 24.1(c), (bb); 2015-268, s. 7.3(a).)

§ 143B-1221. Veterans' Affairs Commission – members; selection; quorum; compensation.

The Veterans' Affairs Commission of the Department of Military and Veterans Affairs shall consist of one voting member from each congressional district, all of whom shall be veterans, appointed by the Governor for four-year terms. In making these appointments, the Governor shall insure that both major political parties will be continuously represented on the Veterans' Affairs Commission.

The initial members of the Commission shall be the appointed members of the current Veterans' Affairs Commission who shall serve for the remainder of their current terms and six additional members appointed by the Governor for terms expiring June 30, 1981. Thereafter, all members shall be appointed for terms of four years. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Governor shall have the power to remove any member of the Commission in accordance with provisions of G.S. 143B-13.

In the event that more than 11 congressional districts are established in the State, the Governor shall on July 1 following the establishment of such additional congressional districts appoint a member of the Commission from that congressional district. If on July 1, 1977, or at any time thereafter due to congressional redistricting, two or more members of the Veterans' Affairs Commission shall reside in the same congressional district then such members shall continue to serve as members of the Commission for a period equal to the remainder of their current terms on the Commission provided that upon the expiration of said term or terms the Governor shall fill such vacancy or vacancies in such a manner as to insure that as expeditiously as possible there is one member of the Veterans' Affairs Commission who is a resident of each congressional district in the State.

The Governor shall designate from the membership of the Commission a chairman and vice-chairman of the Commission who shall serve at the pleasure of the Governor. The Secretary of the Department of Military and Veterans Affairs or his designee shall serve as secretary of the Commission.

Members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

The Veterans' Affairs Commission shall meet at least twice a year and may hold special meetings at any time or place within the State at the call of the chairman, at the call of the Secretary of the Department of Military and Veterans Affairs or upon the written request of at least six members.

All clerical and other services required by the Commission shall be provided by the Secretary of the Department of Military and Veterans Affairs. (1973, c. 620, s. 8; 1977, c. 70, ss. 24, 25, 27; c. 637, s. 1; 2015-241, ss. 24.1(c), (cc); 2015-268, s. 7.3(a).)

§ 143B-1221.1. Strategic plan.

(a) Strategic Plan. – The Veterans' Affairs Commission shall adopt a comprehensive strategic plan to enhance benefits for veterans and their dependents. The strategic plan shall include specific objectives related to the following topics:

(1) Improving accessibility of health, education, training, counseling, financial, and burial benefits and services to veterans and their dependents.

(2) Increasing the satisfaction of veterans and their dependents with benefits and services by meeting their expectations for availability, quality, timeliness, and responsiveness.

(3) Educating and empowering veterans and their dependents through proactive outreach and effective advocacy.

(4) Any other topic related to enhancing benefits for veterans and their dependents.

(b) Update, Review, and Report. – The Commission shall update this plan every four years. The Commission shall annually review the State's performance based on this plan and shall annually report the results of its review to the Joint Legislative Oversight Committee on General Government. (2017-29, s. 1.)

§ 143B-1222. Veterans' Affairs Commission Advisory Committee – members; compensation.

The department commander or official head of each veterans' organization which has been chartered by an act of the United States Congress and which is legally constituted and operating in this State pursuant to said charter shall constitute an Advisory Committee to the Veterans' Affairs Commission. Members of the Veterans' Affairs Commission Advisory Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. (1977, c. 637, s. 3; 2015-241, s. 24.1(c); 2015-268, s. 7.3(a).)

§ 143B-1223. Purpose.

In appreciation for the service and sacrifices of North Carolina's war veterans and as evidence of this State's concern for their children, there is hereby continued a revised program of scholarships for said children as set forth in this Part. (1967, c. 1060, s. 8; 2015-241, s. 24.1(c); 2015-268, s. 7.3(a).)

§ 143B-1224. Definitions.

As used in this Part the terms defined in this section shall have the following meaning:

(1) "Active federal service" means full-time duty in the Armed Forces other than active duty for training; however, if disability or death occurs while on active duty for training (i) as a direct result of armed conflict or (ii) while engaged in extra-hazardous service, including such service under conditions simulating war, such active duty for training shall be considered as active federal service.

(2) "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including their reserve components.

(3) "Child" means a person: (i) under 25 years of age at the time of application for a scholarship, (ii) who is a domiciliary of North Carolina and is a resident of North Carolina when applying for a scholarship, (iii) who has completed high school or its equivalent prior to receipt of a scholarship awarded under this Part, (iv) who has complied with the requirements of the Selective Service System, if applicable, and (v) who further meets one of the following requirements:

a. A person whose veteran parent was a legal resident of North Carolina at the time of said veteran's entrance into that period of service in the Armed Forces during which eligibility is established under G.S. 143B-1226.

b. A veteran's child who was born in North Carolina and has been a resident of North Carolina continuously since birth. Provided, that the

requirement in the preceding sentence as to birth in North Carolina may be waived by the Department of Military and Veterans Affairs if it is shown to the satisfaction of the Department that the child's mother was a native-born resident of North Carolina and was such resident at the time of her marriage to the veteran and was outside the State temporarily at the time of the child's birth, following which the child was returned to North Carolina within a reasonable period of time where said child has since lived continuously.

c. A person meeting either of the requirements set forth in subdivision (3) a or b above, and who was legally adopted by the veteran prior to said person's reaching the age of 15 years.

(4) "Period of war" and "wartime" shall mean any of the periods or circumstances as defined below:

a. World War I, meaning (i) the period beginning on April 6, 1917 and ending on November 11, 1918, and (ii) in the case of a veteran who served with the Armed Forces in Russia, the period beginning on April 6, 1917 and ending on April 1, 1920.

b. World War II, meaning the period beginning on December 7, 1941 and ending on December 31, 1946.

c. Korean Conflict, meaning the period beginning on June 27, 1950 and ending on January 31, 1955.

d. Vietnam era, meaning the period beginning on August 5, 1964, and ending on May 7, 1975.

e. Persian Gulf War, meaning the period beginning on August 2, 1990, and ending on the date prescribed by Presidential proclamation or concurrent resolution of the United States Congress.

f. Any period of service in the Armed Forces during which the veteran parent of an applicant for a scholarship under this Part suffered death or disability (i) as a direct result of armed conflict or (ii) while engaged in extra-hazardous service, including such service under conditions simulating war.

(5) "Private educational institution" means any junior college, senior college or university which is operated and governed by private interests not under the control of the federal, State or any local government, which is located within the State of North Carolina, which does not operate for profit, whose curriculum is primarily directed toward the awarding of associate, baccalaureate or graduate degrees, which agrees to the applicable administration and funding provisions of G.S. 143B-1227, of this Part, and which is otherwise approved by the State Board of Veterans Affairs.

(6) "State educational institution" means any constituent institution of The University of North Carolina, or any community college operated under the provisions of Chapter 115D of the General Statutes of North Carolina.

(7) "Veteran" means a person who served as a member of the Armed Forces in active federal service during a period of war and who was either separated from the Armed Forces under honorable conditions or who is currently serving in a second or subsequent enlistment. A person who was separated from the Armed

Forces under honorable conditions and whose death or disability was incurred (i) as a direct result of armed conflict or (ii) while engaged in extra-hazardous service, including such service under conditions simulating war, is also a "veteran" and the death or disability is wartime service-connected. (1967, c. 1060, s. 8; 1969, c. 720, s. 3; c. 741, ss. 1, 2; 1971, c. 339; 1973, c. 620, s. 9; c. 755; 1975, c. 160, s. 1; 1977, c. 70, s. 27; 1985, c. 39, s. 2; c. 788; 1989, c. 767, s. 1; 1991, c. 549, s. 1; 2001-424, s. 7.1(a); 2002-126, s. 19.3(a); 2008-107, s. 19.2(b); 2008-187, s. 48; 2008-192, s. 11; 2011-183, s. 115; 2015-241, s. 24.1(c), (hh); 2015-268, s. 7.3(a); 2017-57, s. 19.2(a).)

§ 143B-1225. Scholarship.

(a) A scholarship granted pursuant to this Part shall consist of the following benefits in either a State or private educational institution:

(1) With respect to State educational institutions, unless expressly limited elsewhere in this Part, a scholarship shall consist of:
   a. Tuition at the State educational institution.
   b. A standard board allowance.
   c. A standard room allowance.
   d. Matriculation and other institutional fees required to be paid as a condition to remaining in the institution and pursuing the course of study selected.

(2) With respect to private educational institutions, a scholarship shall consist of a monetary allowance as prescribed in G.S. 143B-1227(d).

(3) Only one scholarship may be granted pursuant to this Part with respect to each child and it shall not extend for a longer period than four academic years, which years, however, need not be consecutive.

(4) No educational assistance shall be afforded a child under this Part after the end of an eight-year period beginning on the date the scholarship is first awarded. Those persons who have been granted a scholarship under this Part prior to the effective date of this act shall be entitled to the remainder of their period of scholarship eligibility if used prior to August 1, 2010. Whenever a child is enrolled in an educational institution and the period of entitlement ends while enrolled in a term, quarter or semester, such period shall be extended to the end of such term, quarter or semester, but not beyond the entitlement limitation of four academic years.

(5) A scholarship awarded to a student under this section shall not exceed the cost of attendance at the State educational institution at which the student is enrolled. If a student, who is eligible for a scholarship under this section, also receives a scholarship or other grant covering the cost of attendance at the State educational institution for which the scholarship is awarded, then the amount of the scholarship shall be reduced by an appropriate amount determined by the State educational institution at which the student is enrolled. The scholarship shall be reduced so that the sum of all grants and scholarship aid covering the cost of attendance received by the student, including the scholarship under this

section, shall not exceed the cost of attendance for the State educational institution at which the student is enrolled.

(b) If a child is awarded a scholarship under this Part, the Commission shall notify the recipient by May 1st of the year in which the recipient enrolls in college. (1967, c. 1060, s. 8; 1969, c. 741, s. 3; 1975, c. 137, s. 1; 1989, c. 767, s. 2; 2001-424, s. 7.1(b); 2002-126, s. 19.3(b); 2008-107, s. 19.2(a); 2015-241, ss. 24.1(c), (ii); 2015-268, s. 7.3(a).)

§ 143B-1226. Classes or categories of eligibility under which scholarships may be awarded.

(a) Scholarship Consideration. – A child, as defined in this Part, who falls within the provisions of any eligibility class described in subsection (b) of this section shall, upon proper application, be considered for a scholarship, subject to the provisions and limitations set forth for the class under which the child is considered. A child may be considered for a scholarship under more than one eligibility class as long as the child falls within the provisions and is subject to the limitations of each class for which the child is being considered. A child may be awarded only one scholarship as provided in G.S. 143B-1225(a)(3).

(b) Scholarship Eligibility Classes. –

(1) Class I-A: Under this class a scholarship shall be awarded to any child whose veteran parent:

a. Was killed in action or died from wounds or other causes not due to the parent's own willful misconduct while a member of the Armed Forces during a period of war, or

b. Has died of service-connected injuries, wounds, illness or other causes incurred or aggravated during wartime service in the Armed Forces, as rated by the United States Department of Veterans Affairs.

(2) Class I-B: Under this class a limited scholarship providing only those benefits set forth in G.S. 143B-1225(a)(1)a. and d. and G.S. 143B-1225(a)(2) shall be awarded to any child whose veteran parent, at the time the benefits pursuant to this Part are sought to be availed of, is or was at the time of his death receiving compensation for a wartime service-connected disability of one hundred percent (100%) as rated by the United States Department of Veterans Affairs. Provided, that if the veteran parent of a recipient under this class should die of his wartime service-connected condition before the recipient shall have utilized all of his scholarship eligibility time, then the North Carolina Department of Military and Veterans Affairs shall amend the recipient's award from Class I-B to Class I-A for the remainder of the recipient's eligibility time. The effective date of such an amended award shall be determined by the Department of Military and Veterans Affairs but, in no event shall it predate the date of the veteran parent's death.

(3) Class II: For the purposes of this subdivision, a child shall include any person meeting either of the requirements set forth in G.S. 143B-1224(3)a. or b. and who is a child, as that term is defined in 37 U.S.C. § 401. Under this class a scholarship may be awarded to not more than 100 children yearly, each of

whose veteran parent, at the time the benefits pursuant to this Part are sought to be availed of:

a. Is or was at the time of the parent's death receiving compensation for a wartime service-connected disability of twenty percent (20%) or more, but less than one hundred percent (100%), as rated by the United States Department of Veterans Affairs, or

b. Was awarded a Purple Heart for wounds received as a result of an act of any opposing armed force, as a result of an international terrorist attack, or as a result of military operations while serving as part of a peacekeeping force.

(4) Class III: For the purposes of this subdivision, a child shall include any person meeting either of the requirements set forth in G.S. 143B-1224(3)a. or b. and who is a child, as that term is defined in 37 U.S.C. § 401. Under this class a scholarship may be awarded to not more than 100 children yearly, each of whose veteran parent, at the time the benefits pursuant to this Part are sought to be availed of:

a. Is or was at the time of his death drawing pension for permanent and total disability, nonservice-connected, as rated by the United States Department of Veterans Affairs.

b. Is deceased.

c. Served in a combat zone, or waters adjacent to a combat zone, or any other campaign, expedition, or engagement for which the United States Department of Defense authorizes a campaign badge or medal.

(5) Class IV: Under this class a scholarship as defined in G.S. 143B-1225 shall be awarded to any child whose parent, while serving honorably as a member of the Armed Forces in active federal service during a period of war, as defined in G.S. 143B-1224(4), was listed by the United States government as (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power. (1967, c. 1060, s. 8; 1973, cc. 197, 577; c. 620, s. 9; 1975, c. 160, s. 2; c. 167, s. 1; 1977, c. 70, s. 27; 1989, c. 767, ss. 3, 4; 1991, c. 549, s. 2; 2002-126, s. 19.3(c); 2011-183, s. 116; 2015-241, s. 24.1(c), (jj); 2015-268, s. 7.3(a); 2017-57, s. 19.2(b); 2018-5, s. 19.2; 2018-37, s. 2(a).)

§ 143B-1227. Administration and funding.

(a) The administration of the scholarship program shall be vested in the Department of Military and Veterans Affairs, and the disbursing and accounting activities required shall be a responsibility of the Department of Military and Veterans Affairs. The Veterans' Affairs Commission shall determine the eligibility of applicants, select the scholarship recipients, establish the effective date of scholarships, and may suspend or revoke scholarships if the Veterans' Affairs Commission finds that the recipient does not comply with the registration requirements of the Selective Service System or does not maintain an adequate academic status, or if the recipient engages in riots, unlawful demonstrations, the seizure of educational buildings, or otherwise engages in disorderly conduct, breaches of the peace or unlawful assemblies. The Department of Military and Veterans Affairs shall

maintain the primary and necessary records, and the Veterans' Affairs Commission shall promulgate such rules and regulations not inconsistent with the other provisions of this Part as it deems necessary for the orderly administration of the program. It may require of State or private educational institutions, as defined in this Part, such reports and other information as it may need to carry out the provisions of this Part. The Department of Military and Veterans Affairs shall disburse scholarship payments for recipients certified eligible by the Department of Military and Veterans Affairs upon certification of enrollment by the enrolling institution.

(b) Funds for the support of this program shall be appropriated to the Department of Military and Veterans Affairs as a reserve for payment of the allocable costs for room, board, tuition, and other charges, and shall be placed in a separate budget code from which disbursements shall be made. Funds to support the program shall be supported by receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be used only for worthy and needy residents of this State who are enrolled in public institutions of higher education of this State. In the event the said appropriation for any year is insufficient to pay the full amounts allocable under the provisions of this Part, such supplemental sums as may be necessary shall be allocated from the Contingency and Emergency Fund. The method of disbursing and accounting for funds allocated for payments under the provisions of this section shall be in accordance with those standards and procedures prescribed by the Director of the Budget, pursuant to the State Budget Act.

(c) Allowances for room and board in State educational institutions shall be at such rate as established by the Secretary of the Department of Military and Veterans Affairs.

(d) Scholarship recipients electing to attend a private educational institution shall be granted a monetary allowance for each term or other academic period attended under their respective scholarship awards. All recipients under Class I-B scholarship shall receive an allowance at one rate, irrespective of course or institution; all recipients under Classes I-A, II, III and IV shall receive a uniform allowance at a rate higher than for Class I-B, irrespective of course or institution. The amount of said allowances shall be determined by the Director of the Budget and made known prior to the beginning of each fall quarter or semester; provided that the Director of the Budget may change the allowances at intermediate periods when in his judgment such changes are necessary. Disbursements by the State shall be to the private institution concerned, for credit to the account of each recipient attending said institution. The manner of payment to any private institution shall be as prescribed by the Department of Military and Veterans Affairs. The participation by any private institution in the program shall be subject to the applicable provisions of this Part and to examination by State auditors of the accounts of scholarship recipients attending or having attended private institutions. The Veterans' Affairs Commission may defer making an award or may suspend an award in any private institution which does not comply with the provisions of this Part relating to said institutions.

(e) Irrespective of other provisions of this Part, the Veterans' Affairs Commission may prescribe special procedures for adjusting the accounts of scholarship recipients who for reasons of illness, physical inability to attend class or for other valid reason satisfactory to the Veterans' Affairs Commission may withdraw from State or private educational

institutions prior to the completion of the term, semester, quarter or other academic period being attended at the time of withdrawal. Such procedures may include, but shall not be limited to, paying the recipient the dollar value of his unused entitlements for the academic period being attended, with a corresponding deduction of this period from his remaining scholarship eligibility time. (1967, c. 1060, s. 8; 1969, c. 720, ss. 4, 5; c. 741, s. 4; 1971, c. 458; 1973, c. 620, s. 9; 1975, c. 19, s. 71; c. 160, s. 3; 1977, c. 70, s. 27; 1985, c. 39, s. 3; 2002-126, s. 19.3(d); 2003-284, s. 18.5(a); 2015-241, ss. 24.1(c), (kk); 2015-268, s. 7.3(a).)

§ 143B-1228: Reserved for future codification purposes.

§ 143B-1229: Reserved for future codification purposes.

§ 143B-1230: Reserved for future codification purposes.

§ 143B-1231: Reserved for future codification purposes.

§ 143B-1232: Reserved for future codification purposes.

§ 143B-1233: Reserved for future codification purposes.

§ 143B-1234: Reserved for future codification purposes.

Part 3. Jobs for Veterans Committee.

§ 143B-1235. Governor's Jobs for Veterans Committee – creation; appointment, organization, etc.; duties.

(a) There is hereby created and established in the North Carolina Department of Military and Veterans Affairs, a committee to be known as the Governor's Jobs for Veterans Committee, with one member from each Congressional district, appointed by the Governor. Members of the Committee shall serve at the pleasure of the Governor. The Secretary of Military and Veterans Affairs with the concurrence of the Governor, shall appoint a chairman to administer this Committee who shall be subject to the direction and supervision of the Secretary. The chairman shall serve at the pleasure of the Secretary. The chairman shall devote full time to his duties of office.

(b) The duties of the chairman shall include but not be limited to the following, as delegated by the Secretary of Military and Veterans Affairs:

(1) Serving as a liaison between the Office of the Governor and all State agencies to insure that veterans receive the employment preference to which they are legally entitled and that such State agencies list available jobs with appropriate public employment services;

(2) Evaluating existing programs designed to benefit veterans and submitting reports and recommendations to the Governor and Secretary;

(3) Developing and furthering favorable employer attitudes toward the employment of veterans by appropriate promulgation of information concerning veterans and the functions of the Committee;
(4) Serving as a liaison between the Committee and communities throughout the State to the end that civic committees and volunteer groups are formed and utilized to promote the objectives of the Committee;
(5) Assisting employers in properly designing affirmative action plans as they relate to handicapped and Vietnam-era veterans;
(6) Serving as a liaison between veterans and State agencies on questions regarding the employment practices of such State agencies. (1977, c. 1032; 1985, c. 479, s. 166; 2015-241, ss. 24.1(d), (dd); 2015-268, s. 7.3(a).)

§ 143B-1236. Governor's Jobs for Veterans Committee – authority to receive grants-in-aid.

The Committee is hereby authorized to receive grants-in-aid from the federal government and charitable organizations for carrying out its duties. (1977, c. 1032; 2015-241, s. 24.1(d); 2015-268, s. 7.3(a).)

§ 143B-1237: Reserved for future codification purposes.

§ 143B-1238: Reserved for future codification purposes.

§ 143B-1239: Reserved for future codification purposes.

Part 4. Minor Veterans.

§ 143B-1240. Short title.

This Part may be cited as "The Minor Veterans Enabling Act." (1945, c. 770; 2015-241, s. 24.1(f); 2015-268, s. 7.3(a).)

§ 143B-1241. Definition.

As used in this Part, "veteran" means any person who may be entitled to any benefits or rights under the laws of the United States, by reason of service in the Armed Forces of the United States. (1945, c. 770; 1967, c. 1060, s. 2; 2011-183, s. 113; 2015-241, s. 24.1(f); 2015-268, s. 7.3(a).)

§ 143B-1242. Application of Part.

This Part applies to every person, either male or female, 18 years of age or over, but under 21 years of age, who is, or who may become, entitled to any rights or benefits under the laws of the United States relating to veterans benefits. (1945, c. 770; 1967, c. 1060, s. 3; 2015-241, s. 24.1(f); 2015-268, s. 7.3(a).)

§ 143B-1243. Purpose of Part.

The purpose of this Part is to remove the disqualification of age which would otherwise prevent persons to whom this Part applies from taking advantage of any right or benefit to

which they may be or may become entitled under the laws of the United States relating to veterans benefits, and to assure those dealing with such minor persons that the acts of such minors shall not be invalid or voidable by reason of the age of such minors, but shall in all respects be as fully binding as if said minors had attained their majority; and this Part shall be liberally construed to accomplish that purpose. (1945, c. 770; 1967, c. 1060, s. 4; 2015-241, s. 24.1(f); 2015-268, s. 7.3(a).)

§ 143B-1244. Rights conferred; limitation.

(a) Every person to whom this Part applies is hereby authorized and empowered, in his or her own name without order of court or the intervention of any guardian or trustee:

(1) To purchase or lease any property, either real or personal, or both, which such person may deem it desirable to purchase or lease in order to avail himself or herself of any of the benefits of the laws of United States relating to veterans benefits, and take title to such property in his or her own name or in the name of himself or herself and spouse.

(2) To execute any note or similar instrument for any part or all of the purchase price of any property purchased pursuant to subdivision (1) of this section and to secure the payment thereof by retained title contract, mortgage, deed of trust or other similar or appropriate instrument.

(3) To execute any other contract or instrument which such person may deem necessary in order to enable such person to secure the benefits of the laws of the United States relating to veterans benefits.

(4) To execute any contract or instrument which such person may deem necessary or proper in order to enable such person to make full use of any property purchased pursuant to the provisions of the laws of the United States relating to veterans benefits, including the right to dispose of such property; such contracts to include but not to be limited to the following:

a. With respect to a home: Contracts for insurance, repairs, and services such as gas, water, and lights, and contracts for furniture and other equipment.

b. With respect to a farm: Contracts such as are included in paragraph (a) of this subdivision (4) above, together with contracts for livestock, seeds, fertilizer and farm equipment and machinery, and contracts for farm labor and other farm services.

c. With respect to a business: Contracts such as are included in paragraph (a) of this subdivision (4), together with such other contracts as such person may deem necessary or proper for the maintenance and operation of such business.

(b) Every person to whom this Part applies may execute such contracts as are hereby authorized in his own name without any order from any court, and without the intervention of a guardian or trustee, and no note, mortgage, conveyance, deed of trust, contract, or other instrument, conveyance or action within the purview of this Part shall be invalid, voidable or defective by reason of the fact that the person executing or performing the same was at the time a minor.

(c) In respect to any action at law or special proceeding in relation to any transaction within the purview of this Part, every minor person to whom this Part applies shall appear and plead in his or her own name and right without the intervention of any guardian or trustee, and every such minor person shall be considered a legal party to any such action at law or special proceeding in all respects as if such person had attained the age of 21 years. No such minor shall hereafter interpose the defense of lack of legal capacity by reason of age in connection with any transaction within the purview of this Part, nor disavow any such transaction upon coming of age.

(d) All such authority and power as are conferred by this Part are subject to all applicable provisions of the laws of the United States relating to veterans benefits. (1945, c. 770; 1967, c. 1060, s. 5; 2015-241, s. 24.1(f); 2015-268, s. 7.3(a).)

§ 143B-1245: Reserved for future codification purposes.

§ 143B-1246: Reserved for future codification purposes.

Part 5. Minor Spouses of Veterans.

§ 143B-1247. Definition.

As used in this Part, "veteran" means any person who may be entitled to any benefits or rights under the laws of the United States, by reason of service in the Armed Forces of the United States. (1945, c. 771; 1967, c. 1060, s. 6; 2011-183, s. 114; 2015-241, s. 24.1(f); 2015-268, s. 7.3(a).)

§ 143B-1248. Rights conferred.

(a) Any person under the age of 18 years who is the husband or wife of a veteran, is hereby authorized and empowered in his or her own name, and without any order of court or the intervention of a guardian or trustee, to execute any and all contracts, conveyances, and instruments, to take title to property, to defend any action at law, and to do all other acts necessary to make fully available to such veteran, his or her family or dependents, all rights and benefits under the laws of the United States relating to veterans benefits, in as full and ample manner as if such minor husband or wife of such veteran had attained the age of 18 years.

(b) Any person under the age of 18 years, who is the husband or wife of a veteran, is hereby authorized and empowered in his or her own name, and without any order of court or the intervention of a guardian or trustee, to join in the execution of any contract, deed, conveyance or other instrument which may be deemed necessary to enable his or her veteran spouse to make full use of any property purchased pursuant to the provisions of the foregoing subsection, including the right to dispose of such property.

(c) With respect to any action at law or special proceeding in relation to any transaction within the purview of this Part, every minor person to whom this Part applies shall appear and plead in his or her own name and right without the intervention of any guardian or trustee; and every such minor person shall be considered a legal party to any such action at law or special proceeding in all respects as if such person had attained the

age of 18 years. No such minor shall hereafter interpose the defense of lack of legal capacity by reason of age in connection with any transaction within the purview of this Part, nor disavow any such transaction upon coming of age. (1945, c. 771; 1947, c. 905, ss. 1, 2; 1967, c. 1060, s. 7; 1971, c. 1231, s. 1; 1973, c. 1446, s. 12; 2015-241, s. 24.1(f); 2015-268, s. 7.3(a).)

§ 143B-1249: Reserved for future codification purposes.

Part 6. Veterans' Recreation Authorities.

§ 143B-1250. Short title.

This Part may be referred to as the "Veterans' Recreation Authorities Law." (1945, c. 460, s. 1; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1251. Finding and declaration of necessity.

It is hereby declared that conditions resulting from the concentration in various cities and towns of the State having a population of more than one hundred thousand inhabitants of persons serving in the Armed Forces of the United States in connection with the present war, or who after having served in the Armed Forces of the United States during the present war, or previously have been honorably discharged, require the construction, maintenance and operation of adequate recreation facilities for the use of such persons; that it is in the public interest that adequate recreation facilities be provided in such concentrated centers; and the necessity, in the public interest, for the provisions hereinafter enacted is hereby declared as a matter of legislative determination. (1945, c. 460, s. 2; 2011-183, s. 117; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1252. Definitions.

The following terms, wherever used or referred to in this Part, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Authority" or "recreation authority" shall mean a public body and a body corporate and politic organized in accordance with the provisions of this Part for the purposes, with the powers and subject to the restrictions hereinafter set forth.

(2) "City" shall mean the city or town having a population of more than one hundred thousand inhabitants (according to the last federal census) which is, or is about to be, included in the territorial boundaries of an authority when created hereunder.

(3) "City clerk" and "mayor" shall mean the clerk and mayor, respectively, of the city or the officers thereof charged with the duties customarily imposed on the clerk and mayor, respectively.

(4) "Commissioner" shall mean one of the members of an authority appointed in accordance with the provisions of this Part.

(5) "Council" shall mean the legislative body, council, board of commissioners, board of trustees, or other body charged with governing the city.

(6) "Federal government" shall include the United States of America, the Federal Emergency Administration of Public Works or any agency, instrumentality, corporate or otherwise, of the United States of America.

(7) "Government" shall include the State and federal governments and any subdivision, agency or instrumentality, corporate or otherwise, of any of them.

(8) "Real property" shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(9) "State" shall mean the State of North Carolina.

(10) "Veteran" shall include every person who has enlisted or who has been inducted, warranted or commissioned, and who served honorably in active duty in the military service of the United States at any time, and who is honorably separated or discharged from such service, or who, at the time of making use of the facilities, is still in active service, or has been retired, or who has been furloughed to a reserve. This definition shall be liberally construed, with a view completely to effectuate the purpose and intent of this Part.

(11) "Veterans' recreation project" shall include all real and personal property, buildings and improvements, offices and facilities acquired or constructed, or to be acquired or constructed, pursuant to a single plan or undertaking to provide recreation facilities for veterans in concentrated centers of population. The term "veterans' recreation project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the construction, reconstruction, alteration and repair of the improvements, and all other work in connection therewith. (1945, c. 460, s. 3; 2011-183, s. 118; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1253. Creation of authority.

If the council of any city in the State having a population of more than one hundred thousand, according to the last federal census, shall, upon such investigation as it deems necessary, determine:

(1) That there is a lack of adequate veterans' recreation facilities and accommodations from the operations of public or private enterprises in the city and surrounding area; and/or

(2) That the public interest requires the construction, maintenance or operation of a veterans' recreation project for the veterans thereof, the council shall adopt a resolution so finding (which need not go into any detail other than the mere finding), and shall cause notice of such determination to be given to the mayor, who shall thereupon appoint, as hereinafter provided, five commissioners to act as an authority. Said Commission shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital): (i) that the council has made the aforesaid determination after such investigation, and that the mayor has appointed them as commissioners; (ii) the name and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to

office, the date and place of induction into and taking oath of office, and that they desire the recreation authority to become a public body and a body corporate and politic under this Part; (iii) the term of office of each of the commissioners; (iv) the name which is proposed for the corporation; and (v) the location and the principal office of the proposed corporation. The application shall be subscribed and sworn to by each of the said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application, and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty, he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners a certificate of incorporation pursuant to this Part, under the seal of the State, and shall record the same with the application.

The boundaries of such authority shall include said city and the area within 10 miles from the territorial boundaries of said city, but in no event shall it include the whole or a part of any other city nor any area included within the boundaries of another authority. In case an area lies within 10 miles of the boundaries of more than one city, such area shall be deemed to be within the boundaries of the authority embracing such area which was first established, all priorities to be determined on the basis of the time of the issuance of the aforesaid certificates by the Secretary of State. After the creation of an authority, the subsequent existence within its territorial boundaries of more than one city shall in no way affect the territorial boundaries of such authority.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this Part upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof. (1945, c. 460, s. 4; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1254. Appointment, qualifications and tenure of commissioners.

An authority shall consist of five commissioners appointed by the mayor, and he shall designate the first chairman.

Of the commissioners who are first appointed, two shall serve for a term of one year, two for a term of three years, and one for a term of five years, and thereafter, the terms of office for all commissioners shall be five years. A commissioner shall hold office until his successor has been appointed and qualified. Vacancies shall be filled for the unexpired term. Vacancies occurring by expiration of office or otherwise shall be filled in the

following manner: The mayor and the remaining commissioners shall have a joint session and shall unanimously select the person to fill the vacancy; but if they are unable to do so, then such fact shall be certified to the resident judge of the superior court of the County in which the authority is located, and he shall fill the vacancy. The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

When the office of the first chairman of the authority becomes vacant, the authority shall select a chairman from among its members. An authority shall select from among its members a vice-chairman, and it may employ a secretary, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. An authority may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper. (1945, c. 460, s. 5; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1255. Duty of the authority and commissioners of the authority.

The authority and its commissioners shall be under a statutory duty to comply or to cause compliance strictly with all provisions of this Part and the laws of the State and in addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed.

The commissioners may, in the exercise of their discretion, limit the use of recreational centers under their control in whole or in part to veterans of one sex. They shall have the authority to make rules and regulations regarding the use of the recreational centers and other matters and things coming within their jurisdiction.

They shall have the authority to appoint one or more advisory committees consisting of representatives of various veterans' organizations and others and may delegate to such committee or committees authority to execute the policies and programs of activity adopted by the commissioners. (1945, c. 460, s. 6; 1965, c. 367; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1256. Interested commissioners or employees.

No commissioner or employee of any authority shall acquire any interest, direct or indirect, in any veterans' recreation project or in any property included or planned to be included in any project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any such project. If any commissioner or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any veterans' recreation project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure so to disclose

such interest shall constitute misconduct in office. (1945, c. 460, s. 7; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1257. Removal of commissioners.

The mayor may remove a commissioner for inefficiency or neglect of duty or misconduct in office, but only after the commissioner shall have been given a copy of the charges against him (which may be made by the mayor) at least 10 days prior to the hearing thereon and had an opportunity to be heard in person or by counsel.

If, after due and diligent search, a commissioner to whom charges are required to be delivered hereunder cannot be found within the county where the authority is located, such charges shall be deemed served upon such commissioner if mailed to him at his last known address as same appears upon the records of the authority.

In the event of the removal of any commissioner, the mayor shall file in the office of the city clerk a record of the proceedings, together with the charges made against the commissioner removed, and the findings thereon. (1945, c. 460, s. 8; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1258. Powers of authority.

An authority shall constitute a public body and a body corporate and politic, exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Part, including the following powers in addition to others herein granted:

To sue and be sued in any court; to make, use and alter a common seal; to purchase, acquire by devise, hold and convey real and personal property; to elect and appoint, in such manner as it determines to be proper, all necessary officers and agents, fix their compensation and define their duties and obligations; to make bylaws and regulations consistent with the laws of the State, for its own government and for the due and orderly conduct of its affairs and management of its property; without limiting the generality of the foregoing, to do any and everything that may be useful and necessary in order to provide recreation for veterans. (1945, c. 460, s. 9; 2011-284, s. 125; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1259. Zoning and building laws.

All recreation projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the recreation project is situated. (1945, c. 460, s. 10; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1260. Tax exemptions.

The authority shall be exempt from the payment of any taxes or fees to the State or any subdivisions thereof, or to any officer or employee of the State or any subdivision thereof. The property of an authority shall be exempt from all local, municipal and county taxes, and for the purpose of such tax exemption, it is hereby declared as a matter of legislative

determination that an authority is and shall be deemed to be a municipal corporation. (1945, c. 460, s. 11; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1261. Reports.

The authority shall, at least once a year, file with the mayor of the city an audit report by a certified public accountant of its activities for the preceding year, and shall make any recommendations with reference to any additional legislation or other action that may be necessary in order to carry out the purposes of this Part. (1945, c. 460, s. 12; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1262. Exemption from Local Government and County Fiscal Control Acts.

The authority shall be exempt from the operation and provisions of Chapter 60 of the Public Laws of North Carolina of 1931, known as the "Local Government Act," and the amendments thereto, and from Chapter 146 of the Public Laws of North Carolina of 1927, known as the "County Fiscal Control Act" and the amendments thereto. (1945, c. 460, s. 13; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1263. Conveyance, lease or transfer of property by a city or county to an authority.

Any city or county, in order to provide for the construction, reconstruction, improvement, repair or management of any veterans' recreation project, or in order to accomplish any of the purposes of this Part, may, with or without consideration or for a nominal consideration, lease, sell, convey or otherwise transfer to an authority within the territorial boundaries of which such city or county it is wholly or partly located, any real, personal or mixed property, and in connection with any such transaction, the authority involved may accept such lease, transfer, assignment and conveyance, and bind itself to the performance and observation of any agreements and conditions attached thereto. Any city or county may purchase real property and convey or cause same to be conveyed to an authority. (1945, c. 460, s. 14; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1264. Contracts, etc., with federal government.

In addition to the powers conferred upon the authority by other provisions of this Part, the authority is empowered to borrow money and/or accept grants from the federal government for or in aid of the construction of any veterans' recreation project which such authority is authorized by this Part to undertake, to take over any land acquired by the federal government for the construction of such a project, to take over, lease or manage any recreation project constructed or owned by the federal government, and to these ends, to enter into such contracts, mortgages, trust indentures, leases and other agreements which the federal government shall have the right to require. It is the purpose and intent of this Part to authorize every authority to do any and all things necessary to secure the financial aid and the cooperation of the federal government in the construction, maintenance and operation of any veterans' recreation project which the authority is empowered by this Part to undertake. (1945, c. 460, s. 15; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1265. Part controlling.

Insofar as the provisions of this Part are inconsistent with the provisions of any other law, the provisions of this Part shall be controlling: Provided, that nothing in this Part shall prevent any city or municipality from establishing, equipping and operating a veterans' recreation project, or extending recreation facilities under the provisions of its charter or any general law other than this Part. (1945, c. 460, s. 17; 2015-241, s. 24.1(g); 2015-268, s. 7.3(a).)

§ 143B-1266: Reserved for future codification purposes.

§ 143B-1267: Reserved for future codification purposes.

§ 143B-1268: Reserved for future codification purposes.

§ 143B-1269: Reserved for future codification purposes.

Part 7. Powers of Attorney.

§ 143B-1270. Validity of acts of agent performed after death of principal.

No agency created by a power of attorney in writing given by a principal who is at the time of execution, or who, after executing such power of attorney, becomes, either (i) a member of the Armed Forces of the United States, or (ii) a person serving as a merchant seaman outside the limits of the United States, included within the several states and the District of Columbia; or (iii) a person outside said limits by permission, assignment or direction of any department or official of the United States government, in connection with any activity pertaining to or connected with the prosecution of any war in which the United States is then engaged, shall be revoked or terminated by the death of the principal, as to the agent or other person who, without actual knowledge or actual notice of the death of the principal, shall have acted or shall act, in good faith, under or in reliance upon such power of attorney or agency, and any action so taken, unless otherwise invalid or unenforceable, shall be binding on the heirs, devisees, or personal representatives of the principal. (1945, c. 980, s. 1; 1995, c. 379, s. 5; 2011-183, s. 119; 2011-284, s. 126; 2015-241, s. 24.1(h); 2015-268, s. 7.3(a).)

§ 143B-1271. Affidavit of agent as to possessing no knowledge of death of principal.

An affidavit, executed by the attorney in fact or agent, setting forth that he has not or had not, at the time of doing any act pursuant to the power of attorney, received actual knowledge or actual notice of the revocation or termination of the power of attorney, by death or otherwise, or notice of any facts indicating the same, shall, in the absence of fraud, be conclusive proof of the nonrevocation or nontermination of the power at such time. If the exercise of the power requires execution and delivery of any instrument which is recordable under the laws of this State, such affidavit (when authenticated for record in the

manner prescribed by law) shall likewise be recordable. (1945, c. 980, s. 2; 2015-241, s. 24.1(h); 2015-268, s. 7.3(a).)

§ 143B-1272. Report of "missing" not to constitute revocation.

No report or listing, either official or otherwise, of "missing" or "missing in action," as such words are used in military parlance, shall constitute or be interpreted as constituting actual knowledge or actual notice of the death of such principal or notice of any facts indicating the same, or shall operate to revoke the agency. (1945, c. 980, s. 3; 2015-241, s. 24.1(h); 2015-268, s. 7.3(a).)

§ 143B-1273. Part not to affect provisions for revocation.

This Part shall not be construed so as to alter or affect any provisions for revocation or termination contained in such power of attorney. (1945, c. 980, s. 4; 2015-241, s. 24.1(h); 2015-268, s. 7.3(a).)

§ 143B-1274: Reserved for future codification purposes.

Part 8. Miscellaneous Provisions.

§ 143B-1275. Protecting status of State employees in Armed Forces, etc.

Any employee of the State of North Carolina, who has been granted a leave of absence for service in either (i) the Armed Forces of the United States; or (ii) the United States Merchant Marine; or (iii) outside the continental United States with the Red Cross, shall, upon return to State employment, if reemployed in the same position and if within the time limits set forth in the leave of absence, receive an annual salary of at least (i) the annual salary the employee was receiving at the time such leave was granted; plus (ii) an amount obtained by multiplying the step increment applicable to the employee's classification as provided in the classification and salary plan for State employees by the number of years of such service, counting a fraction of a year as a year; provided that no such employee shall receive a salary in excess of the top of the salary range applicable to the classification to which such employee is assigned upon return. (1945, c. 220; 2011-183, s. 120; 2015-241, s. 24.1(i); 2015-268, s. 7.3(a).)

§ 143B-1276. Korean and Vietnam veterans; benefits and privileges.

(a) All benefits and privileges now granted by the laws of this State to veterans of World War I and World War II and their dependents and next of kin are hereby extended and granted to veterans of the Korean Conflict and their dependents and next of kin.

For the purposes of this section, the term "veterans of the Korean Conflict" means those persons serving in the Armed Forces of the United States during the period beginning on June 27, 1950, and ending on January 31, 1955.

(b) All benefits and privileges now granted by the laws of this State to veterans of World War I, World War II, the Korean Conflict, and their dependents and next of kin are hereby extended and granted to veterans of the Vietnam era and their dependents and next of kin.

For purposes of this section, the term "veterans of the Vietnam era" means those persons serving in the Armed Forces of the United States during the period beginning August 5, 1964, and ending on such date as shall be prescribed by Presidential proclamation or concurrent resolution of the Congress. (1953, c. 215; 1969, c. 720, ss. 1, 2; 2011-183, s. 121; 2015-241, s. 24.1(i); 2015-268, s. 7.3(a).)

§ 143B-1277. Wearing of medals by public safety personnel.

(a) Uniformed public safety officers may wear military service medals during the business week prior to Veterans Day, Memorial Day, and the Fourth of July, the day of Veterans Day, Memorial Day, and the Fourth of July, and the business day immediately following Veterans Day, Memorial Day, and the Fourth of July.

(b) The employer of a uniformed public safety officer shall retain the right to prohibit the wearing of military service medals pursuant to this subsection if the employer determines that wearing the military service medals poses a safety hazard to the uniformed public safety officer or to the public. Any prohibition under this subsection shall only be effective if adopted after this section becomes law.

(c) This section shall be interpreted in accordance with all applicable federal laws and regulations.

(d) The following definitions shall apply in this section:

(1) Military service medal. – Any medal, badge, ribbon, or other decoration awarded by the active or reserve components of the Armed Forces of the United States or the North Carolina National Guard to members of those forces.

(2) Public safety officer. – An employee of a public safety agency who is a law enforcement officer, a firefighter, or emergency medical services personnel.

(e) Uniformed public safety officers may not cover their badges when wearing military service medals in compliance with this section. (2009-240, s. 1; 2011-183, s. 122; 2015-241, s. 24.1(i); 2015-268, s. 7.3(a).)

§ 143B-1278: Reserved for future codification purposes.

§ 143B-1279: Reserved for future codification purposes.

Part 9. Priority in Employment Assistance for Veterans of the Armed Forces of the United States.

§ 143B-1280. Purpose.

The General Assembly finds and declares that veterans in North Carolina represent a strong, productive part of the workforce of this State and are disadvantaged in their pursuit of civilian employment through their delayed entry into the civilian labor market and that it is only proper and in the public interest and public welfare that veterans be provided priority in programs of employment and job training assistance. (1997-171, s. 1; 2015-241, s. 24.1(j); 2015-268, s. 7.3(a).)

§ 143B-1281. Veteran defined.

For the purposes of this Part, "veteran" means a person who served on active duty (other than for training) in any component of the Armed Forces of the United States for a period of 180 days or more, unless released earlier because of service-connected disability, and who was discharged or released from the Armed Forces of the United States under honorable conditions. (1997-171, s. 1; 2011-183, s. 124; 2015-241, s. 24.1(j); 2015-268, s. 7.3(a).)

§ 143B-1282. Priority defined.

For the purposes of this Part, "priority" for veterans means that eligible veterans who register or otherwise apply for services shall be extended the opportunity to participate in or otherwise receive the services of the covered providers before the providers extend the opportunity or services to other registered applicants. (1997-171, s. 1; 2015-241, s. 24.1(j); 2015-268, s. 7.3(a).)

§ 143B-1283. Coverage defined.

This Part shall apply to any State agency, department and institution, any county, city, or other political subdivision of the State, any board or commission, and any other public or private recipient which:

(1) Receives federal job training funds provided to the State or job training funds appropriated by the General Assembly; and

(2) Provides employment and job training assistance programs and services, including but not limited to employability assessments, support services referrals, and vocational and educational counseling. (1997-171, s. 1; 2015-241, s. 24.1(j); 2015-268, s. 7.3(a).)

§ 143B-1284. Priority employment assistance directed.

All covered service providers, as specified in G.S. 143B-1283, shall establish procedures to provide veterans with priority, not inconsistent with existing federal or State law, to participate in employment and job training assistance programs. (1997-171, s. 1; 2015-241, ss. 24.1(j), (ll); 2015-268, s. 7.3(a).)

§ 143B-1285. Implementation and performance measures.

The North Carolina Commission on Workforce Preparedness shall:

(1) Issue implementing directives that shall apply to all covered service providers as specified in G.S. 143B-1283, and revise those directives as necessary to accomplish the purpose of this Part.

(2) Develop measures of service for veterans that will serve as indicators of compliance with the provisions of this Part by all covered service providers.

(3) Annually publish and submit to the the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee, beginning not later than October 1, 1998, a report detailing covered providers' compliance

with the provisions of this Part. (1997-171, s. 1; 2015-241, s. 24.1(j), (mm); 2015-268, s. 7.3(a); 2017-57, s. 14.1(s).)

§ 143B-1286: Reserved for future codification purposes.

§ 143B-1287: Reserved for future codification purposes.

§ 143B-1288: Reserved for future codification purposes.

§ 143B-1289: Reserved for future codification purposes.

Part 10. State Veterans Home.

§ 143B-1290. Short Title.

This Part may be referred to as the "State Veterans Home Act". (1995, c. 346, s. 1; 2015-241, s. 24.1(k); 2015-268, s. 7.3(a).)

§ 143B-1291. Establishment.

The State of North Carolina shall construct, maintain, and operate veterans homes for the aged and infirm veterans resident in this State under the administrative authority and control of the Department of Military and Veterans Affairs. There is vested in the Department any and all powers and authority that may be necessary to enable it to establish and operate the homes and to issue rules necessary to operate the homes in compliance with applicable State and federal statutes and regulations. (1995, c. 346, s. 1; 2015-241, ss. 24.1(k), (nn); 2015-268, s. 7.3(a).)

§ 143B-1292. Exemption from certificate of need.

Any state veterans home established by the Department of Military and Veterans Affairs shall be exempt from the certificate of need requirements as set out in Article 9 of Chapter 131E, or as may be hereinafter enacted. (1995, c. 346, s. 1; 2015-241, ss. 24.1(k), (oo); 2015-268, s. 7.3(a).)

§ 143B-1293. North Carolina Veterans Home Trust Fund.

(a) Establishment. – A trust fund shall be established in the State treasury, for the Department of Military and Veterans Affairs, to be known as the North Carolina Veterans Home Trust Fund.

(b) Composition. – The trust fund shall consist of all funds and monies received by the Veterans' Affairs Commission or the Department of Military and Veterans Affairs from the United States, any federal agency or institution, and any other source, whether as a grant, appropriation, gift, contribution, devise, or individual reimbursement, for the care and support of veterans who have been admitted to a State veterans home.

(c) Use of Fund. – The trust fund created in subsection (a) of this section shall be used by the Department of Military and Veterans Affairs to do the following:

(1) To pay for the care of veterans in said State veterans homes;

(2) To pay the general operating expenses of the State veterans homes, including the payment of salaries and wages of officials and employees of said homes; and

(3) To remodel, repair, construct, modernize, or add improvements to buildings and facilities at the homes.

(d) Miscellaneous. – The following provisions apply to the trust fund created in subsection (a) of this section:

(1) All funds deposited and all income earned on the investment or reinvestment of such funds shall be credited to the trust fund.

(2) Any monies remaining in the trust fund at the end of each fiscal year shall remain on deposit in the State treasury to the credit of the North Carolina Veterans Home Trust Fund.

(3) Nothing contained herein shall prohibit the establishment and utilization of special agency accounts by the Department of Military and Veterans Affairs or by the Veterans' Affairs Commission, for the receipt and disbursement of personal funds of the State veterans homes' residents or for receipt and disbursement of charitable contributions for use by and for residents. (1995, c. 346, s. 1; 2011-284, s. 127; 2015-241, ss. 24.1(k), (pp); 2015-268, s. 7.3(a), (b).)

§ 143B-1294. Funding.

(a) The Department of Military and Veterans Affairs may apply for and receive federal aid and assistance from the United States Department of Veterans Affairs or any other agency of the United States Government authorized to pay federal aid to states for the construction and acquisition of veterans homes under Title 38, United States Code, section 8131 et seq., or for the care or support of disabled veterans in State veterans homes under Title 38, United Stated Code, section 1741 et seq., or from any other federal law for said purposes.

(b) The Department may receive from any source any gift, contribution, devise, or individual reimbursement, the receipt of which does not exclude any other source of revenue.

(c) All funds received by the Department shall be deposited in the North Carolina Veterans Home Trust Fund, except for any funds deposited into special agency accounts established pursuant to G.S. 143B-1293(d)(3). The Veterans' Affairs Commission shall authorize the expenditure of all funds from the North Carolina Veterans Home Trust Fund. The Veterans' Affairs Commission may delegate authority to the Assistant Secretary of Veterans Affairs for the expenditure of funds from the North Carolina Veterans Home Trust Fund for operations of the State Veterans Nursing Homes. (1995, c. 346, s. 1; 2001-117, s. 1; 2011-284, s. 128; 2015-241, ss. 24.1(k), (qq); 2015-268, s. 7.3(a).)

§ 143B-1295. Contracted operation of homes.

The Veterans' Affairs Commission may contract with persons or other nongovernmental entities to operate each State veterans home. Contracts for the procurement of services to manage, administer, and operate any State veterans home shall

be awarded on a competitive basis through the solicitation of proposals and through the procedures established by statute and the Division of Purchase and Contract. A contract may be awarded to the vendor whose proposal is most advantageous to the State, taking into consideration cost, program suitability, management plan, excellence of program design, key personnel, corporate or company resources, financial condition of the vendor, experience and past performance, and any other qualities deemed necessary by the Veterans' Affairs Commission and set out in the solicitation for proposals. Any contract awarded under this section shall not exceed five years in length. The Veterans' Affairs Commission is not required to select or recommend the vendor offering the lowest cost proposal but shall select or recommend the vendor who, in the opinion of the Commission, offers the proposal most advantageous to the veterans and the State of North Carolina. (1995, c. 346, s. 1; 2015-241, ss. 24.1(k), (rr); 2015-268, s. 7.3(a).)

§ 143B-1296. Program staff.

The Department shall appoint and fix the salary of an Administrative Officer for the State veterans home program. The Administrative Officer shall be an honorably discharged veteran who has served in active military service in the Armed Forces of the United States for other than training purposes. The Administrative Officer shall direct the establishment of the State veterans home program, coordinate the master planning, land acquisition, and construction of all State veterans homes under the procedures of the Office of State Construction, and oversee the ongoing operation of said veterans homes. The Division may hire any required additional administrative staff to help with administrative and operational responsibilities at each established State veterans home. (1995, c. 346, s. 1; 2001-117, s. 2; 2011-183, s. 125; 2015-241, ss. 24.1(k), (ss); 2015-268, s. 7.3(a).)

§ 143B-1297. Admission and dismissal authority.

The Veterans' Affairs Commission shall have authority to determine administrative standards for admission and dismissal, as well as the medical conditions, of all persons admitted to and dismissed from any State veterans home, and to issue any necessary rules, subject to the requirements set out in G.S. 143B-1298. (1995, c. 346, s. 1; 2015-241, ss. 24.1(k), (tt); 2015-268, s. 7.3(a).)

§ 143B-1298. Eligibility and priorities.

(a) To be eligible for admission to a State veterans home, an applicant shall meet the following requirements:

(1) The veteran shall have served in the active Armed Forces of the United States for other than training purposes;

(2) The veteran shall have been discharged from the Armed Forces of the United States under honorable conditions;

(3) The veteran shall be disabled by age, disease, or other reason as determined through a physical examination by a State veterans home physician; and

(4) The veteran shall have resided in the State of North Carolina for two years immediately prior to the date of application.

(b) Eligible veterans will be admitted into a State veterans home or place on waiting lists for admission into a home according to the following priorities:

(1) Eligible wartime veterans will receive priority over eligible nonwartime veterans and will be admitted to the first available bed capable of providing the level of care required. Eligible wartime veterans with equal care requirements will be ranked in chronological order based on the earliest date of receipt of the veteran's application for care.

(2) All other eligible veterans will be ranked in chronological order based on the earliest date of receipt of the veteran's application for care. If more than one application is received on the same date, the Administrative Officer will determine their sequential order on the list according to medical need.

(c) Nonveterans may occupy no more than twenty-five percent (25%) of the total beds in a State veterans home. When any space is available for nonveterans, priority will be established for the following relatives of eligible veterans in the following order:

(1) Spouse.

(2) Widow or widower whose spouse, if living, would be an eligible veteran.

(3) Gold Star parents, defined as the mother or father of a veteran who died an honorable death while in active service to the United States during time of war or emergency. (1995, c. 346, s. 1; 2001-117, s. 3; 2011-183, s. 126; 2015-241, s. 24.1(k); 2015-268, s. 7.3(a).)

§ 143B-1299. Deposit required.

Each resident of any State veterans home shall pay to the Department of Military and Veterans Affairs the cost of maintaining his or her residence at the home. This deposit shall be placed in the North Carolina Veterans Home Trust Fund and shall be in an amount and in the form prescribed by the Veterans' Affairs Commission in consultation with the Assistant Secretary for Veterans Affairs. (1995, c. 346, s. 1; 2015-241, ss. 24.1(k), (uu); 2015-268, s. 7.3(a).)

§ 143B-1300. Report and budget.

(a) The Assistant Secretary for Veterans Affairs shall report annually to the Secretary of the Department of Military and Veterans Affairs on the activities of the State Veterans Homes Program. This report shall contain an accounting of all monies received and expended, statistics on residents in the homes during the year, recommendations to the Secretary, the Governor, and the General Assembly as to the program, and such other matters as may be deemed pertinent.

(b) The Assistant Secretary for Veterans Affairs, with the approval of the Veterans' Affairs Commission, shall compile an annual budget request for any State funding needed for the anticipated costs of the homes, which shall be submitted to the Secretary of the Department of Military and Veterans Affairs. State appropriated funds for operational needs shall be made available only in the event that other sources are insufficient to cover essential operating costs. (1995, c. 346, s. 1; 2015-241, ss. 24.1(k), (vv); 2015-268, s. 7.3(a).)

§ 143B-1301: Reserved for future codification purposes.

§ 143B-1302: Reserved for future codification purposes.

§ 143B-1303: Reserved for future codification purposes.

§ 143B-1304: Reserved for future codification purposes.

§ 143B-1305: Reserved for future codification purposes.

§ 143B-1306: Reserved for future codification purposes.

§ 143B-1307: Reserved for future codification purposes.

§ 143B-1308: Reserved for future codification purposes.

§ 143B-1309: Reserved for future codification purposes.

Part 11. North Carolina Military Affairs Commission.

§ 143B-1310. Commission established; purpose; transaction of business.

(a) Establishment. – There is established the North Carolina Military Affairs Commission. The Commission shall be assigned to the Department of Military and Veterans Affairs solely for purposes of G.S. 143B-14(a). As authorized by G.S. 143B-14(b), the Commission shall exercise all its powers, duties, and functions independently. Notwithstanding G.S. 143B-14(d), the Secretary of Military and Veterans Affairs shall not perform any of the Commission's management functions. Consistent with G.S. 143B-14(a), the Department of Military and Veterans Affairs shall provide the following administrative services to the Commission:

(1) Noticing and providing space for meetings of the Commission and its committees.
(2) Taking minutes of the Commission's meetings.
(3) Reimbursing per diem, subsistence, and travel expenses pursuant to G.S. 143B-1311(h).
(4) Serving as a liaison among the committees of the Commission.
(5) Any other administrative services requested by the Commission.

(b) Purpose. – The Commission shall provide advice, counsel, and recommendations to the General Assembly, the Secretary of Military and Veterans Affairs, and other State agencies on initiatives, programs, and legislation that will continue and increase the role that North Carolina's military installations, the National Guard, and Reserves play in America's defense strategy and the economic health and vitality of the State. The Commission is authorized to do all of the following:

(1) Coordinate and provide recommendations to the Governor, General Assembly, and State agencies to protect North Carolina's military installations from

encroachment or other initiatives that could result in degradation or restrictions to military operations, training ranges, or low-level routes.

(2) Cooperate with military installations to facilitate the military mission, training, and continued presence of major military installations in the State and notify the commanding military officer of a military installation and the governing body in affected counties and municipalities of any economic development or other projects that may impact military installations.

(3) Identify and support ways to provide a sound infrastructure, adequate housing and education, and transition support into North Carolina's workforce for military members and their families, military retirees, and veterans.

(4) Lead the State's initiative to prepare for the next round of Base Realignment and Closure (BRAC), as defined by the Governor and the General Assembly, with input from local military communities.

(5) Identify and support economic development organizations and initiatives that focus on leveraging the military and other business opportunities to help create jobs and expand defense and homeland security related economic development activity in North Carolina.

(6) Assist military installations located within the State by coordinating with commanders, communities, and State and federal agencies on affairs that affect military installations and may require State coordination and assistance.

(7) Support the long-term goal of a viable and prosperous military presence in the State, which shall include development of comprehensive economic impact studies of military activities in North Carolina, updated every two years with recommendations for initiatives to support this goal.

(8) Support the Army's Compatible Use Buffer Program, the Working Lands Group, and related initiatives.

(9) Adopt processes to ensure that all planning, coordination, and actions are conducted with timely consideration having been given to relevant military readiness or training concerns and with appropriate communications with all potentially affected military entities.

(10) Share information and coordinate efforts with the North Carolina congressional delegation and other federal agencies, as appropriate.

(11) Any other issue or matter that the Commission deems essential to fulfilling its purpose.

(c) Transaction of Business. – The Commission shall meet, at a minimum, at least once during each quarter and shall provide a report on military affairs to the Secretary of Military and Veterans Affairs and to the General Assembly at least every six months. Prior to the start of a Regular Session of the General Assembly, the Commission shall report to the General Assembly with recommendations, if any, for legislation. Priority actions or issues may be submitted at any time.

(d) Meetings and Records. – In accordance with Article 33C of Chapter 143 of the General Statutes and Chapter 132 of the General Statutes, the Commission may withhold documents and discussions related to the federal government's process to determine closure or realignment of military installations withheld from public inspection so long as public

inspection would frustrate the purpose of confidentiality. (2001-424, s. 12.1; 2013-227, s. 2; 2014-79, s. 6; 2015-241, ss. 24.1(*l*), (w); 2015-268, s. 7.3(a); 2017-57, s. 19.1(b).)

§ 143B-1310.1. Strategic plan.

(a) Strategic Plan. – The Military Affairs Commission shall adopt a comprehensive strategic plan to enhance North Carolina military installations and their missions. The strategic plan shall include specific objectives related to the following topics:

(1) Supporting and enhancing existing military installations and missions.
(2) Attracting new military assets and missions to North Carolina.
(3) Expanding military-related economic development in North Carolina.
(4) Improving the quality of life for military members and their families, military retirees, and veterans.
(5) Advocating military-related issues to the General Assembly, the United States Congress, and State and federal agencies.
(6) Any other topic related to enhancing North Carolina military installations and their missions.

(b) Update, Review, and Report. – The Commission shall update this plan every four years. The Commission shall annually review the State's performance based on this plan and shall annually report the results of its review to the Joint Legislative Oversight Committee on General Government. (2017-64, s. 1.)

§ 143B-1311. Membership.

(a) The North Carolina Military Affairs Commission shall consist of 23 voting members who are appointed by the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, nonvoting members, and nonvoting ex officio members as designated in this section.

(b) The voting members of the Commission shall be appointed as follows:

(1) Thirteen members appointed by the Governor, consisting of:

a. One person residing near Camp Lejeune, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.
b. One person residing near Marine Corps Air Station Cherry Point, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.
c. One person residing near Seymour Johnson Air Force Base, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.
d. One person residing near Ft. Bragg, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

e. One person residing near Coast Guard Station Elizabeth City, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

f. Six persons who may reside in any part of the State, who are involved in military issues through civic, commercial, or governmental relationships.

g. One person who is a resident of North Carolina with a long-term connection to the State and who is a current or retired member of the North Carolina National Guard involved in a military affairs organization or involved in military issues through civil, commercial, or governmental relationships.

h. One person who is a resident of North Carolina with a long-term connection to the State and who is a current or retired member of a reserve component of the Air Force, Army, Navy, or Marines and who is involved in a military affairs organization or involved in military issues through civic, commercial, or governmental relationships.

(2) Five members appointed by the Speaker of the House of Representatives, consisting of:

a. One member of the House of Representatives. A House member who has served in the military or has extensive experience in the area of military affairs shall be selected.

b. One person residing near Camp Lejeune, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

c. One person residing near Marine Corps Air Station Cherry Point, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

d. One person residing near Seymour Johnson Air Force Base, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

e. One person residing near Ft. Bragg, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

(3) Five members appointed by the President Pro Tempore of the Senate, consisting of:

a. One member of the Senate. A Senate member who has served in the military or has extensive experience in the area of military affairs shall be selected.

b. One person residing near Camp Lejeune, who is retired from the military and is actively involved in a military affairs organization, or a

person who is involved in military issues through civic, commercial, or governmental relationships.

c. One person residing near Marine Corps Air Station Cherry Point, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

d. One person residing near Seymour Johnson Air Force Base, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

e. One person residing near Ft. Bragg, who is retired from the military and is actively involved in a military affairs organization, or a person who is involved in military issues through civic, commercial, or governmental relationships.

(c) The following members of the General Assembly shall serve as nonvoting members of the Commission:

(1) One member of the House of Representatives, appointed by the Speaker of the House of Representatives, who represents a district which contains all or any portion of one of the military installations described in sub-subdivisions b. through e. of subdivision (2) of subsection (b) of this section.

(2) One member of the Senate appointed by the President Pro Tempore of the Senate, who represents a district which contains all or any portion of one of the military installations described in sub-subdivisions b. through e. of subdivision (3) of subsection (b) of this section.

(d) The following office holders or their designee, shall serve as nonvoting ex officio members of the Commission:

(1) The Lieutenant Governor.
(2) Secretary of Public Safety.
(3) Secretary of Commerce.
(4) The Secretary of Transportation.
(5) The Secretary of Environmental Quality.
(6) The Commissioner of Agriculture.
(7) Adjutant General of the North Carolina National Guard.
(8) The Mayor of Elizabeth City, or designee.
(9) The Mayor of Fayetteville, or designee.
(10) The Mayor of Goldsboro, or designee.
(11) The Mayor of Havelock, or designee.
(12) The Mayor of Jacksonville, or designee.
(13) The Assistant Secretary for Veterans Affairs, Department of Administration.
(14) The President of The University of North Carolina.
(15) The President of the North Carolina Community College System.
(16) The Superintendent of Public Instruction.

(e) The following officers, or their designee, shall be invited to serve as nonvoting ex officio members of the Commission:

(1) Commanding General, 18th Airborne Corps, Ft. Bragg.
(2) Commanding General, Marine Corps Installations East.

(3) Commanding Officer, Marine Corps Air Station, Cherry Point.
(4) Commanding Officer, 4th Fighter Wing, Seymour Johnson Air Force Base.
(5) Commanding Officer, U.S. Army Corps of Engineers, Wilmington District.
(6) Commanding Officer, U.S. Coast Guard Base, Elizabeth City.
(7) Commanding Officer, Marine Corps Air Station, New River.
(8) Commanding Officer, Camp Lejeune Marine Corps Base.
(9) Commanding Officer, Fleet Readiness Center East.
(10) Commanding Officer, Military Ocean Terminal, Sunny Point.
(11) Commanding Officer, Coast Guard Sector North Carolina.
(12) Commanding Officer, Naval Support Activity Hampton Roads.

(f) The Chair of the Commission shall be appointed by the Governor from the voting members of the Commission. A member of the General Assembly who is appointed to the Commission shall not vote on matters that expend funds appropriated by the General Assembly.

(g) The voting members of the Commission shall serve for two-year terms, with no prohibition against being reappointed, except initial appointments shall be for terms as follows:

(1) The Governor shall initially appoint seven members for a term of two years and four members for a term of three years.
(2) The President Pro Tempore of the Senate shall initially appoint the member of the Senate and two members for a term of two years and two members for a term of three years.
(3) The Speaker of the House of Representatives shall initially appoint the member from the House of Representatives and two members for a term of two years and two members for a term of three years.

Initial terms shall commence on August 1, 2013.

(h) The initial meeting of the Commission shall be within 30 days of the effective date of this act at a time and place to be determined by the Secretary of Commerce. The first order of business at the initial meeting of the Commission shall be the adoption of bylaws and establishment of committees, after which the Commission shall meet upon the call of the Chairman or the Secretary of the Department of Military and Veterans Affairs. The members shall receive no compensation for attendance at meetings, except a per diem expense reimbursement. Members of the Commission who are not officers or employees of the State shall receive reimbursement for subsistence and travel expenses at rates set out in G.S. 138-5 from funds made available to the Commission. Members of the Commission who are officers or employees of the State shall be reimbursed for travel and subsistence at the rates set out in G.S. 138-6 from funds made available to the Commission. The Department of Military and Veterans Affairs shall use funds within its budget for the per diem, subsistence, and travel expenses authorized by this subsection. (2001-424, s. 12.1; 2001-486, s. 2.9(a), (b); 2004-49, s. 1; 2011-145, ss. 9.6A, 19.1(g); 2013-227, s. 2; 2015-241, ss. 14.30(y), 24.1(*l*), (x); 2015-268, s. 7.3(a); 2015-297, s. 1; 2017-57, s. 19.1(c); 2018-5, s. 19.3(d).)

§ 143B-1312: Repealed by Session Laws 2015-241, s. 24.1(y), effective July 1, 2015.

§ 143B-1314. Protection of sensitive documents.

(a) In carrying out any purpose set out in G.S. 143B-1310(b), the Commission and the Department of Military and Veterans Affairs may share documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11 with other public bodies. Any information shared under this subsection shall be confidential and exempt from Chapter 132 of the General Statutes to the same extent that it is confidential in the possession of the Commission or the Department.

(b) In carrying out any purpose set out in G.S. 143B-1310(b), the Commission and the Department of Military and Veterans Affairs may share documents and discussions protected from disclosure under G.S. 132-1.2 and G.S. 143-318.11 with any third party in its discretion. Any information shared under this subsection shall be shared under an agreement to keep the information confidential to the same extent that it is confidential in the possession of the Commission or the Department. (2014-79, s. 7; 2015-241, ss. 24.1(l), (z); 2015-268, s. 7.3(a).)

§ 143B-1315: Reserved for future codification purposes.

§ 143B-1316: Reserved for future codification purposes.

§ 143B-1317: Reserved for future codification purposes.

§ 143B-1318: Reserved for future codification purposes.

§ 143B-1319: Reserved for future codification purposes.

Article 15.

Department of Information Technology.

Part 1. General Provisions.

§ 143B-1320. Definitions; scope; exemptions.

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

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

(2) CJIN. – Criminal Justice Information Network.

(3) Community of practice. – A collaboration of organizations with similar requirements, responsibilities, or interests.

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

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

(6) Distributed information technology assets. – Hardware, software, and communications equipment not classified as traditional mainframe-based items,

including personal computers, local area networks, servers, mobile computers, peripheral equipment, and other related hardware and software items.

(7) Enterprise solution. – An information technology solution that can be used by multiple agencies.

(8) Exempt agencies. – An entity designated as exempt in subsection (b) of this section.

(9) GDAC. – Government Data Analytics Center.

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

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

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

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

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

(15) Security incident. A warning or indication of a threat to or breach of information or computer security. The term also includes threats that have already occurred.

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

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

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

(19) State CIO approved data center. – A data center designated by the State CIO for State agency use that meets operational standards established by the Department.

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

contracts offered by the Department, including information technology procurement, in accordance with the statutes, policies, and rules of the Department. The election must be made in writing, as follows:

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

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

(d) Review. – Notwithstanding subsection (b) of this section, any State agency shall review and evaluate any deviation authorized and shall, in consultation with the Department of Information Technology, adopt a plan to phase out any deviations that the State CIO determines to be unnecessary in carrying out functions and responsibilities unique to the agency having a deviation. The plan adopted by the agency shall include a strategy to coordinate its general information processing functions with the Department of Information Technology in the manner prescribed by this act and provide for its compliance with policies, procedures, and guidelines adopted by the Department of Information Technology. Any agency receiving a deviation shall submit its plan to the Office of State Budget and Management as directed by the State Chief Information Officer. (2015-241, s. 7A.2(b).)

§ 143B-1321. Powers and duties of the Department; cost-sharing with exempt entities.

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

(1) Provide information technology support and services to State agencies.
(2) Provide such information technology support to local government entities and others, as may be required.
(3) Establish and document the strategic direction of information technology in the State.
(4) Assist State agencies in meeting their business objectives.
(5) Plan and coordinate information technology efforts with State agencies, nonprofits, and private organizations, as required.
(6) Establish a consistent process for planning, maintaining, and acquiring the State's information technology resources. This includes responsibility for developing and administering a comprehensive long-range plan to ensure the proper management of the State's information technology resources.
(7) Develop standards and accountability measures for information technology projects, including criteria for effective project management.
(8) Set technical standards for information technology, review and approve information technology projects and budgets, establish and enforce information technology security standards, establish and enforce standards for the

procurement of information technology resources, and develop a schedule for the replacement or modification of information technology systems.

(9) Implement enterprise procurement processes and develop metrics to support this process.

(10) Manage the information technology funding for State agencies, to include the Information Technology Fund for statewide information technology efforts and the Information Technology Internal Service Fund for agency support functions.

(11) Support, maintain, and develop metrics for the State's technology infrastructure and facilitate State agencies' delivery of services to citizens.

(12) Operate as the State enterprise organization for information technology governance.

(13) Advance the State's technology and data management capabilities.

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

(15) Obtain, review, and maintain, on an ongoing basis, records of the appropriations, allotments, expenditures, revenues, grants, and federal funds for each State agency for information technology.

(16) Adopt rules for the administration of the Department and implementing this Article, pursuant to the Administrative Procedure Act, Chapter 150B of the General Statutes.

(17) Require reports by State agencies, departments, and institutions about information technology assets, systems, personnel, and projects and prescribing the form of such reports.

(18) Prescribe the manner in which information technology assets, systems, and personnel shall be provided and distributed among agencies, to include changing the distribution when the State CIO determines that is necessary.

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

(20) Submit all rates and fees for common, shared, and State government-wide technology services provided by the Department to the Office of State Budget and Management for approval.

(21) Establish and operate, or delegate operations of, centers of expertise (COE) for specific information technologies and services to serve two or more agencies on a cost-sharing basis, if the State CIO, after consultation with the Office of State Budget and Management, decides it is advisable from the standpoint of efficiency and economy to establish these centers and services.

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

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

(24) Require any State agency served to transfer to the Department or COE ownership, custody, or control of information-processing equipment, software, supplies, positions, and support required by the shared centers and services.

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

(26) Develop performance standards for shared services in coordination with supported State agencies and publish performance reports on the Department Web site.

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

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

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

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

(31) Repealed by Session Laws 2016-94, s. 7.14(d), effective July 1, 2016.

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

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

(b) Cost-Sharing with Other Branches. – Notwithstanding any other provision of law to the contrary, the Department shall provide information technology services on a cost-sharing basis to exempt agencies, upon request. (2015-241, s. 7A.2(b); 2016-94, s. 7.14(d).)

§ 143B-1322. State CIO duties; Departmental personnel and administration.

(a) State CIO. – The State Chief Information Officer (State CIO) is the head of the Department, a member of the Governor's cabinet, and may also be referred to as the Secretary of the Department of Information Technology. The State CIO is appointed by and serves at the pleasure of the Governor. The State CIO shall be qualified by education and experience for the office. The salary of the State CIO shall be set by the Governor. The State CIO shall receive longevity pay on the same basis as is provided to employees of the State who are subject to the North Carolina Human Resources Act.

(b) Departmental Personnel. – The State CIO may appoint one or more deputy State CIOs, each of whom shall be under the direct supervision of the State CIO. The salaries of the deputy State CIOs shall be set by the State CIO. The State CIO and the Deputy State CIOs are exempt from the North Carolina Human Resources Act. Subject to the approval of the Governor and limitations of the G.S. 126-5, the State CIO may appoint or designate additional managerial and policy making positions, including, but not limited to, the Department's chief financial officer and general counsel, each of whom shall be exempt from the North Carolina Human Resources Act.

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

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

(21) Repealed by Session Laws 2016-94, s. 7.14(d), effective July 1, 2016.

(d) Budgetary Matters. – The Department's budget shall incorporate information technology costs and anticipated expenditures of State agencies identified as participating agencies, together with all divisions, boards, commissions, or other State entities for which the principal departments have budgetary authority.

(e) State Ethics Act. – All employees of the Department shall be subject to the applicable provisions of the State Government Ethics Act under Subchapter II of Chapter 163A of the General Statutes. (2015-241, s. 7A.2(b); 2015-268, s. 2.2; 2016-94, s. 7.14(d); 2016-96, s. 1; 2017-6, s. 3.)

§ 143B-1323. Departmental organization; divisions and units; education community of practice.

(a) Organization. – The Department shall be organized by the State CIO into divisions and units that support its duties.

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

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

(1) Center for Geographic Information and Analysis.
(2) Criminal Justice Information Network.
(3) Government Data Analytics Center.
(4) North Carolina 911 Board.
(5) North Carolina Geographic Information Coordinating Council. (2015-241, s. 7A.2(b).)

§ 143B-1324. State agency information technology management; deviations for State agencies.

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

(1) Administrative support.
(2) Facilities management.
(3) Internal auditing.
(4) Boards administration.
(5) Departmental policies and procedures. (2015-241, s. 7A.2(b).)

§ 143B-1325. State information technology consolidated under Department of Information Technology.

(a) Consolidation Completed. – Effective July 1, 2018, the consolidation of enterprise information technology functions within the executive branch is completed with the Secretary heading all of the information technology functions under the Department's purview, including all of the following:

(1) Information technology architecture.
(2) State information technology strategic plan that reflects State and agency business plans and the State information technology architecture.
(3) Information technology funding process to include standardized, transparent rates that reflect market costs for information technology requirements.
(4) Information technology personnel management.
(5) Information technology project management.
(6) Information technology procurement.
(7) Hardware configuration and management.
(8) Software acquisition and management.
(9) Data center operations.
(10) Network operations.
(11) System and data security, including disaster recovery.

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

(c) Participating Agencies. – The State CIO shall prepare detailed plans to transition each of the participating agencies. As the transition plans are completed, the following participating agencies shall transfer information technology personnel, operations, projects, assets, and appropriate funding to the Department of Information Technology:

(1) Department of Natural and Cultural Resources.
(2) Department of Health and Human Services.
(3) Repealed by Session Laws 2018-5, s. 37.5(b), effective June 12, 2018.
(4) Department of Environmental Quality.
(5) Department of Transportation.
(6) Department of Administration.
(7) Department of Commerce.
(8) Governor's Office.
(9) Office of State Budget and Management.
(10) Office of State Human Resources.
(11) Repealed by Session Laws 2016-94, s. 7.11(a), effective July 1, 2016.
(12) Department of Military and Veterans Affairs.
(13) Department of Public Safety, with the exception of the following:
    a. State Bureau of Investigation.
    b. State Highway Patrol.
    c. Division of Emergency Management.

The State CIO shall ensure that State agencies' operations are not adversely impacted under the State agency information technology consolidation.

(d) Report on Transition Planning. – The Community College System Office, the Department of Public Instruction, and the Bipartisan State Board of Elections and Ethics Enforcement shall work with the State CIO to plan their transition to the Department. The information technology transfer and consolidation from the Department of Revenue to the Department shall not take place until the Secretary of the Department of Revenue

determines that the system and data security of the Department meets the heightened security standards required by the federal government for purposes of sharing taxpayer information. By October 1, 2018, the Department of Public Instruction and the Bipartisan State Board of Elections and Ethics Enforcement, in conjunction with the State CIO, shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on their respective transition plans. By October 1, 2019, the Community College System Office, in conjunction with the State CIO, shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on its transition plan.

(e) Separate agencies may transition their information technology to the Department following completion of a transition plan.

(f) Secretaries of Departments listed in subsection (c) of this section may delegate to the Chief Information Officer for that Department the authority for budgetary decisions that fall below a dollar threshold set by that Department. (2015-241, s. 7A.2(b); 2015-268, s. 2.8; 2016-94, s. 7.11(a); 2017-6, s. 3; 2017-57, s. 37.4(b); 2017-204, s. 4.8; 2018-5, ss. 37.5(b), (c); 2018-77, s. 4.5(a); 2018-97, s. 10.4.)

§ 143B-1326: Reserved for future codification purposes.

§ 143B-1327: Reserved for future codification purposes.

§ 143B-1328: Reserved for future codification purposes.

§ 143B-1329: Reserved for future codification purposes.

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

§ 143B-1330. Planning and financing State information technology resources.

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

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

(2) The State CIO shall develop a biennial State Information Technology Plan (Plan), including, but not limited to, the use of cloud-based utility computing for use by State agencies.

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

(b) Based on requirements identified during the strategic planning process, the Department shall develop and transmit to the General Assembly the biennial State Information Technology Plan in conjunction with the Governor's budget of each regular session. The Plan shall include the following elements:

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

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

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

(4) A statement of the financial requirements, together with a recommended funding schedule and funding sources for major projects and other requirements in progress or anticipated to be required during the upcoming fiscal biennium.

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

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

(c) Each participating agency shall actively participate in preparing, testing, and implementing an information technology plan required under subsection (b) of this section. Separate agencies shall prepare biennial information technology plans, including the requirements listed in subsection (b) of this section, and transmit these plans to the Department by a date determined by the State CIO in each even-numbered year. Agencies shall provide all financial information to the State CIO necessary to determine full costs and expenditures for information technology assets and resources provided by the agencies or through contracts or grants. The Department shall consult with and assist State agencies in the preparation of these plans; shall provide appropriate personnel or other resources to the participating agencies and to separate agencies upon request. Plans shall be submitted to the Department by a date determined by the State CIO in each even-numbered year. (2015-241, s. 7A.2(b); 2015-268, s. 2.11; 2016-94, s. 7.4(h).)

§ 143B-1331. Business continuity planning.

The State CIO shall oversee the manner and means by which information technology business and disaster recovery plans for the State agencies are created, reviewed, and updated. Each State agency shall establish a disaster recovery planning team to work with the Department, or other resources designated by the State CIO, to develop the disaster

recovery plan and to administer implementation of the plan. In developing the plan, all of the following shall be completed:

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

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

(3) List protective measures to be implemented in anticipation of a natural or man-made disaster.

(4) Determine whether the plan is adequate to address information technology security incidents.

Each State agency shall submit its disaster recovery plan to the State CIO on an annual basis and as otherwise requested by the State CIO. (2015-241, s. 7A.2(b).)

§ 143B-1332. Information Technology Fund.

There is established a special revenue fund to be known as the Information Technology Fund, which may receive transfers or other credits as authorized by the General Assembly. Money may be appropriated from the Information Technology Fund to support the operation and administration that meet statewide requirements, including planning, project management, security, electronic mail, State portal operations, early adoption of enterprise efforts, and the administration of systemwide procurement procedures. Funding for participating agency information technology projects shall be appropriated to the Information Technology Fund and may be reallocated by the State CIO, if appropriate, following coordination with the impacted agencies and written approval by the Office of State Budget and Management. Any redirection of agency funds shall immediately be reported to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division with a detailed explanation of the reasons for the redirection. Expenditures involving funds appropriated to the Department from the Information Technology Fund shall be made by the State CIO. Interest earnings on the Information Technology Fund balance shall be credited to the Information Technology Fund. (2015-241, s. 7A.2(b).)

§ 143B-1333. Internal Service Fund.

(a) The Internal Service Fund is established within the Department as a fund to provide goods and services to State agencies on a cost-recovery basis. The Department shall establish fees for subscriptions and chargebacks for consumption-based services. The Information Technology Strategic Sourcing Office shall be funded through a combination of administrative fees as part of the IT Supplemental Staffing contract, as well as fees charged to agencies using their services. The State CIO shall establish and annually update consistent, fully transparent, easily understandable fees and rates that reflect industry standards for any good or service for which an agency is charged. These fees and rates shall be prepared by October 1 and shall be approved by the Office of State Budget and Management. The Office of State Budget and Management shall ensure that State agencies have the opportunity to adjust their budgets based on any rate or fee changes prior to submission of those budget recommendations to the General Assembly. The approved

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

(b) Repealed by Session Laws 2016-94, s. 7.4(d), effective July 1, 2016.

(c) Receipts shall be used solely for the purpose for which they were collected. In coordination with the Office of the State Controller and the Office of State Budget and Management, the State CIO shall ensure processes are established to manage federal receipts, maximize those receipts, and ensure that federal receipts are correctly utilized. (2015-241, s. 7A.2(b); 2016-94, s. 7.4(d); 2017-102, s. 44.1.)

§ 143B-1334: Repealed by Session Laws 2016-94, s. 7.4(e), effective July 1, 2016.

§ 143B-1335. Financial reporting and accountability for information technology investments and expenditures.

The Department, along with the Office of State Budget and Management and the Office of the State Controller, shall develop processes for budgeting and accounting of expenditures for information technology operations, services, projects, infrastructure, and assets for State agencies, notwithstanding any exemptions or deviations permitted pursuant to G.S. 143B-1320(b) or (c). The budgeting and accounting processes may include hardware, software, personnel, training, contractual services, and other items relevant to information technology and the sources of funding for each. Annual reports regarding information technology shall be coordinated by the Department with the Office of State Budget and Management and the Office of the State Controller and submitted to the Governor and the General Assembly on or before October 1 of each year.

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

The State CIO shall review the information technology budgets for participating agencies and shall recommend appropriate adjustments to support requirements identified by the State CIO. (2015-241, s. 7A.2(b).)

§ 143B-1336. Information technology human resources.

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

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

(1) Documentation of current information technology personnel requirements.

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

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

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

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

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

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

(c) Participating agency information technology personnel performing information technology functions shall be moved to the Department. The State CIO shall consolidate participating agency information technology personnel following the time lines established in the plans required by G.S. 143B-1325(b) once a detailed plan has been developed for transitioning the personnel to the new agency.

(d) The State CIO shall establish standard information technology career paths for both management and technical tracks, including defined qualifications, career progression, training requirements, and appropriate compensation. For information technology procurement professionals, the State CIO shall establish a career path that includes defined qualifications, career progression, training requirements, and appropriate compensation. These career paths shall be documented by February 1, 2016, and shall be provided to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division by Feburary 1, 2016, but may be submitted incrementally to meet Department requirements. The career paths shall be updated on an annual basis.

(e) Any new positions established by the Department shall be exempt from the North Carolina Human Resources Act; provided, however, that nonexempt employees transferred from participating agencies to a newly established position in the Department shall not become exempt solely by virtue of that transfer.

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

(g) Criminal Records Checks. – The State CIO shall require background investigations of any employee or prospective employee, including a criminal history record check, which may include a search of the State and National Repositories of Criminal Histories based on the person's fingerprints. A criminal history record check shall be conducted by the State Bureau of Investigation upon receiving fingerprints and other information provided by the employee or prospective employee. If the employee or prospective employee has been a resident of the State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background report shall be provided to the State CIO and is not a public record under Chapter 132 of the General Statutes. (2015-241, s. 7A.2(b); 2015-268, ss. 2.12, 2.13.)

§ 143B-1337: Reserved for future codification purposes.

§ 143B-1338: Reserved for future codification purposes.

§ 143B-1339: Reserved for future codification purposes.

Part 3. Information Technology Projects and Management.

§ 143B-1340. Project management.

(a) Overall Management. – All information technology projects shall be managed through a standardized, fully documented process established and overseen by the State CIO. The State CIO shall be responsible for ensuring that participating agency information technology projects are completed on time, within budget, and meet all defined business requirements upon completion. For separate agency projects, the State CIO shall ensure that projects follow the Department's established process and shall monitor schedule, budget, and adherence to business requirements. For all projects, the State CIO shall establish procedures to limit the need for change requests and shall report on this process to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division by January 1, 2016.

The State CIO shall also ensure that agency information technology project requirements are documented in biennial information technology plans. If an agency updates a biennial information technology plan to add a new project, the State CIO shall immediately report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the reasons for the new requirement, the costs, and the sources of funding.

An agency that utilizes the system or software shall be designated as the sponsor for the information technology project or program and shall be responsible for overseeing the planning, development, implementation, and operation of the project or program. The Department and the assigned project managers shall advise and assist the designated agency for the duration of the project.

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

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

(d) Suspension of Approval/Cancellation of Projects. – The State CIO may suspend the approval of, or cancel, any information technology project that does not continue to meet the applicable quality assurance standards. The State CIO shall immediately suspend

approval of, or cancel, any information technology project that is initiated without State CIO approval. Any project suspended or cancelled because of lack of State CIO approval cannot proceed until it completes all required project management documentation and meets criteria established by the State CIO for project approval, to include a statement from the State CIO that the project does not duplicate capabilities that already exist within the executive branch. If the State CIO suspends or cancels a project, the State CIO shall specify in writing to the agency the grounds for suspending or cancelling the approval. The State CIO shall provide this information to the agency within five business days of the suspension.

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

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

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

(g) Notwithstanding the provisions of G.S. 114-2.3, any State agency developing and implementing an information technology project with a total cost of ownership in excess of five million dollars ($5,000,000) may be required by the State CIO to engage the services of private counsel or subject matter experts with the appropriate information technology expertise. The private counsel or subject matter expert may review requests for proposals; review and provide advice and assistance during the evaluation of proposals and selection of any vendors; and review and negotiate contracts associated with the development, implementation, operation, and maintenance of the project. This requirement may also apply to information technology programs that are separated into individual projects if the total cost of ownership for the overall program exceeds five million dollars ($5,000,000). (2015-241, s. 7A.2(b).)

§ 143B-1341. Project management standards.

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

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

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

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

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

The State CIO shall establish a clearly defined, standardized process for project management that includes time lines for completion of process requirements for both the Department and agencies. The State CIO shall also establish reporting requirements for information technology projects, both during the planning, development, and implementation process and following completion of the project. The State CIO shall continue to monitor system performance and financial aspects of each project after implementation. The State CIO shall also monitor any certification process required for State information technology projects and shall immediately report any issues associated with certification processes to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division. (2015-241, s. 7A.2(b).)

§ 143B-1342. Dispute resolution.

(a) Agency Request for Review. – In any instance where the State CIO has denied or suspended the approval of an information technology project, has cancelled the project, or has denied an agency's request for deviation, the affected State agency may request that

the Governor review the State CIO's decision. The agency shall submit a written request for review to the Governor within 15 business days following the agency's receipt of the State CIO's written grounds for denial, suspension, or cancellation. The agency's request for review shall specify the grounds for its disagreement with the State CIO's determination. The agency shall include with its request for review a copy of the State CIO's written grounds for denial or suspension.

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

The Governor may reverse or modify a decision of the State CIO when the Governor finds the decision of the State CIO is unsupported by substantial evidence that the agency project fails to meet one or more standards of efficiency and quality of State government information technology as required under this Article. (2015-241, s. 7A.2(b).)

§ 143B-1343. Standardization.

The State CIO shall establish consistent standards for the purchase of agency hardware and software that reflect identified, documented agency needs. (2015-241, s. 7A.2(b).)

§ 143B-1344. Legacy applications.

Participating agency legacy applications shall be moved to the Department once a detailed plan is coordinated and in place for the successful transition of a specific application to the Department. The Department shall identify situations where multiple agencies are using legacy systems with similar capabilities and shall prepare plans to consolidate these systems. (2015-241, s. 7A.2(b); 2016-94, s. 7.4(c).)

§ 143B-1345: Reserved for future codification purposes.

§ 143B-1346: Reserved for future codification purposes.

§ 143B-1347: Reserved for future codification purposes.

§ 143B-1348: Reserved for future codification purposes.

§ 143B-1349: Reserved for future codification purposes.

Part 4. Information Technology Procurement.

§ 143B-1350. Procurement of information technology.

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

Notwithstanding any other provision of law, the Department shall procure all information technology goods and services for participating agencies and shall approve information technology procurements for separate agencies. The State CIO may cancel or suspend any agency information technology procurement that occurs without State CIO approval.

(b) The Department shall review all procurements to ensure they meet current technology standards, are not duplicative, meet business objectives, are cost-effective, and are adequately funded. G.S. 143-135.9 shall apply to information technology procurements.

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

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

(2) Approve all technology purchases for separate agencies.

(3) Establish standardized, consistent processes, specifications, and standards that shall apply to all information technology to be purchased, licensed, or leased by State agencies and relating to information technology personal services contract requirements for State agencies, including, but not limited to, requiring convenience contracts to be rebid prior to termination without extensions.

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

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

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

(7) Utilize the purchasing benchmarks established by the Secretary of Administration pursuant to G.S. 143-53.1.

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

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

(d) Each State agency shall furnish to the State CIO when requested, and on forms as prescribed, estimates of and budgets for all information technology goods and services needed and required by such department, institution, or agency for such periods in advance as may be designated by the State CIO. When requested, all State agencies shall provide to the State CIO on forms as prescribed, actual expenditures for all goods and services needed and required by the department, institution, or agency for such periods after the expenditures have been made as may be designated by the State CIO.

(e) Confidentiality. – Contract information compiled by the Department shall be made a matter of public record after the award of contract. Trade secrets, test data, similar

proprietary information, and security information protected under G.S. 132-6.1(c) or other law shall remain confidential.

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

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

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

(h1) All contracts subject to the provisions of this Part shall include a limitation on the contractor's liability to the State for damages. Except as otherwise provided in this subsection, the limitation of liability shall be for damages arising from any cause whatsoever, regardless of the form of action. The amount of liability shall be determined based on the nature of the goods or services covered by the contract; however, there shall be a presumptive limitation of no more than two times the value of the contract. Limitation of liability pursuant to this subsection shall specifically include, but not be limited to, the contractor's liability for damages and any other losses relating to the loss of, unauthorized access to, or unauthorized disclosure of data.

The amount of liability for damages and any other losses relating to the loss of, unauthorized access to, or unauthorized disclosure of data may be raised to no more than three times the value of the contract if all of the following apply:

(1) The State CIO completes a risk assessment prior to the bid solicitation or request for proposal.

(2) The risk assessment determines that an increase in the liability amount is necessary to protect the State's best interests.

(3) The bid solicitation or request for proposal indicates that increased liability will be required for the resulting contract.

The State CIO shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology no later than March 1 regarding the contracts containing liability amounts of more than two times the value of the contract.

Prior to entering into any contract subject to the provisions of this Part, the Department or the separate agency, as applicable, shall reasonably determine that the contractor possesses sufficient financial resources, either independently or through third-party sources, such as insurance, to satisfy the agreed upon limitation of liability. The limitation of liability required by this subsection shall not apply to liability of the contractor for intentional or willful misconduct, damage to tangible personal property, physical injuries to persons, or any notification costs resulting from compliance with G.S. 132-1.10(c1). Nothing in this subsection (i) limits the contractor's liability directly to third parties or (ii) affects the rights and obligations related to contribution among joint tortfeasors established by Chapter 1B of the General Statutes and other applicable law.

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

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

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

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

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

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

(k) No contract subject to the provisions of this Part may be entered into unless the contractor and the contractor's subcontractors comply with the requirements of Article 2 of Chapter 64 of the General Statutes. (2015-241, s. 7A.2(b); 2015-268, ss. 2.14, 2.20; 2016-85, s. 1.)

§ 143B-1351. Restriction on State agency contractual authority with regard to information technology.

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

(b) Notwithstanding any other provision of law, local governmental entities may use the information technology programs, services, or contracts offered by the Department, including information technology procurement, in accordance with the statutes, policies, and rules of the Department. Local governmental entities are not required to comply with otherwise applicable competitive bidding requirements when using contracts established by the Department.

(c) Any other State entities exempt from Part 3 or Part 5 of this Article may also use the information technology programs, services, or contracts offered by the Department, including information technology procurement, in accordance with the statutes, policies, and rules of the Department. (2015-241, s. 7A.2(b).)

§ 143B-1352. Unauthorized use of public purchase or contract procedures for private benefit prohibited.

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

(b) This prohibition shall not apply if:

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

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

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

(d) Any employee or official of the State who violates this Part shall be liable to the State to repay any amount expended in violation of this Part, together with any court costs. (2015-241, s. 7A.2(b).)

§ 143B-1353. Financial interest of officers in sources of supply; acceptance of bribes.

Neither the State CIO, any deputy State CIO, or any other policy-making or managerially exempt personnel shall be financially interested, or have any personal beneficial interest, either directly or indirectly, in the purchase of, or contract for, any information technology, nor in any firm, corporation, partnership, or association furnishing any information technology to the State government or any of its departments, institutions, or agencies, nor shall any of these persons or any other Department employee accept or receive, directly or indirectly, from any person, firm, or corporation to whom any contract

may be awarded, by rebate, gifts, or otherwise, any money or anything of value whatsoever, or any promise, obligation, or contract for future reward or compensation. Violation of this section is a Class F felony, and any person found guilty of a violation of this section shall, upon conviction, be removed from State office or employment. (2015-241, s. 7A.2(b).)

§ 143B-1354. Certification that information technology bid submitted without collusion.

The State CIO shall require bidders to certify that each bid on information technology contracts overseen by the Department is submitted competitively and without collusion. False certification is a Class I felony. (2015-241, s. 7A.2(b).)

§ 143B-1355. Award review.

(a) When the dollar value of a contract for the procurement of information technology equipment, materials, and supplies exceeds the benchmark established by subdivision (1) of subsection (c) of this section, an award recommendation shall be submitted to the State CIO for approval or other action. The State CIO shall promptly notify the agency or institution making the recommendation, or for which the purchase is to be made, of the action taken.

(b) Prior to submission for review pursuant to this section for any contract for information technology being acquired for the benefit of an agency authorized to deviate from this Article pursuant to G.S. 143B-1320(c), the State CIO shall review and approve the procurement to ensure compliance with the established processes, specifications, and standards applicable to all information technology purchased, licensed, or leased in State government, including established procurement processes, and compliance with the State government-wide technical architecture and standards established by the State CIO.

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

(1) For contract awards greater than twenty-five thousand dollars ($25,000), to the cochairs of the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division as requested.

(2) For all contract awards outside the established purchasing system, to the Department of Administration, Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division on March 1 and September 1 of each year. (2015-241, s. 7A.2(b); 2016-94, s. 7.4(a).)

§ 143B-1356. Multiyear contracts; Attorney General assistance.

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

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

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

(b) At the request of the State CIO, the Attorney General shall provide legal advice and services necessary to implement this Article. (2015-241, s. 7A.2(b).)

§ 143B-1357. Purchase of certain computer equipment and televisions by State agencies and governmental entities prohibited.

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

(b) The Department shall make the list available to local political subdivisions of the State and other public bodies. A manufacturer that is not in compliance with the requirements of G.S. 130A-309.134 or G.S. 130A-309.135 shall not sell or offer for sale computer equipment or televisions to the State, a local political subdivision of the State, or other public body. (2015-241, ss. 7A.2(b), 14.30(c).)

§ 143B-1358. Refurbished computer equipment purchasing program.

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

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

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

(d) Participating computer equipment refurbishers must meet all procurement requirements established by the Department of Information Technology and the Department of Administration. (2015-241, s. 7A.2(b).)

§ 143B-1359. Configuration and specification requirements same as for new computers.

Refurbished computer equipment purchased under this act must conform to the same standards as the State may establish as to the configuration and specification requirements for the purchase of new computers. (2015-241, s. 7A.2(b).)

§ 143B-1360. Data on reliability and other issues; report.

The Department of Information Technology shall maintain data on equipment reliability, potential cost savings, and any issues associated with the refurbished computer equipment initiative and shall report the results of the initiative to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division by March 1, 2016, and then annually thereafter. (2015-241, s. 7A.2(b); 2016-94, s. 7.4(b).)

§ 143B-1361. Information technology procurement policy; reporting requirements.

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

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

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

(d) Data from Department of Administration. – The Department of Administration shall collect and compile the data described in this section and report it annually to the

Department of Information Technology, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division. (2015-241, s. 7A.2(b).)

§ 143B-1362. Personal services contracts subject to Article.

(a) Requirement. – Notwithstanding any other provision of law, information technology personal services contracts for executive branch agencies shall be subject to the same requirements and procedures as information technology service contracts, except as provided in this section.

(b) Certain Approvals Required. – Notwithstanding any provision of law to the contrary, no information technology personal services contract, nor any contract that provides personnel to perform information technology functions regardless of the cost of the contract, may be established or renewed without written approval from the Department of Information Technology and the Office of State Budget and Management. To facilitate compliance with this requirement, the Department of Information Technology shall develop and document the following:

(1) Standards for determining whether it is more appropriate for an agency to hire an employee or use the services of a vendor.

(2) A process to monitor all State agency information technology personal services contracts, as well as any other State contracts providing personnel to perform information technology functions.

(3) A process for obtaining approval of contractor positions.

(c) Creation of State Positions in Certain Cases. – The Department of Information Technology shall review current information technology personal services contracts on an ongoing basis and determine if each contractor is performing a function that could more appropriately be performed by a State employee. Where the determination is made that a State employee should be performing the function, the Department of Information Technology shall work with the impacted agency and the Office of State Human Resources to identify or create the position.

(d) Compliance Audits Required. – The Department of Information Technology shall conduct periodic audits of State agencies that are subject to this Article to determine the degree to which those agencies are complying with the rules and procedures that govern information technology personal services contracts.

(e) Reporting Required. – The Department of Information Technology shall report biennially to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on all of the following:

(1) Its progress toward standardizing information technology personal services contracts.

(2) The number of information technology service contractors in each State agency, the cost for each, and the comparable cost, including benefits, of a State employee serving in that capacity rather than a contractor.

(3) The results of the compliance audits conducted pursuant to subsection (d) of this section.

(f) Information Technology Personal Services Contract Defined. – For purposes of this section, the term "personal services contract" means a contract for services provided

by a professional individual as an independent contractor on a temporary or occasional basis.

(g) Rules Required. – The Department of Information Technology shall adopt rules consistent with this section. (2015-241, s. 26.2(b).)

§ 143B-1363: Reserved for future codification purposes.

§ 143B-1364: Reserved for future codification purposes.

Part 5. Data Centers.

§ 143B-1365. Data centers.

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

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

(1) Using an outside contractor would be more cost-effective for the State.

(2) The Department does not have the technical capabilities required to host the application.

(3) Valid security requirements preclude the use of State infrastructure, and a vendor can provide a more secure environment. (2015-241, s. 7A.2(b).)

§ 143B-1366: Reserved for future codification purposes.

§ 143B-1367: Reserved for future codification purposes.

§ 143B-1368: Reserved for future codification purposes.

§ 143B-1369: Reserved for future codification purposes.

Part 6. Communications and Portal Services.

§ 143B-1370. Communications services.

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

(1) Develop standards for a State network.

(2) Develop a detailed plan for the standardization and operation of State communications networks and services.

(3) Establish an inventory of communications systems in use within the State and ensure that the State is using the most efficient and cost-effective means possible.

(4) Identify shortfalls in current network operations and develop a strategy to mitigate the identified shortfalls.

(5) Provide for the establishment, management, and operation, through either State ownership, by contract, or through commercial leasing, of the following systems and services as they affect the internal management and operation of State agencies:

a. Central telephone systems and telephone networks, including Voice over Internet Protocol and Commercial Mobile Radio Systems.

b. Satellite services.

c. Closed-circuit TV systems.

d. Two-way radio systems.

e. Microwave systems.

f. Related systems based on telecommunication technologies.

g. The "State Network," managed by the Department, which means any connectivity designed for the purpose of providing Internet Protocol transport of information for State agencies.

h. Broadband.

(6) Coordinate the development of cost-sharing systems for respective user agencies for their proportionate parts of the cost of maintenance and operation of the systems and services listed in subdivision (5) of this subsection.

(7) Assist in the development of coordinated telecommunications services or systems within and among all State agencies and recommend, where appropriate, cooperative utilization of telecommunication facilities by aggregating users.

(8) Perform traffic analysis and engineering for all telecommunications services and systems listed in subdivision (5) of this subsection.

(9) Establish telecommunications specifications and designs so as to promote and support compatibility of the systems within State agencies.

(10) Provide a periodic inventory of telecommunications costs, facilities, systems, and personnel within State agencies.

(11) Promote, coordinate, and assist in the design and engineering of emergency telecommunications systems, including, but not limited to, the 911 emergency telephone number program, Emergency Medical Services, and other emergency telecommunications services.

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

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

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

(b) The provisions of this section shall not apply to the Judicial Information System in the Judicial Department. (2015-241, s. 7A.2(b).)

§ 143B-1371. Communications services for local governmental entities and other entities.

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

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

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

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

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

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

(c) Any communications or broadband telecommunications services provided pursuant to this section shall not be provided in a manner that would cause the State or the Department to be classified as a public utility as that term is defined in G.S. 62-3(23)a.6., nor as a retailer as that term is defined in G.S. 105-164.3. Nor shall the State or the Department engage in any activities that may cause those entities to be classified as a common carrier as that term is defined in the Communications Act of 1934, 47 U.S.C. § 153(11). Provided further, authority to share communications services with the non-State agencies set forth in subdivisions (1) through (4) of subsection (b) of this section shall terminate not later than one year from the effective date of a tariff for such service or federal law that preempts this section. (2015-241, s. 7A.2(b).)

§ 143B-1372. Statewide electronic web presence; annual report.

(a) The Department shall plan, develop, implement, and operate a statewide electronic web presence, to include mobile, in order to (i) increase the convenience of members of the public in conducting online transactions with, and obtaining information from, State government and (ii) facilitate the public's interactions and communications with government agencies. The State CIO shall have approval authority over all agency Web

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

(b) Beginning January 1, 2016, and then annually thereafter, the State CIO shall report to the General Assembly and to the Fiscal Research Division on the following information:

(1) Services currently provided and associated transaction volumes or other relevant indicators of utilization by user type.
(2) New services added during the previous year.
(3) Services added that are currently available in other states.
(4) The total amount collected for each service.
(5) The total amount remitted to the State for each service.
(6) The total amount remitted to the vendor for each service.
(7) Any other use of State data by the vendor and the total amount of revenue collected per each use and in total.
(8) Customer satisfaction with each service.
(9) Any other issues associated with the provision of each service. (2015-241, s. 7A.2(b); 2015-268, s. 2.16.)

§ 143B-1373. Growing Rural Economies with Access to Technology (GREAT) program.

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

(1) Agriculture. – Activities defined in G.S. 106-581.1.
(2) Broadband service. – For the purposes of this section, terrestrially deployed Internet access service with transmission speeds of at least 10 megabits per second (Mbps) download and at least one megabit per second upload (10:1).
(3) Coastal Plain Region. – The portion of the State lying east of the eastern boundaries of Franklin, Lee, Moore, Wake, and Warren Counties.
(4) Cooperative. – An electric membership corporation, organized pursuant to Article 2 of Chapter 117 of the General Statutes, or a telephone membership corporation, organized pursuant to Article 4 of Chapter 117 of the General Statutes.
(5) Eligible economically distressed county. – A county designated as a development tier one area, as defined in G.S. 143B-473.08.
(6) Eligible project. – An eligible project is a discrete and specific project located in an unserved area of an economically distressed county seeking to provide broadband service to homes, businesses, and community anchor points not currently served. Eligible projects do not include middle mile, backhaul, and other similar projects not directed at broadband service to end users.
(7) Eligible recipient. – Eligible grant recipients are private providers of broadband services, including cooperatively organized entities, or any partnerships formed between cooperatively organized entities, private providers, or any combination thereof, on or after January 1, 2018.
(8) Household. – A house, apartment, single room, or other group of rooms, if occupied or intended for occupancy as separate living quarters, and where the

occupants do not live with any other persons in the structure and there is direct access from the outside or through a common hall.

(9) Infrastructure costs. – Costs directly related to the construction of broadband infrastructure for the extension of broadband service for an eligible project, including installation, acquiring or updating easements, equipment, fiber, construction, backhaul infrastructure, and testing costs. The term does not include overhead or administrative costs.

(10) Mountain Region. – The portion of the State lying west of and including Alleghany, Burke, Caldwell, Rutherford, and Wilkes Counties.

(11) Office. – The Broadband Infrastructure Office in the Department of Information Technology.

(12) Piedmont Region. – The portion of the State lying west of and including Franklin, Lee, Moore, Richmond, Wake, and Warren Counties, to the eastern boundaries of Alleghany, Burke, Caldwell, Rutherford, and Wilkes Counties.

(13) Secretary. – The Secretary of the Department of Information Technology.

(14) Unserved area. – A designated geographic area that is presently without access to broadband service, as defined in this section, offered by a wireline or fixed wireless provider. Areas where a private provider has been designated to receive funds through other State or federally funded programs designed specifically for broadband deployment shall be considered served if such funding is intended to result in construction of broadband in the area within 18 months.

(b) The Growing Rural Economies with Access to Technology Fund is established as a special revenue fund in the Department of Information Technology. The Secretary may award grants from the Growing Rural Economies with Access to Technology Fund to eligible recipients for eligible projects. The funds shall be used by the recipient to pay for infrastructure costs associated with an eligible project. State funds appropriated to this Fund shall be considered an information technology project within the meaning of G.S. 143C-1-2.

(c) Project areas comprised of census blocks, or portions thereof, within which a broadband provider is receiving State or federal matching funds to deploy technologically neutral scalable broadband service within the next 18 months are ineligible for the GREAT program. It is essential for the Office to know the location of census blocks, or portions thereof, comprising these areas so it can determine project eligibility. A private provider receiving State or federal matching funds to deploy broadband service within such an area shall, within 60 days of the effective date of this section, submit only a listing of the census blocks, or portions thereof, comprising each of its federally funded project areas meeting this requirement and nothing more to the Office. In future program years, the cutoff date for submitting this census block data shall be May 15. This will enable the office to update maps and advise applicants as to the unserved areas of the State that are eligible for consideration in that program year. The Office shall only utilize this data to update maps of census blocks to reflect these census blocks, or portions thereof, as being served. Failure on the part of a provider to submit the listing of census blocks by the cutoff date shall result in those areas being eligible for inclusion under this program during the upcoming program year. The Office shall use the census block data provided only for mapping of unserved

areas. Information provided to the Office pursuant to this subsection is not a public record, as that term is defined in G.S. 132-1.

(d) Applications for grants will be submitted at times designated by the Secretary and will include, at a minimum, the following information:

(1) An attestation to the Office that the proposed project area is eligible.
(2) The identity of the applicant and its qualifications and experience with deployment of broadband.
(3) The total cost and duration of the project.
(4) The amount to be funded by the applicant.
(5) An illustration or description of the area to be served and the number of homes, businesses, community anchor points, agricultural operations, or agricultural processing facilities that will have access to broadband as a result of the project.
(6) An assessment of the current level of broadband access in the proposed deployment area.
(7) The proposed construction time line.
(8) A description of the services to be provided, including the proposed upstream and downstream broadband speeds to be delivered and any applicable data caps, provided that any applicant proposing a data cap below 150 Gigabytes of usage per month shall provide justification to the satisfaction of the Office that the proposed cap is in the public interest and consistent with industry standards.
(9) Any other information or supplementary documentation requested by the Office.
(10) A plan to encourage users to connect that incorporates, at a minimum, community education forums, multimedia advertising, and marketing programs.
(11) For the proposed area to be served, the infrastructure cost per household for the project.
(12) Evidence of support for the project from citizens, local government, businesses, and institutions in the community.
(13) The proposed advertised speed to be marketed to end users.
(14) An explanation of the scalability of the broadband infrastructure to be deployed for higher broadband speeds in the future.

(e) Applications shall be made publicly available by posting on the Web site of the Department of Information Technology for a period of at least 30 days prior to award. During the 30-day period, any interested party may submit comments to the Secretary concerning any pending application. A provider of broadband services may submit a protest of any application on the grounds the proposed project covers an area that is not an eligible area under this section. Protests shall be submitted in writing, accompanied by all relevant supporting documentation, and shall be considered by the Office in connection with the review of the application. For applications with filed protests, the Secretary shall issue a written decision to the protesting party at least 15 days prior to the approval of that application.

(f) The Office may consult with the Department of Commerce to determine if a broadband project proposed under this section will benefit a potential economic development project relevant to the proposed area outlined in the broadband project.

(g) Applications shall be scored based upon a system that awards a single point for criteria considered to be the minimum level for the provision of broadband service with additional points awarded to criteria that exceed minimum levels. The Office shall score project applications in accordance with the following:

(1) Partnership. – Projects involving partnership or affiliation by a private provider with a nonprofit or not-for-profit, or a for-profit subsidiary of either that is required to enable certain partnership activities, or any combination thereof, shall be given five points in their application score where it is documented to the satisfaction of the Office that the partnership or affiliation will facilitate deployment and reduce cost per housing unit by utilizing the resources, facilities, and infrastructure of the partner or where the nonprofit or not-for-profit partner provides only financial support.

(2) Unserved households. – The Office shall give additional points to projects based upon the estimated number of unserved households within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the Office. Points shall be given to projects that will be located in counties with estimated unserved households as follows:

Unserved Households	**Points Given**
700 or less	1
700-1999	2
2000 and over	3

(3) Households to be served. – The Office shall give additional points to projects that will provide broadband service to unserved households within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the Office. Points shall be given to projects that will serve unserved households within the project area as follows:

Households To Be Served	**Points Given**
Under 150	1
150-249	2
250 and up	3

(4) Unserved businesses. – The Office shall give additional points to projects that will provide broadband service to unserved businesses located within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the Office. Points shall be given to projects that serve unserved businesses within the project area as follows:

a. Projects proposing to serve between 1 and 4 businesses shall receive 1 point.

b. Projects proposing to serve between 5 and 10 businesses shall receive 2 points.

c. Projects proposing to serve either (i) more than 10 businesses or (ii) an agricultural operation, agricultural processing facility, or a business with 31 or more full-time employees shall receive 3 points.

(5) Cost per household. – The Office shall give additional points to projects that minimize the infrastructure cost of the proposed project per household, based upon information available to the Office. Points shall be given to projects based upon the estimated cost per household as follows:

a. For projects proposed in the Piedmont or Coastal Plain Regions:

Est. Cost per Household	Partnership Using Infrastructure	Private Provider Only
Up to $1,700	4	9
$1,701-2,200	3	8

b. For projects located in the Mountain Region:

Est. Cost per Household	Partnership Using Infrastructure	Private Provider Only
Up to $2,500	4	9
$2,501-3,300	3	8

(6) Base speed multiplier. – Projects that will provide minimum download and minimum upload speeds shall have the aggregate points given under subdivisions (1) through (5) of this subsection multiplied by a factor at the level indicated in the table below:

Minimum Download:

Minimum Upload	Score Multiplier
10:1 Mbps.	0.95
25:3 Mbps. or greater	1.35

(h) The Office shall score applications based upon the metrics provided in subsection (g) of this section. In awarding grants based upon the scoring metrics, the Office shall also award an additional point to projects where a county has a Community Broadband Planning Playbook that meets the guidelines established by the Office.

(i) Applications receiving the highest score shall receive priority status for the awarding of grants pursuant this section. Applicants awarded grants pursuant to this section shall enter into an agreement with the Office. The agreement shall contain all of the elements outlined in subsection (d) of this section and any other provisions the Office may require. The agreement shall contain a provision governing the time line and minimum requirements and thresholds for disbursement of grant funds measured by the progress of the project. Grant funds shall be disbursed only upon verification by the Office that the terms of the agreement have been fulfilled according to the progress milestones contained in the agreement. At project completion, the grant recipient shall certify and provide to the Office evidence consistent with Federal Communications Commission attestation that the proposed minimum upstream and minimum downstream broadband speeds identified in the application guidelines, and for which a base speed multiplier was awarded pursuant to subdivision (6) of subsection (g) of this section, are available throughout the project area prior to any end user connections. A single grant award shall not exceed two million dollars ($2,000,000). No more than one grant may be awarded per fiscal year for a project in any one eligible economically distressed county.

(j) Grant recipients are required to provide matching funds based upon the application scoring pursuant to this section in the following minimum amounts:

Score	Matching Requirement

7.0 points or less	55%
Greater than 7.0, but less than 14.0 points	50%
Greater than 14.0, but less than 21.0 points	45%
21.0 points or greater	35%

Up to fifty percent (50%) of matching funds paid by the grant recipient may be comprised of third-party funding and other grant programs. Universal Service Fund, Connect America Fund, or other grants awarded for broadband expansion through a separate State or federal program shall not be used for the required matching funds.

(k) The Office shall require that grant recipients offer the proposed advertised minimum download and minimum upload speeds identified in the project application for the duration of the five-year service agreement. At least annually, a grant recipient shall provide to the Office evidence consistent with Federal Communications Commission attestation that the grant recipient is making available the proposed advertised speed, or a faster speed, as contained in the grant agreement. For the duration of the agreement, grant recipients shall disclose any changes to data caps for the project area that differ from the data caps listed in the grant application to the Office.

(*l*) A grant recipient shall forfeit the amount of the grant received if it fails to perform, in material respect, the obligations established in the agreement. Grant recipients that fail to provide the minimum advertised connection speed for which a reduction in matching funds was applied shall forfeit that amount. A grant recipient that forfeits amounts disbursed under this section is liable for the amount disbursed plus interest at the rate established under G.S. 105-241.21, computed from the date of the disbursement. The number of subscribers that subscribe to broadband services offered by the provider in the project area shall not be a measure of performance under the agreement for the purposes of this subsection.

(m) The Office of Broadband Infrastructure in the Department of Information Technology shall be the designated agency for receipt and disbursement of federal grant funds intended for the State for broadband expansion and shall seek available federal grant funds for that purpose. All federal grant funds received for the purpose of broadband expansion shall be disbursed in accordance with this section.

(n) Grant recipients shall submit to the Office an annual report for each funded project for the duration of the agreement. The report shall include a summary of the items contained in the grant agreement and level of attainment for each and shall also include (i) the number of households, businesses, agriculture operations, and community anchor points that have broadband access as a result of the project; (ii) the percentage of end users in the project area who have access to broadband service and actually subscribe to the broadband service; and (iii) the average monthly subscription cost for broadband service in the project area.

(o) The Department of Information Technology shall submit an annual report to the Joint Legislative Oversight Committee for Information Technology and the Fiscal Research Division on or before September 1. The report shall contain at least all of the following:

(1) The number of grant projects applied for and the number of grant agreements entered into.
(2) A time line for each grant agreement and the number of households, businesses, agriculture operations, and community anchor points expected to benefit from each agreement.
(3) The amount of matching funds required for each agreement and the total amount of investment.
(4) A summary of areas receiving grants that are now being provided broadband service and the advertised broadband speeds for those areas.
(5) Any breaches of agreements, grant fund forfeitures, or subsequent reductions or refunds of matching funds.
(6) Any recommendations for the grant program, including better sources and methods for improving outcomes and accountability. (2018-5, s. 37.1(b); 2018-97, ss. 10.1(a), (b).)

§ 143B-1374: Reserved for future codification purposes.

Part 7. Security of Information Technology.

§ 143B-1375. Security.

Confidentiality. – No data of a confidential nature, as defined in the General Statutes or federal law, may be entered into or processed through any information technology system or network established under this Article until safeguards for the data's security satisfactory to the State CIO have been designed and installed and are fully operational. This section does not affect the provisions of G.S. 147-64.6 or G.S. 147-64.7. (2015-241, s. 7A.2(b).)

§ 143B-1376. Statewide security standards.

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

(b) The State CIO shall establish standards for the management and safeguarding of all State data held by State agencies and private entities and shall develop and implement a process to monitor and ensure adherence to the established standards. The State CIO shall establish and enforce standards for the protection of State data. The State CIO shall develop and maintain an inventory of where State data is stored. For data maintained by non-State entities, the State CIO shall document the reasons for the use of the non-State entity and

certify, in writing, that the use of the non-State entity is the best course of action. The State CIO shall ensure that State data held by non-State entities is properly protected and is held in facilities that meet State security standards. By October 1 each year, the State CIO shall certify in writing that data held in non-State facilities is being maintained in accordance with State information technology security standards and shall provide a copy of this certification to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division.

(c) Before a State agency can contract for the storage, maintenance, or use of State data by a private vendor, the agency shall obtain the approval of the State CIO. (2015-241, s. 7A.2(b).)

§ 143B-1377. State CIO approval of security standards and risk assessments.

(a) Notwithstanding G.S. 143-48.3, 143B-1320(b), or 143B-1320(c), or any other provision of law, and except as otherwise provided by this Article, all information technology security goods, software, or services purchased using State funds, or for use by a State agency or in a State facility, shall be subject to approval by the State CIO in accordance with security standards adopted under this Part.

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

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

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

(e) Nothing in this section shall be construed to preclude the Office of the State Auditor from assessing the security practices of State information technology systems as part of its statutory duties and responsibilities. (2015-241, s. 7A.2.)

§ 143B-1378. Assessment of agency compliance with security standards.

At a minimum, the State CIO shall annually assess the ability of each State agency, and each agency's contracted vendors, to comply with the current security enterprise-wide set of standards established pursuant to this section. The assessment shall include, at a minimum, the rate of compliance with the enterprise-wide security standards and an assessment of security organization, security practices, security information standards, network security architecture, and current expenditures of State funds for information technology security. The assessment of a State agency shall also estimate the cost to implement the security measures needed for agencies to fully comply with the standards. Each State agency shall submit information required by the State CIO for purposes of this assessment. The State CIO shall include the information obtained from the assessment in the State Information Technology Plan. (2015-241, s. 7A.2(b).)

§ 143B-1379. State agency cooperation; liaisons.

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

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

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

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

(4) Designating an agency liaison in the information technology area to coordinate with the State CIO. The liaison shall be subject to a criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon its receiving fingerprints from the liaison. If the liaison has been a resident of this State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background report shall be provided to the State CIO and the head of the agency. In addition, all personnel in the Office of the State Auditor who are responsible for information technology security reviews shall be subject to a criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon receiving fingerprints from the personnel designated by the State Auditor. For designated personnel who have been residents of this State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background reports shall be provided to the State Auditor. Criminal histories provided pursuant to this subdivision are not public records under Chapter 132 of the General Statutes.

(b) The information provided by State agencies to the State CIO under this section is protected from public disclosure pursuant to G.S. 132-6.1(c). (2015-241, s. 7A.2(b).)

§ 143B-1380: Reserved for future codification purposes.

§ 143B-1381: Reserved for future codification purposes.

§ 143B-1382: Reserved for future codification purposes.

§ 143B-1383: Reserved for future codification purposes.

§ 143B-1384: Reserved for future codification purposes.

Part 8. Government Data Analytics Center.

§ 143B-1385. Government Data Analytics Center.

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

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

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

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

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

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

(4) Operationalize. – The implementation process whereby a State agency, department, or institution integrates analytical output into current business processes and systems in order to improve operational efficiency and decision making.

(b) GDAC. – The Government Data Analytics Center is established as a unit of the Department.

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

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

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

(3) Powers and duties. – The State CIO shall, through the GDAC, do all of the following:

a. Manage and coordinate enterprise data integration efforts, including:

1. The deployment, support, technology improvements, and expansion of the Criminal Justice Law Enforcement Automated Data System (CJLEADS) and related intelligence-based case management systems.
2. The deployment, support, technology improvements, and expansion of the North Carolina Financial Accountability and Compliance Technology System (NCFACTS) in order to collect data that will create efficiencies and detect fraud, waste, and abuse across State government.
3. The development, deployment, support, technology improvements, and expansion of the GDAC Enterprise Solutions.
4. Individual-level student data and workforce data from all levels of education and the State workforce.
5. The integration of all available financial data to support more comprehensive State budget and financial analyses.
6. Other capabilities as developed by the GDAC.

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

c. Identify other technologies, especially those with unique capabilities that are complementary to existing GDAC analytic solutions that could support the State's business intelligence effort.

d. Compare capabilities and costs across State agencies.

e. Ensure implementation is properly supported across State agencies.

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

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

h. Coordinate data requirements and usage for State business intelligence applications in a manner that (i) limits impacts on participating State

agencies as those agencies provide data and business knowledge expertise, (ii) assists in defining business rules so the data can be properly used, and (iii) ensures participating State agencies operationalize analytics and report outcomes.

i. Recommend the most cost-effective and reliable long-term hosting solution for enterprise-level State business intelligence as well as data integration, notwithstanding any other provision of State law or regulation.

j. Utilize a common approach that establishes standards for business intelligence initiatives for all State agencies and prevents the development of projects that do not meet the established standards.

k. Create efficiencies in State government by ensuring that State agencies use the GDAC for agency business intelligence requirements.

l. Assist State agencies in developing requirements for the integration or creation of an interface with State agencies' workflow processes and transactional systems to operationalize GDAC analytic solutions.

m. Establish clear metrics and definitions with participating State agencies for reporting outcomes for each GDAC project.

n. Evaluate State agency business intelligence projects to determine the feasibility of integrating analytics and reporting with the GDAC and to determine what GDAC services may support the projects.

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

a. All State agency business intelligence requirements, including any planning or development efforts associated with creating business intelligence capability, as well as any master data management efforts, shall be implemented through the GDAC.

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

(5) Project management. – The State CIO and State agencies, with the assistance of the Office of State Budget and Management, shall identify potential funding sources for expansion of existing projects or development of new projects. No GDAC project shall be initiated, extended, or expanded:

a. Without the specific approval of the General Assembly, unless the project can be implemented within funds appropriated for GDAC projects.

b. Without prior consultation to the Joint Legislative Commission on Governmental Operations and a report to the Joint Legislative Oversight Committee on Information Technology if the project can be implemented within funds appropriated for GDAC projects.

(c) Data Sharing. –

(1) General duties of all State agencies. – Except as limited or prohibited by federal law, the head of each State agency, department, and institution shall do all of the following:

a. Grant the State CIO and the GDAC access to all information required to develop and support State business intelligence applications pursuant to this section. The State CIO and the GDAC shall take all necessary actions and precautions, including training, certifications, background checks, and governance policy and procedure, to ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.

b. Provide complete information on the State agency's information technology, operational, and security requirements.

c. Provide information on all of the State agency's information technology activities relevant to the State business intelligence effort.

d. Forecast the State agency's projected future business intelligence information technology needs and capabilities.

e. Ensure that the State agency's future information technology initiatives coordinate efforts with the GDAC to include planning and development of data interfaces to incorporate data into the initiative and to ensure the ability to leverage analytics capabilities.

f. Provide technical and business resources to participate in the initiative by providing, upon request and in a timely and responsive manner, complete and accurate data, business rules and policies, and support.

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

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

(2) Specific agency requirements. – The following agency-specific requirements are designed to illustrate but not limit the type and extent of data and information required to be released under subdivision (1) of this subsection:

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

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

c. The Department of Commerce, Division of Employment Security (DES), shall release to the GDAC, or otherwise provide access to, all

data requested by the GDAC relating to unemployment insurance coverage, claims, and business reporting under Chapter 96 of the General Statutes.

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

e. The Department of Revenue shall release to the GDAC, or otherwise provide access to, all data requested by the GDAC relating to the registration and address information of active businesses, business tax reporting, and aggregate federal tax Form 1099 data for comparison with information from DES, the Rate Bureau, and the Department of the Secretary of State for the evaluation of business reporting. Additionally, the Department of Revenue shall furnish to the GDAC, upon request, other tax information, provided that the information furnished does not impair or violate any information-sharing agreements between the Department and the United States Internal Revenue Service. Notwithstanding any other provision of law, a determination of whether furnishing the information requested by the GDAC would impair or violate any information-sharing agreements between the Department of Revenue and the United States Internal Revenue Service shall be within the sole discretion of the State Chief Information Officer. The Department of Revenue and the Office of the State CIO shall work jointly to assure that the evaluation of tax information pursuant to this sub-subdivision is performed in accordance with applicable federal law.

f. The North Carolina Department of Health and Human Services, pursuant to this Part, shall share (i) claims data from NCTRACKS and the accompanying claims data warehouse and (ii) encounter data with the GDAC in order to leverage existing public-private partnerships and subject matter expertise that can assist in providing outcome-based analysis of services and programs as well as population health analytics of the Medicaid and LME/MCO patient population.

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

(d) Provisions on Privacy and Confidentiality of Information.

(1) Status with respect to certain information. – The State CIO and the GDAC shall be deemed to be all of the following for the purposes of this section:

a. A criminal justice agency (CJA), as defined under Criminal Justice Information Services (CJIS) Security Policy. The State CJIS Systems Agency (CSA) shall ensure that CJLEADS receives access to federal criminal information deemed to be essential in managing CJLEADS to support criminal justice professionals.

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

1. A business associate with access to protected health information acting on behalf of the State's covered entities in support of data integration, analysis, and business intelligence.
2. Authorized to access and view individually identifiable health information, provided that the access is essential to the enterprise fraud, waste, and improper payment detection program or required for future initiatives having specific definable need for such data.

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

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

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

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

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

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

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

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

(f) Reporting. – The State CIO shall:

(1) On or before March 1 of each year, submit and present a report on the activities described in this section to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The report shall include the following:

a. A description of project funding and expenditures, cost savings, cost avoidance, efficiency gains, process improvements, and major accomplishments. Cost savings and cost avoidance shall include immediate monetary impacts as well as ongoing projections.

b. A description of the contribution of funds or resources by those private entities which are participating in public-private partnerships under this section, including, but not limited to, knowledge transfer and education activities, software licensing, hardware and technical infrastructure resources, personnel resources, and such other resources as agreed upon by the State and the private entity.

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

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

b. Any additional information to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology that is requested by those entities. (2013-360, s. 7.10(d); 2013-363, s. 2.4(a); 2014-100, s. 7.6(a); 2014-115, s. 56.8(a); 2015-241, s. 7A.2(c).)

§ 143B-1386: Reserved for future codification purposes.

§ 143B-1387: Reserved for future codification purposes.

§ 143B-1388: Reserved for future codification purposes.

§ 143B-1389: Reserved for future codification purposes.

Part 9. Criminal Justice Information.

§ 143B-1390. Definitions.

As used in this Part:

(1) "Board" means the Criminal Justice Information Network Governing Board established by G.S. 143B-1391.

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

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

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

(5) "State agency" means any State department, agency, institution, board, commission, or other unit of State government. (1996, 2nd Ex. Sess., c. 18, s. 23.3(a); 2015-241, s. 7A.3(1).)

§ 143B-1391. Criminal Justice Information Network Governing Board – creation; purpose; membership; conflicts of interest.

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

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

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

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

a. Three members recommended by the President Pro Tempore of the Senate, including two members of the general public for terms to begin on September 1, 1996 and to expire on June 30, 1997, and one member selected from the North Carolina League of Municipalities who is a

member of, or an employee working directly for, the governing board of a North Carolina municipality for a term to begin on September 1, 1996 and to expire on June 30, 1999; and

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

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

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

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

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

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

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

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

(5) One member appointed by the State Chief Information Officer.

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

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

As the initial terms expire, subsequent members of the Board shall be appointed to serve four-year terms. At the end of a term, a member shall continue to serve on the Board until a successor is appointed. A member who is appointed after a term is begun serves only for the remainder of the term and until a successor is appointed. Any vacancy in the membership of the Board shall be filled by the same appointing authority that made the

appointment, except that vacancies among members appointed by the General Assembly shall be filled in accordance with G.S. 120-122.

(c) Members of the Board shall not be employed by or serve on the board of directors or other corporate governing body of any information systems, computer hardware, computer software, or telecommunications vendor of goods and services to the State or to any unit of local government in the State. No member of the Board shall vote on an action affecting solely the member's own State agency or local governmental unit or specific judicial office. (1996, 2nd Ex. Sess., c. 18, s. 23.3(a); 1998-202, s. 9; 1998-212, s. 18.2(b); 2001-424, s. 23.6(b); 2001-487, s. 90; 2003-284, s. 17.1(a); 2004-129, s. 42; 2011-145, ss. 6A.11(b), 19.1(g), (*l*); 2015-241, ss. 7A.2(d), 7A.3(1); 2017-186, ss. 2(ffffff), 2(qqqqqq).)

§ 143B-1392. Compensation and expenses of Board members; travel reimbursements.

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

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

(2) All other Board members, at the rate established in G.S. 138-5. (1996, 2nd Ex. Sess., c. 18, s. 23.3(a); 2015-241, s. 7A.3(1).)

§ 143B-1393. Powers and duties.

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

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

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

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

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

b. Make grants to local government users to enable them to acquire or improve elements of the Network that lie within the responsibility of their agencies or State agencies; provided that the elements developed with the funds must be available for use by the State or by local

governments without cost and the applicable State agencies join in the request for funding.

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

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

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

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

(b) All grants or other uses of funds appropriated or granted to the Board shall be conditioned on compliance with the Board's technical and other standards. (1996, 2nd Ex. Sess., c. 18, s. 23.3(a); 2003-284, s. 17.2(b); 2004-129, s. 43; 2015-241, ss. 7A.2(e), 7A.3(1), 7A.4(w).)

§ 143B-1394. Election of officers; meetings; staff, etc.

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

(b) The staff of the Criminal Justice Information Network shall provide the Board with professional and clerical support and any additional support the Board needs to fulfill its mandate. The Board's staff shall use space provided by the Department of Information Technology. (1996, 2nd Ex. Sess., c. 18, s. 23.3(a); 2003-284, s. 17.1(b); 2011-145, ss. 6A.11(c), 19.1(g); 2015-241, ss. 7A.2(f), 7A.3(1).)

§ 143B-1395: Reserved for future codification purposes.

§ 143B-1396: Reserved for future codification purposes.

§ 143B-1397: Reserved for future codification purposes.

§ 143B-1398: Reserved for future codification purposes.

§ 143B-1399: Reserved for future codification purposes.

Part 10. Emergency Telephone Service.

§ 143B-1400. Definitions.

The following definitions apply in this Part.

(1) 911 Board. – The 911 Board established in G.S. 143B-1401.

(2) 911 Fund. – The North Carolina 911 Fund established in G.S. 143B-1403.

(3) 911 State Plan. – A document prepared, maintained, and updated by the 911 Board that provides a comprehensive plan for communicating 911 call information across networks and among PSAPs, addresses all aspects of the State's 911 system, and describes the allowable uses of revenue in the 911 Fund.

(4) 911 system. – An emergency communications system using any available technology that does all of the following:

a. Enables the user of a communications service connection to reach a PSAP by dialing the digits 911.

b. Provides enhanced 911 service.

(5) 911 system provider. – An entity that provides a 911 system to a PSAP.

(6) Back-up PSAP. – The capability to operate as part of the 911 System and all other features of its associated primary PSAP. The term includes a back-up PSAP that receives 911 calls only when they are transferred from the primary PSAP or on an alternate routing basis when calls cannot be completed to the primary PSAP.

(7) Call taking. – The act of processing a 911 call for emergency assistance by a primary PSAP, including the use of 911 system equipment, call classification, location of a caller, determination of the appropriate response level for emergency responders, and dispatching 911 call information to the appropriate responder.

(8) Commercial Mobile Radio Service (CMRS). – Defined in 47 C.F.R. § 20.3.

(9) Communications service. – Any of the following:

a. The transmission, conveyance, or routing of real-time communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless, Internet protocol, or other medium or method, regardless of the protocol used.

b. The ability to receive and terminate voice calls, messages, videos, data, or other forms of communication to, from, and between the public switched telephone network, wireless networks, IP-enabled networks, or any other communications network.

c. Interconnected VoIP service.

(10) Communications service connection. – Each telephone number or trunk assigned to a residential or commercial subscriber by a communications service provider, without regard to technology deployed.

(11) Communications service provider. – An entity that provides communications service to a subscriber.

(12) CMRS connection. – Each mobile handset telephone number assigned to a CMRS subscriber with a place of primary use in North Carolina.

(13) CMRS provider. – An entity, whether facilities-based or nonfacilities-based, that is licensed by the Federal Communications Commission to provide CMRS or that resells CMRS within North Carolina.

(14) Enhanced 911 service. – Directing a 911 call to an appropriate PSAP by selective routing or other means based on the geographical location from which

the call originated and providing information defining the approximate geographic location and the telephone number of a 911 caller, in accordance with the FCC Order.

(15) Exchange access facility. – The access from a subscriber's premises to the telephone system of a service supplier. The term includes service supplier provided access lines, private branch exchange trunks, and centrex network access registers, as defined by applicable tariffs approved by the North Carolina Utilities Commission. The term does not include service supplier owned and operated telephone pay station lines, Wide Area Telecommunications Service (WATS), Foreign Exchange (FX), or incoming only lines.

(16) FCC Order. – The Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on December 1, 1997, and any consent decrees, rules, and regulations adopted by the Federal Communications Commission pursuant to the Order.

(17) GIS mapping. – Computerized geographical information that can be used to assist in locating a person who calls emergency assistance, including street centerlines, ortho photography, and oblique imaging.

(18) Interconnected VoIP service. – Defined in 47 C.F.R. § 9.3.

(19) Local exchange carrier. – An entity that is authorized to provide telephone exchange service or exchange access in North Carolina.

(20) Next generation 911 system. – An IP-enabled emergency communications system using Internet Protocol, or any other available technology, to enable the user of a communications service to reach an appropriate PSAP by sending the digits 911 via dialing, text, or short message service (SMS), or any other technological means.

(21) Next generation 911 system provider. – An entity that provides a next generation or IP-enabled 911 system to a PSAP.

(22) Prepaid wireless telecommunications service. – A wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

(23) Primary PSAP. – The first point of reception of a 911 call by a public safety answering point.

(24) Proprietary information. – Subscriber lists, technology descriptions, technical information, or trade secrets that are developed, produced, or received internally by a communications service provider or by a communications service provider's employees, directors, officers, or agents.

(25) Public safety answering point (PSAP). – The public safety agency that receives an incoming 911 call and dispatches appropriate public safety agencies to respond to the call.

(26) Retail transaction. – The sale of prepaid wireless telecommunications service for any purpose other than resale.

(27) Service supplier. – An entity that provides exchange telephone service to a telephone subscriber.

(28) Subscriber. – A person who purchases a communications service and is able to receive it or use it periodically over time.

(29) Voice communications service. – Any of the following:

a. The transmission, conveyance, or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless, or other medium or method, regardless of the protocol used.

b. The ability to receive and terminate voice calls to and from the public switched telephone network.

c. Interconnected VoIP service.

(30), (31) Repealed by Session Laws 2015-261, s. 4(a), effective January 1, 2016.

(32) VoIP provider. – An entity that provides interconnected VoIP service. (2007-383, s. 1(a); 2010-158, s. 1; 2011-122, s. 2; 2014-66, s. 1.1; 2015-241, s. 7A.3(2); 2015-261, ss. 1(a), 4(a).)

§ 143B-1401. 911 Board.

(a) Membership. – The 911 Board is established in the Department of Information Technology. Neither a local government unit that receives a distribution from the fund under G.S. 143B-1406 nor a telecommunication service provider may have more than one representative on the 911 Board. The 911 Board consists of 17 members as follows:

(1) Four members appointed by the Governor as follows:

a. An individual who represents a municipality where a primary PSAP is located, appointed upon the recommendation of the North Carolina League of Municipalities.

b. An individual who represents a county where a primary PSAP is located, appointed upon the recommendation of the North Carolina Association of County Commissioners.

c. An individual who represents a VoIP provider.

d. An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).

(2) Six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives as follows:

a. An individual who is a sheriff, appointed upon the recommendation of the North Carolina Sheriffs' Association, Inc.

b. An individual who represents CMRS providers operating in North Carolina.

c. An individual who represents the North Carolina chapter of the Association of Public Safety Communications Officials (APCO).

d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 50,000 access lines.

e. A fire chief with experience operating or supervising a PSAP or a director/manager of a fire-based PSAP, appointed upon the recommendation of the North Carolina State Firefighters' Association.

(3) Six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate as follows:

a. An individual who is a chief of police, appointed upon the recommendation of the North Carolina Association of Chiefs of Police.

b. Two individuals who represent CMRS providers operating in North Carolina.

c. A Rescue or Emergency Medical Services Chief with experience operating or supervising a PSAP, appointed upon the recommendation of the North Carolina Association of Rescue and Emergency Medical Services.

d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 200,000 access lines.

(4) The State Chief Information Officer or the State Chief Information Officer's designee, who serves as the chair.

(b) Term. – A member's term is four years. No member may serve more than two terms. Members remain in office until their successors are appointed and qualified. Vacancies are filled in the same manner as the original appointment. The Governor may remove any member for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d).

(c) Meetings. – Members of the 911 Board serve without compensation. Members receive per diem, subsistence, and travel allowances at the rate established in G.S. 138-5. A quorum of the 911 Board is nine members. The 911 Board meets upon the call of the chair.

(d) Public Servants. – The members of the 911 Board are public servants under G.S. 163A-152 and are subject to the provisions of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes. (2007-383, s. 1(a); 2010-158, s. 2(a); 2013-286, s. 2; 2015-241, ss. 7A.3(2), 7A.4(f); 2015-264, s. 46; 2016-51, s. 6; 2017-6, s. 3.)

§ 143B-1402. Powers and duties of the 911 Board.

(a) Duties. – The 911 Board has the following powers and duties:

(1) To develop the 911 State Plan. In developing and updating the plan, the 911 Board must monitor trends in communications service technology utilized for the 911 system and in enhanced 911 service technology, investigate and incorporate GIS mapping and other resources into the plan, ensure individual PSAP plans incorporate a back-up PSAP, and formulate strategies for the efficient and effective delivery of enhanced 911 service.

(2) To administer the 911 Fund and the monthly 911 service charge authorized by G.S. 143B-1403.

(3) To distribute revenue in the 911 Fund to CMRS providers and PSAPs in accordance with this Part and advise CMRS providers and PSAPs of the requirements for receiving a distribution from the 911 Fund.

(4) To establish cooperative purchasing agreements or other contracts for the procurement of goods and services, to establish policies and procedures to fund advisory services and training for PSAPs, to set operating standards for PSAPs and back-up PSAPs, and to provide funds in accordance with these policies, procedures, and standards.

(5) To investigate the revenues and expenditures associated with the operation of a PSAP to ensure compliance with restrictions on the use of amounts distributed from the 911 Fund.

(6) To make and enter into contracts and agreements necessary or incidental to the performance of its powers and duties under this Part and to use revenue available to the 911 Board under G.S. 143B-1404 for administrative expenses to pay its obligations under the contracts and agreements.

(7) To use funds available to the 911 Board under G.S. 62-47 [143B-1407] to pay its obligations incurred for statewide 911 projects.

(8) To accept gifts, grants, or other money for the 911 Fund.

(9) To undertake its duties in a manner that is competitively and technologically neutral as to all communications service providers.

(10) To design, create, or acquire printed or Web-based public education materials regarding the proper use of 911.

(11) To adopt rules to implement this Part. This authority does not include the regulation of any enhanced 911 service, such as the establishment of technical standards for telecommunications service providers to deliver 911 voice and data.

(12) To take other necessary and proper action to implement the provisions of this Part.

(b) Prohibition. – In no event shall the 911 Board or any other State agency construct, operate, or own a communications network for the purpose of providing 911 service. The 911 Board may pay private sector vendors for provisioning a communications network for the purpose of providing citizens access to 911 services and completing call-taking processes through one or more PSAPs. (2007-383, s. 1(a); 2010-158, s. 3; 2014-66, s. 1.2; 2015-241, s. 7A.3(2); 2015-261, ss. 1(b), (c), 2, 4(b).)

§ 143B-1403. Service charge for 911 service.

(a) Charge Imposed. – A monthly 911 service charge is imposed on each active communications service connection that provides access to the 911 system through a voice communications service. The service charge for service other than prepaid wireless telecommunications service is seventy cents (70¢) or a lower amount set by the 911 Board under subsection (d) of this section. The service charge is payable by the subscriber to the provider of the voice communications service. The provider may list the service charge separately from other charges on the bill. Partial payments made by a subscriber are applied first to the amount the subscriber owes the provider for the voice communications service. If a subscriber is capable of making more than one simultaneous outbound 911 call though its communications service connections, then the total number of 911 service charges billed to the subscriber shall be (i) for CMRS providers, an amount equal to the number of CMRS connections and (ii) for all other communications service providers, an amount equal to the total number of simultaneous outbound 911 calls the subscriber can make using the North Carolina telephone numbers or trunks billed to their account.

(b) Prepaid Wireless. – A 911 service charge is imposed on each retail purchase of prepaid wireless telecommunications service occurring in this State of seventy cents (70¢)

for each retail transaction of prepaid wireless telecommunications service or a lower amount set as provided by subsection (d) of this section. The service charge is collected and remitted as provided in G.S. 143B-1414.

(c) Remittance to 911 Board. – A communications service provider must remit the service charges collected by it under subsection (a) of this section to the 911 Board. The provider must remit the collected service charges by the end of the calendar month following the month the provider received the charges from its subscribers. A provider may deduct and retain from the service charges it receives from its subscribers and remits to the 911 Board an administrative allowance equal to the greater of one percent (1%) of the amount of service charges remitted or fifty dollars ($50.00) a month.

(d) Adjustment of Charge. – The 911 Board must monitor the revenues generated by the service charges imposed by this section. If the 911 Board determines that the rates produce revenue that exceeds or is less than the amount needed, the 911 Board may adjust the rates. The rates must ensure full cost recovery for communications service providers and for primary PSAPs over a reasonable period of time. The 911 Board must set the service charge for prepaid wireless telecommunications service at the same rate as the monthly service charge for nonprepaid service. A change in the rate becomes effective only on July 1. The 911 Board must notify providers of a change in the rates at least 90 days before the change becomes effective. The 911 Board must notify the Department of Revenue of a change in the rate for prepaid wireless telecommunications service at least 90 days before the change becomes effective. The Department of Revenue must provide notice of a change in the rate for prepaid wireless telecommunications service at least 45 days before the change becomes effective only on the Department's Web site.

(e) Collection. – A communications service provider has no obligation to take any legal action to enforce the collection of the service charge billed to a subscriber. The 911 Board may initiate a collection action, and reasonable costs and attorneys' fees associated with that collection action may be assessed against the subscriber. At the request of the 911 Board, but no more than annually, a communications service provider must report to the 911 Board the amount of the provider's uncollected service charges. The 911 Board may request, to the extent permitted by federal privacy laws, the name, address, and telephone number of a subscriber who refuses to pay the 911 service charge.

(f) Restriction. – A local government may not impose a service charge or other fee on a subscriber to support the 911 system. (2007-383, s. 1(a); 2010-158, s. 4; 2011-122, ss. 1(a), 3; 2015-241, s. 7A.3(2); 2015-261, s. 4(c); 2018-5, s. 37.4(a).)

§ 143B-1404. 911 Fund.

(a) Fund. – The 911 Fund is created as an interest-bearing special revenue fund within the State treasury. The 911 Board administers the Fund. The 911 Board must credit to the 911 Fund all revenues remitted to it from the service charge imposed by G.S. 143B-1403 on communications service connections in the State. Revenue in the Fund may only be used as provided in this Part.

(b) Allocation of Revenues. – The 911 Board may deduct and retain for its administrative expenses a percentage of the total service charges remitted to it under G.S.

143B-1403 for deposit in the 911 Fund. The percentage may not exceed two percent (2%). The percentage is one percent (1%) unless the 911 Board sets the percentage at a different amount. The 911 Board must monitor the amount of funds required to meet its financial commitment to provide technical assistance to primary PSAPs and set the rate at an amount that enables the 911 Board to meet this commitment. The 911 Board must allocate ten percent (10%) of the total service charges to the Next Generation 911 Reserve Fund to be administered as provided in G.S. 143B-1407. The remaining revenues remitted to the 911 Board for deposit in the 911 Fund are allocated as follows:

(1) A percentage of the funds remitted by CMRS providers, other than the funds remitted by the Department of Revenue from prepaid wireless telecommunications service, to the 911 Fund are allocated for reimbursements to CMRS providers pursuant to G.S. 143B-1405.

(2) A percentage of the funds remitted by CMRS providers, all funds remitted by the Department of Revenue from prepaid wireless telecommunications service, and all funds remitted by all other communications service providers are allocated for monthly distributions to primary PSAPs pursuant to G.S. 143B-1406 and grants to PSAPs pursuant to G.S. 143B-1407.

(3) The percentage of the funds remitted by CMRS providers allocated to CMRS providers and PSAPs shall be set by the 911 Board and may be adjusted by the 911 Board as necessary to ensure full cost recovery for CMRS providers and, to the extent there are excess funds, for distributions to primary PSAPs.

(c) Report. – In February of each odd-numbered year, the 911 Board must report to the Joint Legislative Commission on Governmental Operations and the Revenue Laws Study Committee. The report must contain complete information regarding receipts and expenditures of all funds received by the 911 Board during the period covered by the report, the status of the 911 system in North Carolina at the time of the report, and the results of any investigations by the Board of PSAPs that have been completed during the period covered by the report.

(d) Nature of Revenue. – The General Assembly finds that distributions of revenue from the 911 Fund are not State expenditures for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold revenue in the 911 Fund. (2007-383, s. 1(a); 2008-134, s. 1(a); 2010-158, s. 5; 2011-122, s. 4; 2011-291, s. 2.17; 2015-241, s. 7A.3(2); 2015-261, ss. 1(d), 4(d).)

§ 143B-1405. Fund distribution to CMRS providers.

(a) Distribution. – CMRS providers are eligible for reimbursement from the 911 Fund for the actual costs incurred by the CMRS providers in complying with the requirements of enhanced 911 service. Costs of complying include costs incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the recurring and nonrecurring costs of providing the service. To obtain reimbursement, a CMRS provider must comply with all of the following:

(1) Invoices must be sworn.

(2) All costs and expenses must be commercially reasonable.

(3) All invoices for reimbursement must be related to compliance with the requirements of enhanced 911 service.

(4) Prior approval must be obtained from the 911 Board for all invoices for payment of costs that exceed the lesser of:

a. One hundred percent (100%) of the eligible costs allowed under this section.

b. One hundred twenty-five percent (125%) of the service charges remitted to the 911 Board by the CMRS provider.

(b) Payment Carryforward. – If the total amount of invoices submitted to the 911 Board and approved for payment in a month exceeds the amount available from the 911 Fund for reimbursements to CMRS providers, the amount payable to each CMRS provider is reduced proportionately so that the amount paid does not exceed the amount available for payment. The balance of the payment is deferred to the following month. A deferred payment accrues interest at a rate equal to the rate earned by the 911 Fund until it is paid.

(c) Grant Reallocation. – If the amount of reimbursements to CMRS providers approved by the 911 Board for a fiscal year is less than the amount of funds allocated for reimbursements to CMRS providers for that fiscal year, the 911 Board may reallocate part of the excess amount to the PSAP Grant and Statewide 911 Projects Account established under G.S. 143B-1407. The 911 Board may reallocate funds under this subsection only once each calendar year and may do so only within the three-month period that follows the end of the fiscal year. If the 911 Board reallocates more than a total of three million dollars ($3,000,000) to the PSAP Grant and Statewide 911 Projects Account in a calendar year, it must consider reducing the amount of the service charge in G.S. 143B-1404 to reflect more accurately the underlying costs of providing 911 system services.

The 911 Board must make the following findings before it reallocates funds to the PSAP Grant and Statewide 911 Projects Account:

(1) There is a critical need for additional funding for PSAPs in rural or high-cost areas to ensure that enhanced 911 service is deployed throughout the State.

(2) The reallocation will not impair cost recovery by CMRS providers.

(3) The reallocation will not result in the insolvency of the 911 Fund. (2007-383, s. 1(a); 2010-158, s. 6; 2015-241, s. 7A.3(2).)

§ 143B-1406. Fund distribution to PSAPs.

(a) Monthly Distribution. – The 911 Board must make monthly distributions to primary PSAPs from the amount allocated to the 911 Fund for PSAPs. A PSAP is not eligible for a distribution under this section unless it complies with the requirements of this Part, provides enhanced 911 service, and received distributions from the 911 Board in the 2008-2009 fiscal year. The Board may reduce, suspend, or terminate distributions under this subsection if a PSAP does not comply with the requirements of this Part. The Board must comply with all of the following:

(1) Administration. – The Board must notify PSAPs of the estimated distributions no later than December 31 of each year. The Board must determine actual distributions no later than June 1 of each year. The Board must determine a method for establishing distributions that is equitable and sustainable and that

ensures distributions for eligible operating costs and anticipated increases for all funded PSAPs. The Board must establish a formula to determine each PSAP's base amount. The formula must be determined and published to PSAPs in the first quarter of the fiscal year preceding the fiscal year in which the formula is used. The Board may not change the funding formula for the base amount more than once every year.

(2) Reports. – The Board must report to the Joint Legislative Commission on Governmental Operations and the Revenue Laws Study Committee within 45 days of a change in the funding formula. The report must contain a description of the differences in the old and new formulas and the projected distributions to each PSAP from the new formula.

(3) Formula. – The funding formula established by the Board must consider all of the following:

a. The population of the area served by a PSAP.

b. PSAP reports and budgets, disbursement histories, and historical costs.

c. PSAP operations, 911 technologies used by the PSAP, compliance with operating standards of the 911 Board, level of service a PSAP delivers dispatching fire, emergency medical services, law enforcement, and Emergency Medical Dispatch.

d. The tier designation of the county in which the PSAP is located as designated in G.S. 143B-437.08.

e. Any interlocal government funding agreement between a primary PSAP and a secondary PSAP, if the secondary PSAP was in existence as of June 1, 2010, receives funding under the agreement, and is within the service area of the primary PSAP.

e1. Any expenditure authorized by the 911 Board for statewide 911 projects or the next generation 911 system.

f. Any other information the Board considers relevant.

(4) Additional distributions. – In the first quarter of the Board's fiscal year, the Board must determine whether payments to PSAPs during the preceding fiscal year exceeded or were less than the eligible costs incurred by each PSAP during the fiscal year. If a PSAP receives less than its eligible costs in any fiscal year, the Board may increase a PSAP's distribution in the following fiscal year above the base amount as determined by the formula to meet the estimated eligible costs of the PSAP as determined by the Board. The Board may not distribute less than the base amount to each PSAP except as provided in subsection (c) of this section. The Board must provide a procedure for a PSAP to request a reconsideration of its distribution or eligible expenses.

(b) Percentage Designations. – The 911 Board must determine how revenue that is allocated to the 911 Fund for distribution to primary PSAPs and is not needed to make the base amount distribution required by subdivision (a)(1) of this section is to be used. The 911 Board must designate a percentage of the remaining funds to be distributed to primary PSAPs on a per capita basis and a percentage to be allocated to the PSAP Grant Account established in G.S. 143B-1407. If the 911 Board does not designate an amount to be allocated to the PSAP Grant Account, the 911 Board must distribute all of the remaining

funds on a per capita basis. The 911 Board may not change the percentage designation more than once each fiscal year.

(c) Carryforward. – A PSAP may carry forward distributions for eligible expenditures for capital outlay, capital improvements, or equipment replacement. Amounts carried forward to the next fiscal year from distributions made by the 911 Board may not be used to lower the distributions in subsection (a) of this section unless the amount is greater than twenty percent (20%) of the average yearly amount distributed to the PSAP in the prior two years. The 911 Board may allow a PSAP to carry forward a greater amount without changing the PSAP's distribution.

(d) Use of Funds. – A PSAP that receives a distribution from the 911 Fund may not use the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles. Distributions received by a PSAP may be used only to pay for the following:

(1) The lease, purchase, or maintenance of:
   a. Emergency telephone equipment, including necessary computer hardware, software, and database provisioning.
   b. Addressing.
   c. Telecommunicator furniture.
   d. Dispatch equipment located exclusively within a building where a PSAP or back-up PSAP is located, excluding the costs of base station transmitters, towers, microwave links, and antennae used to dispatch emergency call information from the PSAP or back-up PSAP.

(2) The nonrecurring costs of establishing a 911 system.

(3) Expenditures for in-State training of 911 personnel regarding the maintenance and operation of the 911 system. Allowable training expenses include the cost of transportation, lodging, instructors, certifications, improvement programs, quality assurance training, training associated with call taking, and emergency medical, fire, or law enforcement procedures, and training specific to managing a PSAP or supervising PSAP staff. Training outside the State is not an eligible expenditure unless the training is unavailable in the State or the PSAP documents that the training costs are less if received out-of-state. Training specific to the receipt of 911 calls is allowed only for intake and related call taking quality assurance and improvement. Instructor certification costs and course required prerequisites, including physicals, psychological exams, and drug testing, are not allowable expenditures.

(4) Charges associated with the service supplier's 911 service and other service supplier recurring charges. The PSAP providing 911 service is responsible to the communications service provider for all 911 installation, service, equipment, operation, and maintenance charges owed to the communications service provider. A PSAP may contract with a communications service provider on terms agreed to by the PSAP and the provider.

(e) Local Fund. – The fiscal officer of a PSAP to whom a distribution is made under this section must deposit the funds in a special revenue fund, as defined in G.S. 159-26(b)(2), designated as the Emergency Telephone System Fund. The fiscal officer may

invest money in the Fund in the same manner that other money of the local government may be invested. Income earned from the invested money in the Emergency Telephone System Fund must be credited to the Fund. Revenue deposited into the Fund must be used only as permitted in this section.

(f) Compliance. – A PSAP, or the governing entity of a PSAP, must comply with all of the following in order to receive a distribution under this section:

(1) A county or municipality that has one or more PSAPs must submit in writing to the 911 Board information that identifies the PSAPs in the manner required by the FCC Order.

(2) A participating PSAP must annually submit to the 911 Board a copy of its governing agency's proposed or approved budget detailing the revenues and expenditures associated with the operation of the PSAP. The PSAP budget must identify revenues and expenditures for eligible expense reimbursements as provided in this Part and rules adopted by the 911 Board.

(3) A PSAP must be included in its governing entity's annual audit required under the Local Government Budget and Fiscal Control Act. The Local Government Commission must provide a copy of each audit of a local government entity with a participating PSAP to the 911 Board.

(4) A PSAP must comply with all requests by the 911 Board for financial information related to the operation of the PSAP.

(5) By July 1, 2016, a PSAP must have a plan and means for 911 call-taking in the event 911 calls cannot be received and processed in the primary PSAP. If a PSAP has made substantial progress toward implementation of the plan and means, the 911 Board may grant the PSAP an extension until July 1, 2017, to complete implementation of the plan and means. The plan must identify the alternative capability of taking the redirected 911 calls. This subdivision does not require a PSAP to construct an alternative facility to serve as a back-up PSAP.

(6) A primary PSAP must comply with the rules, policies, procedures, and operating standards for primary PSAPs adopted by the 911 Board.

(g) Application to Cherokees. – The Eastern Band of Cherokee Indians is an eligible PSAP. The Tribal Council of the Eastern Band is the local governing entity of the Eastern Band for purposes of this section. The Tribal Council must give the 911 Board information adequate to determine the Eastern Band's base amount. The 911 Board must use the most recent federal census estimate of the population living on the Qualla Boundary to determine the per capita distribution amount. (2007-383, s. 1(a); 2008-134, ss. 1(b), (c); 2010-158, ss. 7(a)-(d); 2011-291, s. 2.18; 2014-66, s. 1.3; 2015-219, s. 1; 2015-241, s. 7A.3(2); 2015-261, ss. 1(e), 4(e).)

§ 143B-1407. PSAP Grant and Statewide 911 Projects Account; Next Generation 911 Reserve Fund.

(a) Account and Fund Established. – A PSAP Grant and Statewide 911 Projects Account is established within the 911 Fund for the purpose of making grants to PSAPs in rural and other high-cost areas and funding projects that provide statewide benefits for 911 service. The PSAP Grant and Statewide 911 Projects Account consists of revenue allocated

by the 911 Board under G.S. 143B-1405(c) and G.S. 143B-1406. The Next Generation 911 Reserve Fund is established as a special fund for the purpose of funding the implementation of the next generation 911 systems as approved by the 911 Board.

(b) PSAP Grant and Statewide 911 Projects Grant Application. – A PSAP may apply to the 911 Board for a grant from the PSAP Grant and Statewide 911 Projects Account. An application must be submitted in the manner prescribed by the 911 Board. The 911 Board may approve a grant application and enter into a grant agreement with a PSAP if it determines all of the following:

(1) The costs estimated in the application are reasonable and have been or will be incurred for the purpose of promoting a cost-effective and efficient 911 system.
(2) The expenses to be incurred by the applicant are consistent with the 911 State Plan.
(3) There are sufficient funds available in the fiscal year in which the grant funds will be distributed.
(4) The costs for consolidating one or more PSAPs with a primary PSAP, the relocation costs of primary PSAPs, or capital expenditures that enhance the 911 system, including costs not authorized under G.S. 143B-1406(e) and construction costs.

(c) PSAP Grant and Statewide 911 Projects Grant Agreement. – A PSAP Grant and Statewide 911 Projects agreement between the 911 Board and a PSAP must include the purpose of the grant, the time frame for implementing the project or program funded by the grant, the amount of the grant, and a provision for repaying grant funds if the PSAP fails to comply with any of the terms of the grant. The amount of the grant may vary among grantees. If the grant is intended to promote the deployment of enhanced 911 service in a rural area of the State, the grant agreement must specify how the funds will assist with this goal. The 911 Board must publish one or more notices each fiscal year advertising the availability of grants from the PSAP Grant and Statewide 911 Projects Account and detailing the application process, including the deadline for submitting applications, any required documents specifying costs, either incurred or anticipated, and evidence demonstrating the need for the grant. Any grant funds awarded to PSAPs under this section are in addition to any funds reimbursed under G.S. 143B-1406.

(d) Statewide 911 Projects. – The 911 Board may use funds from the PSAP Grant and Statewide 911 Projects Account and funds from the Next Generation 911 Reserve Fund for a statewide project if the Board determines the project meets all of the following requirements:

(1) The project is consistent with the 911 plan.
(2) The project is cost-effective and efficient when compared to the aggregated costs incurred by primary PSAPs for implementing individual projects.
(3) The project is an eligible expense under G.S. 143B-1406(e).
(4) The project will have statewide benefit for 911 service.

(e) Next Generation 911 Fund. – The 911 Board may use funds from the Next Generation 911 Fund to fund the implementation of next generation 911 systems. Notwithstanding Article 8 of Chapter 143C of the General Statutes, the 911 Board may expend funds from the Next Generation 911 Fund to provide for a single data network to

serve PSAPs. The 911 Board may provide funds directly to PSAPs to implement next generation 911 systems. By October 1 of each year, the 911 Board must report to the Joint Legislative Commission on Governmental Operations on the expenditures from the Next Generation 911 Fund for the prior fiscal year and on the planned expenditures from the Fund for the current fiscal year.

(f) Application to State Highway Patrol. – The State Highway Patrol is an eligible PSAP for purposes of applying to the 911 Board for a grant from the PSAP Grant and Statewide 911 Projects Account. This subsection applies to funds collected on or after July 1, 2017. (2007-383, s. 1(a); 2010-158, s. 8; 2015-241, s. 7A.3(2); 2015-261, s. 1(f); 2017-57, s. 16B.7.)

§ 143B-1408. Recovery of unauthorized use of funds.

The 911 Board must give written notice of violation to any communications service provider or PSAP found by the 911 Board to be using monies from the 911 Fund for purposes not authorized by this Part. Upon receipt of notice, the communications service provider or PSAP must cease making any unauthorized expenditures. The communications service provider or PSAP may petition the 911 Board for a hearing on the question of whether the expenditures were unauthorized, and the 911 Board must grant the request within a reasonable period of time. If, after the hearing, the 911 Board concludes the expenditures were in fact unauthorized, the 911 Board may require the communications service provider or PSAP to refund the monies improperly spent within 90 days. Money received under this section must be credited to the 911 Fund. If a communications service provider or PSAP does not cease making unauthorized expenditures or refuses to refund improperly spent money, the 911 Board must suspend funding to the provider or PSAP until corrective action is taken. (2007-383, s. 1(a); 2015-241, s. 7A.3(2); 2015-261, s. 4(f).)

§ 143B-1409. Conditions for providing enhanced 911 service.

In accordance with the FCC Order, no CMRS provider is required to provide enhanced 911 service until all of the following conditions are met:

(1) The provider receives a request for the service from the administrator of a PSAP that is capable of receiving and utilizing the data elements associated with the service.

(2) Funds for reimbursement of the CMRS provider's costs are available pursuant to G.S. 143B-1405.

(3) The local exchange carrier is able to support the requirements of enhanced 911 service. (2007-383, s. 1(a); 2015-241, s. 7A.3(2).)

§ 143B-1410. Audit.

The State Auditor may perform audits of the 911 Board pursuant to Part 5A of Chapter 147 of the General Statutes to ensure that funds in the 911 Fund are being managed in accordance with the provisions of this Part. The State Auditor must perform an audit of the 911 Board at least every two years. The 911 Board must reimburse the State Auditor for the cost of an audit of the 911 Board. (2007-383, s. 1(a); 2015-241, s. 7A.3(2).)

§ 143B-1411. Subscriber records.

Each CMRS provider must provide its 10,000 number groups to a PSAP upon request. This information remains the property of the disclosing CMRS provider and must be used only in providing emergency response services to 911 calls. CMRS communications service provider connection information obtained by PSAP personnel for public safety purposes is not public information under Chapter 132 of the General Statutes. No person may disclose or use, for any purpose other than the 911 system, information contained in the database of the telephone network portion of a 911 system. (2007-383, s. 1(a); 2015-241, s. 7A.3(2); 2015-261, s. 4(g).)

§ 143B-1412. Proprietary information.

All proprietary information submitted to the 911 Board or the State Auditor is confidential. Proprietary information submitted pursuant to this Part is not subject to disclosure under Chapter 132 of the General Statutes, and it may not be released to any person other than to the submitting communications service provider, the 911 Board, and the State Auditor without the express permission of the submitting communications service provider. Proprietary information is considered a trade secret under the Trade Secrets Protection Act, Article 24 of Chapter 66 of the General Statutes. General information collected by the 911 Board or the State Auditor may be released or published only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual communications service provider. (2007-383, s. 1(a); 2015-241, s. 7A.3(2); 2015-261, s. 4(h).)

§ 143B-1413. Limitation of liability.

(a) Except in cases of wanton or willful misconduct, a communications service provider, and a 911 system provider or next generation 911 system provider, and their employees, directors, officers, vendors, and agents are not liable for any damages in a civil action resulting from death or injury to any person or from damage to property incurred by any person in connection with developing, adopting, implementing, maintaining, or operating the 911 system or in complying with emergency-related information requests from State or local government officials. This section does not apply to actions arising out of the operation or ownership of a motor vehicle. The acts and omissions described in this section include, but are not limited to, the following:

(1) The release of subscriber information related to emergency calls or emergency services.

(2) The use or provision of 911 service, E911 service, or next generation 911 service.

(3) Other matters related to 911 service, E911 service, or next generation 911 service.

(b) In any civil action by a user of 911 services or next generation 911 services arising from an act or an omission by a PSAP, and the officers, directors, employees, vendors, agents, and authorizing government entity of the PSAP, in the performance of any lawful and prescribed actions pertaining to their assigned job duties as a 911 or public

safety telecommunicator or dispatcher at a PSAP or at any public safety agency to which 911 calls are transferred from a primary PSAP for dispatch of appropriate public safety agencies, the plaintiff's burden of proof shall be by clear and convincing evidence. (2007-383, s. 1(a); 2015-241, s. 7A.3(2); 2015-261, s. 3.)

§ 143B-1414. Service charge for prepaid wireless telecommunications service; seller collects 911 service charge on each retail transaction occurring in this State; remittances to Department of Revenue and transfer to 911 Fund.

(a) Retail Collection. – A seller of prepaid wireless telecommunications service shall collect the 911 service charge for prepaid wireless telecommunications service from the consumer on each retail transaction occurring in this State. The 911 service charge for prepaid wireless telecommunications service is in addition to the sales tax imposed on the sale or recharge of prepaid telephone calling service under G.S. 105-164.4(a)(4d). The amount of the 911 service charge for prepaid wireless telecommunications service must be separately stated on an invoice, receipt, or other reasonable notification provided to the consumer by the seller at the time of the retail transaction. For purposes of this Part, a retail transaction is occurring in this State if the sale is sourced to this State under G.S. 105-164.4B(a).

(b) Administrative Allowance; Remittance to Department of Revenue. – A seller may deduct and retain from the 911 service charges it collects from consumers and remits to the Department of Revenue an administrative allowance of five percent (5%). A seller shall remit the 911 service charge for prepaid wireless telecommunications service collected by it under subsection (a) of this section in either of the following ways:

(1) Monthly to the Department of Revenue. The service charges collected in a month are due by the 20th day of the month following the calendar month covered by the return.

(2) Semiannually to the Department of Revenue. The service charges collected in the first six months of the calendar year are due by July 20. The service charges collected in the second six months of the calendar year are due by January 20.

(c) Administration. – Administration, auditing, requests for review, making returns, collection of tax debts, promulgation of rules and regulations by the Secretary of Revenue, additional taxes and liens, assessments, refunds, and penalty provisions of Article 9 of Chapter 105 of the General Statutes apply to the collection of the 911 service charge for prepaid wireless telecommunications service. An audit of the collection of the 911 service charge for prepaid wireless telecommunications service shall only be conducted in connection with an audit of the taxes imposed by Article 5 of Chapter 105 of the General Statutes. Underpayments shall be subject to the same interest rate as imposed for taxes under G.S. 105-241.21. Overpayments shall be subject to the same interest rate as imposed for taxes under G.S. 105-241.21(c)(2). Excessive and erroneous collections of the service charge will be subject to G.S. 105-164.11. The Department of Revenue shall establish procedures for a seller of prepaid wireless telecommunications service to document that a sale is not a retail transaction, and the procedures established shall substantially coincide with the procedures for documenting a sale for resale transaction under G.S. 105-164.28.

The Secretary of Revenue may retain the costs of collection from the remittances received under subsection (b) of this section, not to exceed five hundred thousand dollars ($500,000) a year of the total 911 service charges for prepaid wireless telecommunications service remitted to the Department. Within 45 days of the end of each month in which 911 service charges for prepaid wireless telecommunications service are remitted to the Department, the Secretary of Revenue shall transfer the total 911 service charges remitted to the Department less the costs of collection to the 911 Fund established under G.S. 143B-1404.

(d) Liability of Consumer. – The 911 service charge for prepaid wireless telecommunications service is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable for remitting to the Department of Revenue all 911 service charges for prepaid wireless telecommunications service that the seller collects from consumers as provided in subsection (b) of this section. (2011-122, s. 5; 2013-414, s. 30; 2014-66, s. 2.1; 2015-241, s. 7A.3(2); 2016-5, ss. 3.1, 5.)

§ 143B-1415. Limitation of liability, prepaid wireless.

In addition to the limitation of liability provided in subsection G.S. 143B-1413, each provider and seller of prepaid wireless telecommunications service is entitled to the following limitations of liability:

(1) No provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of or the failure to provide 911 service, or for identifying or failing to identify the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 911 service.

(2) No provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigative or law enforcement officer of the United States, this State or any other state, or any political subdivision of this State or any other state in connection with any lawful investigation or other law enforcement activity by the law enforcement officer. (2011-122, s. 5; 2015-241, s. 7A.3(2).)

§ 143B-1416. Exclusivity of 911 service charge for prepaid wireless telecommunications service.

The 911 service charge for prepaid wireless telecommunications service imposed by this Part is the only 911 funding obligation imposed with respect to prepaid wireless telecommunications service in this State, and no tax, fee, surcharge, or other charge shall be imposed in this State, any subdivision of this State, or any intergovernmental agency for 911 funding purposes upon any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service. (2011-122, s. 5; 2015-241, s. 7A.3(2).)

§ 143B-1417: Reserved for future codification purposes.

§ 143B-1418: Reserved for future codification purposes.

§ 143B-1419: Reserved for future codification purposes.

Part 11. North Carolina Geographic Information Coordinating Council.

§ 143B-1420. Council established; role of the Center for Geographic Information and Analysis.

(a) Council Established. – The North Carolina Geographic Information Coordinating Council ("Council") is established to develop policies regarding the utilization of geographic information, GIS systems, and other related technologies. The Council shall be responsible for the following:

(1) Strategic planning.
(2) Resolution of policy and technology issues.
(3) Coordination, direction, and oversight of State, local, and private GIS efforts.
(4) Advising the Governor, the General Assembly, and the State Chief Information Officer as to needed directions, responsibilities, and funding regarding geographic information.

The purpose of this statewide geographic information coordination effort shall be to further cooperation among State, federal, and local government agencies; academic institutions; and the private sector to improve the quality, access, cost-effectiveness, and utility of North Carolina's geographic information and to promote geographic information as a strategic resource in the State. The Council shall be located in the Office of the Governor for organizational, budgetary, and administrative purposes.

(b) Role of CGIA. – The Center for Geographic Information and Analysis (CGIA) shall staff the Geographic Information and Coordinating Council and its committees. CGIA shall manage and distribute digital geographic information about North Carolina maintained by numerous State and local government agencies. It shall operate a statewide data clearinghouse and provide Internet access to State geographic information. (2001-359, s. 1; 2004-129, s. 44; 2015-241, s. 7A.3(3).)

§ 143B-1421. Council membership; organization.

(a) Members. – The Council shall consist of up to 35 members, or their designees, as set forth in this section. An appointing authority may reappoint a Council member for successive terms.

(b) Governor's Appointments. – The Governor shall appoint the following members:

(1) The head of an at-large State agency not represented in subsection (d) of this section.
(2) An employee of a county government, nominated by the North Carolina Association of County Commissioners.
(3) An employee of a municipal government, nominated by the North Carolina League of Municipalities.
(4) An employee of the federal government who is stationed in North Carolina.
(5) A representative from the Lead Regional Organizations.
(6) A member of the general public.

(7) Other individuals whom the Governor deems appropriate to enhance the efforts of geographic information coordination.

Members appointed by the Governor shall serve three-year terms. The Governor shall appoint an individual from the membership of the Council to serve as Chair of the Council. The member appointed shall serve as Chair for a term of one year.

(c) General Assembly Appointments. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint three members to the Council. These members shall serve three-year terms.

(d) Other Members. – Other Council members shall include:

(1) The Secretary of State.
(2) The Commissioner of Agriculture.
(3) The Superintendent of Public Instruction.
(4) The Secretary of Environmental Quality.
(5) The Secretary of the Department of Transportation.
(6) The Secretary of the Department of Administration.
(7) The Secretary of the Department of Commerce.
(8) The Secretary of the Department of Public Safety.
(9) The Secretary of the Department of Health and Human Services.
(10) The Secretary of the Department of Revenue.
(11) The President of the North Carolina Community Colleges System.
(12) The President of The University of North Carolina System.
(13) The Chair of the Public Utilities Commission.
(14) The State Budget Officer.
(15) The Executive Director of the North Carolina League of Municipalities.
(16) The Executive Director of the North Carolina Association of County Commissioners.
(17) One representative from the State Government GIS User Committee.
(18) One representative elected annually from the Local Government Committee established pursuant to subdivision (h)(2) of this section.
(19) The State Chief Information Officer who shall serve as a nonvoting member.

Council members serving ex officio pursuant to this subsection shall serve terms coinciding with their respective offices. Members serving by virtue of their appointment by a standing committee of the Council shall serve for the duration of their appointment by the standing committee.

(e) Meetings. – The Council shall meet at least quarterly on the call of the Chair. The Management and Operations Committee shall conduct the Council's business between quarterly meetings.

(f) Administration. – The Director of the CGIA shall be secretary of the Council and provide staff support as it requires.

(g) Reports. – The Council shall report at least annually to the Governor and to the Joint Legislative Commission on Governmental Operations.

(h) Committees. – The Council may establish work groups, as needed, and shall oversee the standing committees created in this subsection. Each standing committee shall adopt bylaws, subject to the Council's approval, to govern its proceedings. Except as otherwise provided, the Chair of the Council shall appoint the standing committee chairs

from representatives listed in subsections (b), (c), or (d) of this section. The standing committees are as follows:

(1) State Government GIS User Committee. – Membership shall consist of representatives from all interested State government departments. The Chair of the Council shall appoint the committee chair from one of the State agencies represented in subsection (d) of this section.

(2) Local Government Committee. – Membership shall consist of representatives from organizations and professional associations that currently serve or represent local government GIS users, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, and Lead Regional Organizations. The committee shall elect one of its members to the Council.

(3) Federal Interagency Committee. – Membership shall consist of representatives from all interested federal agencies and Tribal governments with an office located in North Carolina. The appointed federal representative serving pursuant to subdivision (b)(4) of this section shall serve as the Chair of the Federal Interagency Committee.

(4) Statewide Mapping Advisory Committee. – This committee shall consolidate statewide mapping requirements and attempt to gain statewide support for financing cooperative programs. The committee shall also advise the Council on issues, problems, and opportunities relating to federal, State, and local government geospatial data programs.

(5) GIS Technical Advisory Committee. – This committee shall develop the statewide technical architecture for GIS and anticipate and respond to GIS technical opportunities and issues affecting State, county, and local governments in North Carolina.

(6) Management and Operations Committee. – This committee shall consider management and operational matters related to GIS and other matters that are formally requested by the Council. The committee membership shall consist of the Chair of the Council, the State Budget Officer, the chair of each of the standing committees of the Council, and other members of the Council appointed by the Chair. (2001-359, s. 1; 2003-340, s. 1.9; 2011-145, s. 19.1(g); 2012-120, s. 3.2; 2015-241, ss. 7A.3(3), 14.30(v).)

§ 143B-1422. Compensation and expenses of Council members; travel reimbursements.

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

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

(2) All other Council members at the rate established in G.S. 138-5. (2001-359, s. 1; 2015-241, s. 7A.3(3).)